

No. 15044

**UNION OF SOVIET SOCIALIST REPUBLICS
and
JAPAN**

**Agreement concerning the conduct of fishing operations
(with annexes). Signed at Tokyo on 7 June 1975**

Authentic texts: Russian and Japanese.

Registered by the Union of Soviet Socialist Republics on 5 October 1976.

**UNION DES RÉPUBLIQUES SOCIALISTES
SOVIÉTIQUES
et
JAPON**

**Accord concernant l'exercice de la pêche (avec annexes).
Signé à Tokyo le 7 juin 1975**

Textes authentiques : russe et japonais.

*Enregistré par l'Union des Républiques socialistes soviétiques le 5 octobre
1976.*

[TRANSLATION—TRADUCTION]

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS AND THE GOVERNMENT OF JAPAN CONCERNING THE CONDUCT OF FISHING OPERATIONS

The Government of the Union of Soviet Socialist Republics and the Government of Japan,

Desiring to ensure safety and order in the operations of fishing vessels of the two countries,

Considering it desirable to take measures with a view to preventing incidents at sea related to the activities of fishing vessels of the two countries and to the use of such vessels' fishing tackle and to facilitate the speedy and amicable settlement of such incidents if they occur,

Have agreed as follows:

Article 1. 1. This Agreement applies to areas of the high seas off the coast of Japan.

2. No provision of this Agreement shall be interpreted as affecting in any way the positions of the two Governments with regard to questions concerning the extent of territorial waters and jurisdiction over fishing.

Article 2. In this Agreement:

(a) The term "fishing vessel" means a vessel engaged exclusively in fishing, a vessel engaged in fishing and outfitted with equipment for preserving and processing fish and marine products, or a vessel engaged exclusively in the transport from the fishing grounds of fish and marine products or goods made from them.

(b) The term "citizen" includes bodies corporate.

(c) The term "damage" means damage occurring in connexion with incidents between fishing vessels and/or fishing tackle.

Article 3. 1. Each Government shall, in order to ensure the identification at sea of its country's fishing vessels (except non-self-propelled vessels with a gross tonnage of less than 1 ton), take the necessary measures for their registration in accordance with that country's laws and regulations and their compliance with the provisions of annex I to this Agreement.

2. (1) The two Governments shall inform each other concerning the system already in use with regard to the provisions of annex I.

(2) The two Governments shall inform each other as speedily as possible with regard to changes made in the system referred to in subparagraph (1).

Article 4. Each Government shall take the necessary measures to ensure that its country's fishing vessels comply with the provisions of annex II to this Agreement in the use of lights and signals.

¹ Came into force on 23 October 1975, the date of the exchange of the diplomatic instruments confirming that it had been ratified by each Government in conformity with the procedures established by the national legislation of its country, in accordance with article 15 (1) and (2).

Article 5. Each Government shall take the necessary measures to ensure that the nets, long lines and other fishing tackle anchored at sea of its country's fishing vessels, and also their nets and long lines drifting at sea, are, in accordance with the provisions of annex III to this Agreement, furnished with identification marks indicating their location and extent.

Article 6. 1. Each Government shall take the necessary measures to ensure that while navigating and conducting fishing operations, its country's fishing vessels comply with the provisions of annex IV to this Agreement.

2. In order to implement the provisions of paragraph 1 more reliably, the two Governments shall take the necessary measures to establish immediately and effectively, as needed, links between the competent authorities of the two Governments for the exchange of information appropriate to the circumstances concerning areas with an especially high concentration of their countries' fishing vessels and fishing tackle.

3. The two Governments shall exchange information on the actual state of the fishing operations carried on by their countries' fishing vessels, including information on fishing tackle, fishing techniques and the like, and, where necessary, shall at the proper time hold consultations to decide upon appropriate measures to be taken on the basis of such information.

Article 7. 1. In order to facilitate the settlement of claims for compensation for damage (hereinafter referred to as "claims") lodged by a citizen of one country against a citizen of the other country, the two Governments shall establish a commission for the Settlement of Fisheries Damage Claims at Moscow and one at Tokyo (hereinafter referred to as "the Commissions").

2. Each Commission shall consist of two members appointed by the Government of the Union of Soviet Socialist Republics and two members appointed by the Government of Japan. Each Government shall communicate to the other Government the names of the persons appointed by it to the Commissions.

3. Each Government may appoint experts and consultants to assist the members of the Commissions.

4. The decisions of a Commission shall be taken on the basis of the principle of unanimity by a vote of the Commission members present, provided that at least one of the members appointed by each Government is present.

5. Where necessary, a Commission may hold meetings at places other than its permanent seat.

Article 8. Expenses arising out of the participation of Commission members, experts and consultants in the work of a Commission shall be paid by the Government which appointed them. Joint expenses of the Commissions shall be paid by the two Governments in the form and amount recommended by each Commission and approved by both Governments.

Article 9. 1. (1) When a citizen of one country wishes a Commission to settle a claim lodged by him against a citizen of the other country, he shall submit an application to that effect to the Commission situated in his country.

(2) The application referred to in subparagraph (1) may not be submitted after the expiry of one year from the date of the occurrence of the incident on which the claim is based. However, where the incident forming the basis for a

claim occurred during the two years immediately preceding the entry into force of this Agreement, the application referred to in subparagraph (1) may be submitted within one year after the entry into force of this Agreement.

2. The above-mentioned application shall be submitted in writing and must include the following information, in so far as it is known to the citizen submitting the claim (hereinafter referred to as "the claimant"):

- (a) a description of the incident on which the claim is based;
- (b) a list of the persons, organizations and vessels connected with the incident;
- (c) the amount of compensation claimed;
- (d) a list of the persons who can appear as witnesses to the incident.

All other materials needed to verify the validity of the claim may be submitted together with the application to the Commission situated in the claimant's country.

3. Upon receipt of the application, the Commission situated in the claimant's country shall transmit the application and materials, with such amendments and additions as it finds necessary to make in consultation with the claimant and the competent authorities of the Government of the claimant's country, as speedily as possible to the Commission situated in the country of the citizen against whom the claim has been lodged (hereinafter referred to as "the respondent").

4. Upon receipt of the above-mentioned application from the Commission in the claimant's country, the Commission in the respondent's country shall immediately inform the respondent of the claim lodged against him. The respondent may, in turn, submit to the Commission in his country a written rebuttal of the claim and any materials which he may find it necessary to submit in order to refute it. The respondent's rebuttal may contain a counter-claim if the counter-claim is based on the same incident. The Commission in the respondent's country shall consider the counter-claim simultaneously with the initial claim.

5. The Commission in the respondent's country may, if necessary, request additional information related to the initial claim or the counter-claim from the claimant and the respondent and also from the competent authorities of the two Governments.

6. The Commission in the respondent's country may conduct a hearing concerning the circumstances relating to the incident when it considers such a hearing necessary or at the request of the claimant or the respondent. The claimant and the respondent or their representatives may participate in the hearing, give testimony and make use of the assistance of any persons as they see fit. The Commission may also invite other appropriate persons when it deems that necessary. The Commission in the respondent's country may entrust the hearing to the Commission in the claimant's country if it deems such a course advisable.

7. In the application of this article and article 10, contact between the Commission in the respondent's country and the claimant or the competent authorities of the Government of the claimant's country shall be made through the Commission in the claimant's country, except in cases in which, in accordance with paragraph 6, the Commission in the respondent's country conducts the hearings.

Article 10. 1. (1) The Commission in the respondent's country shall consider the claim lodged by the claimant on the basis of evidence presented in writing, orally and otherwise. In considering a claim based on an incident

occurring after the entry into force of this Agreement, the Commission shall give due consideration to the provisions of the annexes to this Agreement.

(2) The Commission in the respondent's country may suspend or discontinue its consideration of a case if it believes that a further consideration would be inappropriate.

2. On the basis of the results of its consideration of the case, the Commission in the respondent's country shall establish contact with the claimant and the respondent and shall act as a mediator to help them arrive at an amicable settlement. If the Commission concludes that one of the parties to the case must pay compensation, it shall make a recommendation to that effect to that party.

3. If an amicable settlement has not been arrived at within a reasonable period of time, the Commission in the respondent's country shall, as speedily as possible, draw up a report containing its conclusions with regard to:

- (a) the facts on which the claim is based;
- (b) the amount of damage;
- (c) the degree of responsibility of the respondent and/or the claimant;
- (d) the sum to be paid by the respondent or the claimant as compensation for the damage incurred as a result of the incident.

If the Commission has not arrived at a unanimous conclusion with regard to the above-mentioned matters, that fact shall be indicated in the report, together with a detailed statement of the opinion of each member of the Commission on the said matters.

4. The Commission in the respondent's country shall without delay transmit its report referred to in paragraph 3 to the claimant, the respondent and the competent authorities of the two Governments.

5. The claimant and the respondent may, within 30 days from the date of receipt of the Commission's report referred to in paragraph 3, submit to the Commission in the respondent's country a written request for a review of the case. A request by the claimant for a review of the case must be submitted through the Commission in the claimant's country. The request for a review of the case must give the reasons therefor and be accompanied by the relevant materials. The Commission in the respondent's country shall, within 30 days from the date of receipt of the request for a review of the case, take a decision with regard to the appropriateness of such a review. The Commission shall inform the claimant, the respondent and the competent authorities of the two Governments of the decision it has taken. If the Commission decides to review the case, it shall, within 30 days from the date on which that decision is taken, draw up a new report and transmit it without delay to the claimant, the respondent and the competent authorities of the two Governments.

6. Except in cases in which the Commission decides to review the case, the competent authorities of each Government shall endeavour to ensure that the claim is settled between the claimant and the respondent in accordance with the Commission's conclusions contained in the report. Where the Commission reviews a case, they shall take similar action in accordance with the new conclusions.

7. (1) Except in cases in which the Commission decides to review the case, the claimant and the respondent shall, within 90 days from the date of receipt of

the report containing the Commission's conclusions, inform the competent authorities of their Governments whether or not they accept the Commission's conclusions. If the Commission decides to review the case, the claimant and the respondent shall similarly inform the said authorities within 30 days from the date of receipt of the new report.

(2) The competent authorities of the two Governments shall transmit to the Commission in the respondent's country as speedily as possible the replies of the claimant and the respondent with regard to the Commission's conclusions.

8. If the Commission in the respondent's country has not reached a unanimous decision on the matters referred to in paragraph 3 and is of the opinion that request for a review of the case is not justified, or if it receives information that the claimant or the respondent refuses to accept the conclusions of the Commission, it shall recommend the claimant and the respondent to submit the case to arbitration.

9. Each Commission shall annually submit to both Governments a report on the cases it has considered and the results of such considerations.

Article 11. No provision of this Agreement shall be interpreted as affecting in any way the right of the claimant or the respondent to compensation for damage or the laws and regulations of the two countries with regard to the procedure for defending that right.

Article 12. Each Government shall facilitate the prompt transfer by citizens of its country to citizens of the other country, in convertible currency, of sums paid as compensation for damage.

Article 13. The annexes to this Agreement may at any time be amended or supplemented by agreement between the two Governments without making any amendments to this Agreement.

Article 14. At the request of either Government, the two Governments shall hold consultations with regard to the application of this Agreement.

Article 15. 1. This Agreement must be ratified by each Government in accordance with the procedures established by the national legislation of its country.

2. This Agreement shall enter into force on the date of the exchange of the diplomatic instruments confirming that the Agreement has been ratified, and it shall remain in force for a period of three years.

3. If neither Government notifies the other six months before the expiry of the said three-year period of its intention to terminate this Agreement, it shall remain in force until the expiry of six months after the date on which one Government notifies the other of its intention to terminate it.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

DONE at Tokyo on 7 June 1975, in duplicate in the Russian and Japanese languages, both texts being equally authentic.

For the Government
of the Union of Soviet Socialist
Republics:
[A. ISHKOV]

For the Government
of Japan:
[KIICHI MIYAZAWA]

ANNEX I

IDENTIFICATION MARKS AND OTHER INFORMATION RELATING TO FISHING VESSELS

1. Each fishing vessel shall clearly display the letters indicating its area of registration and the registration number on the captain's bridge or on both sides of the bow, or in any other place where they can best be seen.

2. Each fishing vessel shall have on board documents issued by the competent authorities of the Government of its country and stating the name and description of the vessel, its nationality, its registration number, the name of its port of hail, and the name of the owner of the vessel, or documents equivalent to those mentioned above, except in cases in which the Government of its country recognizes that the vessel is unable to have such documents on board owing to circumstances beyond its control.

ANNEX II

LIGHTS AND SIGNALS FOR FISHING VESSELS

A. Lights and signals for use on all fishing vessels

Every fishing vessel shall observe the Regulations on Lights and Signals laid down in the *International Regulations for Preventing Collisions at Sea, 1960*.

B. Additional signals for use on fishing vessels engaged in trawling or purse-seine fishing, when they are operating in one another's immediate vicinity

1. Signals for fishing vessels engaged in trawling:

(1) Fishing vessels engaged in trawling may, in the following cases, display by day the signal flags provided for in the International Code of Signals adopted by the Inter-Governmental Maritime Consultative Organization (hereinafter referred to as "the International Code of Signals"):

(i) when lowering nets—flag "Z" ("I am lowering nets");

(ii) when taking in nets—flag "G" ("I am taking in nets");

(iii) when nets have become entangled with an obstacle—flag "P" ("My nets have become entangled with an obstacle");

(2) Fishing vessels engaged in trawling may display lights by night in the following cases:

(i) when lowering nets—two white lights in a vertical line;

(ii) when taking in nets—a white light over a red light in a vertical line;

(iii) when nets have become entangled with an obstacle—two red lights in a vertical line;

(3) Fishing vessels engaged in trawling with Japanese snurrevods may display by day, in addition to the signal flags referred to in subparagraph (1), a red cylindrical flag, and by night, in addition to the lights mentioned in subparagraph (2), one yellow light. The said yellow light must flash each second;

(4) Fishing vessels engaged in double trawling may display by day, in addition to the signal flags referred to in subparagraph (1), flag "T" provided for in the International Code of Signals ("Stay away from me; I am engaged in double trawling"), and by night, in addition to the lights referred to in subparagraph (2), a searchlight beam pointed forward and towards the other vessel engaged in double trawling.

2. Signals for fishing vessels engaged in purse-seine fishing:

Fishing vessels engaged in purse-seine fishing may display two yellow lights in a vertical line. The said lights must flash alternately each second, with equal duration of light

and darkness. The said lights should be displayed only when the free movement of the vessel is hampered by fishing tackle.

3. The lights referred to in paragraphs 1 (2) and 2 must be situated in the most prominent place, not less than 0.9 m apart and below the lights prescribed in Rule 9 (c) (i) and (d) of the *International Regulations for Preventing Collisions at Sea, 1960*. Furthermore, the said lights must be round and visible at a distance of not less than 1 mile, but at a shorter distance than the lights prescribed in the *International Regulations for Preventing Collisions at Sea, 1960* for fishing vessels engaged in fishing.

4. In fog, mist, falling snow or any other condition similarly restricting visibility, fishing vessels engaged in fishing shall, 4 to 6 seconds after the signal prescribed in Rule 15 (c) (viii) of the *International Regulations for Preventing Collisions at Sea, 1960*, sound one of the following signals provided for in the International Code of Signals and identifying the type of activity in which the vessel is engaged:

- (i) when lowering tackle—two prolonged and two short blasts (“Zulu” signal);
- (ii) when taking in tackle—two prolonged blasts and one short blast (“Golf” signal);
- (iii) when tackle has become entangled with an obstacle—one short blast, two prolonged blasts and one short blast (“Papa” signal).

ANNEX III

IDENTIFICATION MARKS ON NETS, LONG LINES AND OTHER FISHING TACKLE

1. Identification marks to be used on nets, long lines and other fishing tackle anchored at sea:

- (1) By day, a buoy situated at the westernmost extremity of such tackle (the term “westernmost” refers to that half of the compass circle beginning at south, passing through west and including north as the end point) must be equipped with two red flags, one over the other, or one red flag and a radar reflector, and a buoy situated at the easternmost extremity (the term “easternmost” refers to that half of the compass circle beginning at north, passing through east and including south as the end point) must be equipped with a white flag or a radar reflector.
- (2) By night, the buoy situated at the westernmost point must have one red light, and the buoy situated at the easternmost point must have one white light. The said lights must be visible at a distance of at least 2 miles in good visibility.
- (3) In order to indicate the direction of fishing tackle, a buoy equipped with one flag or a radar reflector by day and one white light by night may be placed at a distance of 70-100 m from each of the extremity buoys.
- (4) Fishing tackle which extends for a distance of more than 1 mile must be equipped with additional buoys at intervals of not more than 1 mile in such a way that no part 1 mile long or longer of the fishing tackle is left without an identifying mark. By day, each buoy must be equipped with a white flag or a radar reflector, and by night, as many buoys as possible should have one white light each. In no case may the distance between two lights on the same fishing tackle exceed 2 miles.

2. Nets and long lines drifting at sea must have at each end and at intervals of not more than 2 miles a buoy with a yellow flag or a radar reflector by day and one white light by night, visible at a distance of at least 2 miles in good visibility.

3. Where fishing tackle is attached to a fishing vessel, it is not required to place a buoy at the end of the tackle which is attached to the vessel.

4. The flagstaff of each buoy must have a height of at least 2 metres extending from the top of the buoy.

ANNEX IV

RULES GOVERNING THE MOVEMENTS OF FISHING VESSELS AND THE CONDUCT
OF FISHING OPERATIONS

A. In addition to observing the *International Regulations for Preventing Collisions at Sea, 1960*, each fishing vessel shall conduct its fishing operations in such a way as not to interfere with the work of the other country's fishing vessels or their fishing tackle.

B. 1. Each fishing vessel entering fishing grounds in which fishing vessels of the other country are already conducting their operations, or have set out their fishing tackle for that purpose, must ascertain the location and extent of the fishing tackle set out in the sea and shall not place itself or set out its fishing tackle in such a way as to impede or interfere with the fishing operations which are already being conducted by the other Party.

2. In fishing grounds in which fishing vessels of the other country are already conducting operations, no fishing vessel which is not engaged in fishing may drop anchor or remain in any place where it might impede such operations, except in cases of accident or other circumstances beyond its control.

3. No fishing vessel may use explosives to catch fish.

4. When conducting fishing operations, and also when lying at anchor or drifting in fishing grounds, each fishing vessel shall have on the bridge a suitable watchman keeping constant and effective watch over the surrounding situation and capable of taking any action necessitated by such circumstances as may arise.

5. In order to prevent damage to fishing tackle, fishing vessels engaged in trawling and also other fishing vessels using movable fishing tackle shall take all possible measures to avoid becoming entangled with the fishing tackle or the floating anchors of fishing vessels of the other country.

6. In order to prevent damage to fishing tackle, fishing vessels engaged in trawling and other fishing vessels using movable fishing tackle shall comply with the following:

- (1) In selecting the place and direction for lowering a trawl and setting out purse-seines or snurrevods (Danish seines), interference with the work of fishing vessels of the other country following with trawling tackle and also of vessels lowering or taking in fishing tackle is prohibited.
- (2) The lowering or taking in of a trawl and the setting out of purse-seines or snurrevods across the bow of fishing vessels of the other country following with trawling tackle are prohibited.
- (3) The distances between a fishing vessel engaged in trawling and a fishing vessel of the other country engaged in trawling are regulated in the following way:
 - (a) a fishing vessel which is proceeding straight or almost straight towards a fishing vessel of the other country shall, when passing, remain at a transverse distance of not less than 400 metres from the other vessel (not less than 1,100 metres when the fishing vessel of one of the countries is engaged in trawling with a Japanese snurrevod);
 - (b) when courses intersect, the fishing vessel which yields the right of way shall remain at a distance of not less than 1,100 metres from the stern of the other country's fishing vessel to which the first-mentioned vessel is yielding the right of way (not less than 1,500 metres from the stern or bow of the vessel when the fishing vessel which is being given the right of way is engaged in trawling with a Japanese snurrevod);
 - (c) when following a parallel course, a fishing vessel which overtakes a fishing vessel of the other country shall when overtaking remain at a transverse distance of not less than 400 metres from it (not less than 1,100 metres when the fishing vessel of one of the countries is engaged in trawling with a Japanese snurrevod);

- (4) A fishing vessel engaged in trawling shall remain at a distance of not less than 1,200 metres from a fishing vessel of the other country engaged in purse-seine fishing.
- (5) A fishing vessel engaged in purse-seine or snurrevod fishing shall, after setting out its tackle, remain at a distance of not less than 900 metres (the distance between the fishing vessels or the tackle) from the other country's fishing vessel engaged in purse-seine or snurrevod fishing.

7. The anchoring of fishing tackle at sea and the setting out of drifting fishing tackle shall be carried out in such a way as to ensure that the distances from the other country's fishing vessels or their fishing tackle are not less than 900 metres.

8. Except in the cases referred to in paragraphs 6 (3) to (5) and 7, a fishing vessel engaged in fishing shall remain at a distance of not less than 500 metres from the other country's fishing vessels engaged in fishing, from their fishing tackle anchored at sea or from their fishing tackle drifting at sea.

9. (1) Where the fishing nets of a fishing vessel of one country become entangled with the fishing nets of a fishing vessel of the other country, all necessary measures shall be taken to separate the fishing nets without damaging them. They may not be cut without the consent of the parties concerned except in cases in which it does not appear possible to separate them in any other way.

(2) Where the long lines of a fishing vessel of one country become entangled with the long lines of a fishing vessel of the other country, a fishing vessel taking in its long lines may not cut the long lines of the other fishing vessel except in cases in which it does not appear possible to separate them in any other way. If the long lines are cut, they shall, in so far as possible, be immediately connected again and, in so far as possible, be returned to their former position.

(3) Except in cases of rescue and the cases referred to in paragraphs (1) and (2), fishing nets, long lines and other fishing tackle of fishing vessels of the other country may not be cut, engaged with hooks or raised.

(4) Whenever fishing tackle has become entangled, the fishing vessel whose movements have caused such entangling shall take all necessary measures to minimize the damage caused to the fishing tackle of the other country's fishing vessel. At the same time, the fishing vessel whose fishing tackle has become entangled may not take any action which may increase the damage to the fishing tackle of both vessels.

10. (1) Any fishing vessel that has caused damage to a fishing vessel of the other country or its fishing tackle shall immediately come to a stop.

(2) Where a fishing vessel of one country has caused damage to a fishing vessel of the other country or its fishing tackle and has not come to a stop, the fishing vessel which has suffered the damage may call upon it to stop, using the following signals provided for in the *International Code of Signals* adopted by the Inter-Governmental Maritime Consultative Organization:

- (i) hoisting flag "L";
- (ii) continuously sounding the signal "L" (one short blast, one prolonged blast and two short blasts) by siren, horn or other sound apparatus;
- (iii) continuously flashing the signal "L" (one short flash, one prolonged flash and two short flashes) by searchlight.

(3) In the event of an incident with a fishing vessel of the other country, each fishing vessel shall, together with the other vessel, determine the nature of the incident and inform the competent authorities of its own Government about it as speedily as possible.

11. No fishing vessel may, without compelling reasons, dump into the sea any objects or materials which may interfere with the fishing operations of the other Party or be a hindrance to them, or cause damage to fish, fishing tackle or fishing vessels.