

No. 16649

**UNITED STATES OF AMERICA
and
EUROPEAN ECONOMIC COMMUNITY**

Agreement concerning fisheries off the coasts of the United States (with annexes). Signed at Washington on 15 February 1977

Authentic texts: Danish, German, English, French, Italian and Dutch.

Registered by the United States of America on 27 April 1978.

**ÉTATS-UNIS D'AMÉRIQUE
et
COMMUNAUTÉ ÉCONOMIQUE EUROPÉENNE**

Accord concernant la pêche au large des côtes des États-Unis (avec annexes). Signé à Washington le 15 février 1977

Textes authentiques : danois, allemand, anglais, français, italien et néerlandais.

Enregistré par les États-Unis d'Amérique le 27 avril 1978.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE EUROPEAN ECONOMIC COMMUNITY CONCERNING FISHERIES OFF THE COASTS OF THE UNITED STATES

The Government of the United States of America and the European Economic Community (hereafter referred to as the Community),

Considering their common concern for the rational management, conservation and optimum utilization of fish stocks off the coasts of the United States;

Acknowledging the fishery management authority of the United States as set forth in the Fishery Conservation and Management Act of 1976;

Having regard for the discussions at the Third United Nations Conference on the Law of the Sea relating to fisheries; and

Desirous of establishing reasonable terms and conditions pertaining to fisheries of mutual concern over which the United States exercises fishery management authority;

Have agreed as follows:

Article I. The purpose of this Agreement is to assure effective conservation, optimum utilization and rational management of the fisheries of mutual interest off the coasts of the United States and to establish a common understanding of the principles and procedures under which fishing may be conducted by nationals and vessels of the Member States of the Community for the living resources over which the United States exercises fishery management authority as provided by United States law.

Article II. As used in this Agreement, the term

1. "Living resources over which the United States exercises fishery management authority" means all fish within the fishery conservation zone of the United States, except highly migratory species as defined in subparagraph 7 of this Article, all anadromous species of fish that spawn in the fresh or estuarine waters of the United States and migrate to ocean waters and all living resources of the continental shelf appertaining to the United States;

2. "Fish" means all finfish, molluscs, crustaceans, and other forms of marine animal and plant life, other than marine mammals, birds and highly migratory species;

3. "Fishery" means

a. one or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, recreational and economic characteristics; and

b. any fishing for such stocks;

4. "Fishery conservation zone" means a zone contiguous to the territorial sea of the United States, the seaward boundary of which is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the breadth of the territorial sea of the United States is measured;

5. "Fishing" means

a. the catching, taking or harvesting of fish;

b. the attempted catching, taking or harvesting of fish;

¹ Came into force on 9 June 1977, the date of the last of the notifications by which the Parties informed each other of the completion of their required internal procedures, in accordance with article XVI (1).

- c. any other activity that can reasonably be expected to result in the catching, taking or harvesting of fish; or
- d. any operations at sea directly in support of, or in preparation for, any activity described in subparagraphs *a* through *c* above, provided that such term does not include any scientific research activity conducted by a scientific research vessel;

6. "Fishing vessel" means any vessel, boat, ship or other craft that is used for, equipped to be used for, or of a type that is normally used for

- a. fishing; or
- b. aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including preparation, supply, storage, refrigeration, transportation or processing;

7. "Highly migratory species" means species of tuna which, in the course of their life cycle, spawn and migrate over great distances in waters of the ocean; and

8. "Marine mammals" means any mammal that is morphologically adapted to the marine environment, including sea otters and members of the orders *Sirenia*, *Pinnipedia* and *Cetacea*, or primarily inhabits the marine environment such as the polar bears.

Article III. 1. The Government of the United States is willing to allow access for fishing vessels of the Member States of the Community to harvest, in accordance with terms and conditions to be established in permits issued under Article VI, an allocation of that portion of the total allowable catch for a specific fishery that will not be harvested by United States fishing vessels.

2. The Government of the United States shall determine each year, subject to such adjustments as may be necessitated by unforeseen circumstances affecting the stocks,

- a. the total allowable catch for each fishery on the basis of the best available scientific evidence, taking into account the interdependence of stocks, internationally accepted criteria, and all other relevant factors;
- b. the harvesting capacity of United States fishing vessels in respect of each fishery;
- c. the portion of the total allowable catch for a specific fishery that, on an annual basis, will not be harvested by United States fishing vessels; and
- d. the allocation of such portion that can be made available to qualifying fishing vessels of the Member States of the Community.

3. In implementation of paragraph 2, *d*, of this Article, the United States shall determine each year the measures necessary to prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery. Such measures may include, *inter alia*:

- a. designated areas where, and periods when, fishing shall be permitted, limited, or conducted only by specified types of fishing vessels or with specified types and quantities of fishing gear;
- b. limitations on the catch of fish based on area, species, size, number, weight, sex, incidental catch, total biomass or other factors;
- c. limitations on the number and types of fishing vessels that may engage in fishing and/or on the number of days each vessel or the total fleet may engage in fishing in a designated area within the fishery conservation zone or for a specified fishery;
- d. requirements as to the types of gear that may, or may not, be employed; and
- e. requirements designed to facilitate enforcement of such conditions and restrictions, including the maintenance of appropriate position-fixing and identification equipment.

4. The Government of the United States shall notify the Community of the determinations provided for by this Article on a timely basis.

Article IV. In determining the portion of the surplus that may be made available to vessels of the Member States of the Community and vessels of other countries, the Government of the United States will promote the objective of optimum utilization, taking into account, *inter alia*, traditional fishing, if any, contributions to fishery research and the identification of stocks, previous cooperation in enforcement, previous cooperation with respect to conservation and management of fishery resources of mutual concern, and the need to minimize economic dislocation in cases where vessels have habitually fished for living resources over which the United States now exercises fishery management authority.

Article V. The Community shall take all necessary measures to assure:

1. that nationals and vessels of the Community refrain from fishing for living resources over which the United States exercises fishery management authority, except as authorized pursuant to this Agreement;
2. that all such vessels so authorized comply with the provisions of permits issued pursuant to this Agreement and applicable laws of the United States; and
3. that the total allocation referred to in Article III, paragraph 2, *d*, of this Agreement is not exceeded for any fishery.

Article VI. The Community may submit an application to the Government of the United States for a permit for each fishing vessel of a Member State of the Community that wishes to engage in fishing in the fishery conservation zone pursuant to this Agreement. Such application shall be prepared and processed in accordance with Annex I, which constitutes an integral part of this Agreement. The Government of the United States may require the payment of reasonable fees for such permits.

Article VII. The Community shall take appropriate steps to assure that nationals and vessels of Member States of the Community refrain from harassing, hunting, capturing, or killing, or attempting to harass, hunt, capture or kill, any marine mammal within the United States fishery conservation zone, except as may be otherwise provided by an international agreement respecting marine mammals to which the United States is a Party, or in accordance with specific authorization for and controls on incidental taking of marine mammals established by the Government of the United States.

Article VIII. The Community shall take appropriate steps to assure that in the conduct of the fisheries under this Agreement:

1. the authorizing permit for each vessel of Member States of the Community is prominently displayed in the wheelhouse of such vessel;
2. appropriate position-fixing and identification equipment, as determined by the Government of the United States, is installed and maintained in working order on each such vessel;
3. designated United States observers are permitted to board, upon request, any such fishing vessel, and shall be accorded the equivalent rank of ship's officer while aboard such vessel, and, further, the Government of the United States shall be reimbursed for the costs incurred in the utilization of observers;
4. agents are appointed and maintained within the United States possessing the authority to receive and respond to any legal process issued in the United States with respect to a vessel owner or operator for any cause arising out of the conduct of fishing activities under this Agreement; and
5. prompt and adequate compensation is made to United States citizens for any loss of, or damage to, their fishing vessels, fishing gear or catch that is caused by any fishing vessel of the Member States of the Community, as determined by applicable United States procedures.

Article IX. 1. The Community shall take such measures as may be necessary to assure that each vessel of Member States of the Community authorized to fish pursuant to this Agreement, and any other fishing vessel of Member States of the Community that engages in fishing for living resources subject to the fishery management authority of the United States, shall allow and assist the boarding and inspection of such vessel by any duly authorized enforcement official of the United States, and shall cooperate in such enforcement action as may be undertaken pursuant to the laws of the United States.

2. In cases of an enforcement action undertaken by the authorities of the Government of the United States pursuant to this Agreement concerning fishing vessels of a Member State of the Community, the Government of the United States shall immediately notify the Community and the Member State concerned through diplomatic channels of the fact and the steps taken.

Article X. The Community undertakes to reinforce existing cooperation with the Government of the United States in the conduct of scientific research required for the purpose of managing and conserving living resources subject to the fishery management authority of the United States, including the compilation of best available scientific information required for the management and conservation of stocks of mutual concern. The competent agencies of the two Parties shall enter into such arrangements as may be necessary to facilitate such cooperation, including the exchange of information and scientists, regularly scheduled meetings between scientists to prepare research plans and review progress, and the implementation and maintenance of a standardized system for the collection and archiving of relevant statistical and biological information in accordance with the procedures in Annex II, which constitutes an integral part of this Agreement.

Article XI. 1. The Parties agree that any existing bilateral agreement concerning fisheries between the United States and any Member State of the Community shall remain in force and shall not be prejudiced by this Agreement.

2. In the interest of conservation of anadromous species of United States origin, the Community will consult with the United States, in accordance with Article XII of this Agreement, regarding the management of such species within the fishery zones of its Member States to which the common fisheries policy of the Community applies.

Article XII. 1. The Government of the United States and the Community shall carry out bilateral consultations regarding the implementation of this Agreement and the development of further cooperation in the field of fisheries of mutual concern, including the establishment of appropriate multilateral organizations for the collection and analysis of scientific data respecting such fisheries.

2. In the event of a dispute concerning the interpretation or application of this Agreement, such dispute shall be the subject of consultations between the Parties.

Article XIII. The Government of the United States undertakes to authorize fishing vessels of Member States of the Community allowed to fish pursuant to this Agreement to enter ports in accordance with United States laws for the purpose of purchasing bait, supplies, or outfits, or effecting repairs, changing crews, or for such other purposes as may be authorized.

Article XIV. Should the Government of the United States indicate to the Community that its nationals and vessels wish to engage in fishing in the fishery zone of a Member State of the Community to which the common fisheries policy applies, the Community is willing to allow access in accordance with the provisions of its common fisheries policy and on terms not more restrictive than those established in accordance with this Agreement.

Article XV. Nothing contained in the present Agreement shall affect or prejudice in any manner the views of either Party with respect to any question relating to the law of the sea for purposes other than the conservation and management of fisheries as provided for in this Agreement.

Article XVI. 1. Each Party shall notify the other of the completion of the procedures required under its internal law for the entry into force of this Agreement. The Agreement shall enter into force on the date of the last of such notifications and shall remain in force until July 1, 1984, unless extended by exchange of notes between the Parties. Notwithstanding the foregoing, either Party may terminate this Agreement at any time after giving notice of such termination one year in advance.

2. This Agreement shall be subject to review by the two Parties two years after its entry into force or upon the conclusion of a multilateral treaty resulting from the Third United Nations Conference on the Law of the Sea.

TIL BEKRAEFTELSE HERAF har undertegnede, som er behørigt bemyndigede hertil, underskrevet denne Overenskomst.

UDFAERDIGET i Washington den 15. februar 1977 i to eksemplarer på dansk, engelsk, fransk, italiensk, nederlandsk og tysk, således at alle tekster har lige gyldighed.

ZU URKUND DESSEN haben die hierzu gehörig bevollmächtigten Unterzeichneten dieses Abkommen unterzeichnet.

GESCHEHEN zu Washington am 15. Februar 1977 in zwei Urschriften, jede in dänischer, deutscher, englischer, französischer, italienischer und niederländischer Sprache, wobei jeder Wortlaut gleichermassen verbindlich ist.

IN WITNESS WHEREOF, the undersigned, being duly authorized for this purpose, have signed this Agreement.

DONE at Washington, the 15th day of February, 1977, in duplicate, in the Danish, Dutch, English, French, German and Italian languages, each of these texts being equally authentic.

EN FOI DE QUOI, les soussignés, dûment habilités à cet effet, ont signé le présent Accord.

FAIT à Washington, le 15^e jour du mois de février 1977, en double exemplaire, dans les langues allemande, anglaise, danoise, française, italienne et néerlandaise, tous ces textes faisant également foi.

IN FEDE DI CHE i sottoscritti, debitamente a ciò autorizzati, hanno firmato il presente Accordo.

FATTO a Washington, il giorno 15 febbraio 1977, in duplice copia, nelle lingue danese, francese, inglese, italiana, olandese e tedesca, ognuno dei testi egualmente autentico.

TEN BLIJKE WAARVAN de ondergetekenden, daartoe behoorlijk gemachtigd, deze Overeenkomst hebben ondertekend.

GEDAAN te Washington, de 15 februari 1977, in tweevoud in de Deense, Duitse, Engelse, Franse, Italiaanse, en Nederlandse taal, zijnde alle teksten gelijkelijk authentiek.

For Regeringen for Amerikas Forenede Stater:
Für die Regierung der Vereinigten Staaten von Amerika:
For the Government of the United States of America:
Pour le Gouvernement des Etats-Unis d'Amérique :
Per il Governo degli Stati Uniti d'America:
Voor de Regering van de Verenigde Staten van Amerika:

[Signed — Signé]¹

For Radet for de Europæiske Fælleskaber:
Für den Rat der Europäischen Gemeinschaften:
For the Council of the European Communities:
Pour le Conseil des Communautés européennes :
Per il Consiglio delle Comunità Europee:
Voor de Raad van de Europese Gemeenschappen:

[Signed — Signé]²

[Signed — Signé]³

¹ Signed by Frederick Irving — Signé par Frederick Irving.

² Signed by Bridges — Signé par Bridges.

³ Signed by Jean Pierre Leng — Signé par Jean Pierre Leng.

ANNEX I

APPLICATION AND PERMIT PROCEDURES

The following procedures shall govern the application for and issuance of annual permits authorizing vessels of Member States of the Community to engage in fishing for living resources over which the United States exercises fishery management authority:

1. The Community may submit an application to the Government of the United States for each fishing vessel of a Member State of the Community that wishes to engage in fishing pursuant to this Agreement. Such application shall be made on forms provided by the Government of the United States for that purpose.

2. Any such application shall specify

- a.* the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner and operator thereof;
- b.* the tonnage, capacity, speed, processing equipment, type and quantity of fishing gear, and such other information relating to the fishing characteristics of the vessel as may be requested;
- c.* a specification of each fishery in which each vessel wishes to fish;
- d.* the amount of fish or tonnage of catch by species contemplated for each vessel during the time such permit is in force;
- e.* the ocean area in which, and the season or period during which, such fishing would be conducted;
- f.* such other relevant information as may be requested.

3. The Government of the United States shall review each application, shall determine what conditions and restrictions related to fishery management and conservation may be needed, and what fee will be required. The Government of the United States shall inform the Community of such determinations.

4. The Community shall thereupon notify the Government of the United States of its acceptance or rejection of such conditions and restrictions and, in the case of a rejection, of its objections thereto.

5. Upon acceptance of the conditions and restrictions by the Community and the payment of any fees, the Government of the United States shall approve the application and issue a permit for each fishing vessel of a Member State of the Community, which fishing vessel shall thereupon be authorized to fish in accordance with this Agreement and the terms and conditions set forth in the permit. Such permits shall be issued for a specific vessel and shall not be transferred.

6. In the event the Community notifies the United States of its objections to specific conditions and restrictions, the two Parties may consult with respect thereto and the Community may thereupon submit a revised application.

7. The procedures in this Annex may be amended by agreement through an exchange of notes between the two Parties.

ANNEX II

DATA COLLECTION AND REPORTING REQUIREMENTS
FOR VESSELS OF MEMBER STATES OF THE COMMUNITY

The reporting procedure described below is designed to contribute to continuing needs for assessment of the status of stocks. However, specific needs may develop from time to time which require a change in standard procedures, or additional data for special studies. Also, the pattern of fisheries will change. These aspects require that the procedures for reporting must be flexible

enough to accommodate necessary changes. It also implies that some form of archiving of the basic data be developed so that retrieval at a later date in a different format from that specified below is possible.

All data described below for the Atlantic area shall be reported to the Director, Northeast Fisheries Center, National Marine Fisheries Service, Woods Hole, Massachusetts.

1. Statistical Information Requirements for Atlantic Fisheries:

— Catch and Effort: Three months after the close of each quarter, catch-effort statistics for biweekly time periods for 30-minute square areas will be reported by vessel for the previous quarter. These will be reported using biweekly 30-minute square Statlant 21 B Forms or magnetic tape, computer cards or printouts for all species and gear types.

Vessel logbook data is to be available for selected, specific joint assessment studies. The collection of samples, specified in 2 below, should also be annotated in the logbook.

2. Procedures for Scientific Samples From Atlantic Fisheries:

a. Length-age composition samples

(1) Samples will be taken separately for each gear type (e.g., bottom trawl, pelagic trawl, purse seine) and water layer (e.g., on the bottom, midwater level) combination every month for which fishing is pursued by 30-minute square areas throughout the agreement region. One sample will be taken for every 1,000 tons or fraction thereof within the above categories.

(2) Data to be recorded for each sample:

- Vessel classification
- Method of fishing; e.g., pelagic
- Specific type of trawl, including reference to its construction or actual scale drawing
- Mesh sizes
- Tonnage of the species sampled in the trawl haul
- Total weight of the fish sampled
- Time of day of haul
- Date
- Latitude and longitude of haul

(3) Sampling procedures

(a) Species for which the catch is sorted

- (i) From a single net haul take 4 random aliquots of approximately 50 fish each. (For species with less than 200 fish in a single trawl haul accumulate samples over trawl hauls until approximately 200 fish are taken.)
- (ii) Measure fork length for each fish to nearest cm, except for herring where the measurement will be the total length to the nearest cm below. Where other measurement systems are used, appropriate conversion information must be supplied.
- (iii) Take a subsample of one fish from each cm interval and remove scales and otoliths as appropriate. Record the sex of mature individuals.

(b) Species for which catch is not sorted

- (i) From a single trawl take 2 random aliquots of approximately 30 kilos each.
- (ii) Sort to individual species (for "river herring" this means sorting to alewife *Alosa pseudoharengus* and blueback *A. aestivalis*).
- (iii) Measure fork length for each fish to nearest cm except for herring where the measurement will be the total length to the nearest cm below. Where other measurement systems are used, appropriate conversion information must be supplied.

- (iv) Take a subsample of one fish from each cm interval and remove scales and otoliths as appropriate. Record the sex of mature individuals.

b. Length-weight samples

Individuals of one sample of each principal species of fish (e.g., expected yearly catch in the area of agreement of 500 or more tons), per International Commission for the Northwest Atlantic Fisheries (ICNAF) Division per month, will be weighed in grams and measured in millimeters. Each sample will contain 10 fish per centimeter interval for the length range of fish and may be accumulated if necessary from small samples taken over several catches and days. With small fish, where weighing at sea of individuals is not accurate, appropriate numbers of fish of the same length class shall be weighed in aggregate. Sex shall be recorded for mature individuals.

3. Applicable data collection and reporting requirements for fisheries in areas other than the Atlantic will be provided as necessary by the United States.

4. The procedures in this Annex may be amended by agreement through an exchange of notes between the two Parties.
