

No. 17204

**UNITED STATES OF AMERICA
and
BRAZIL**

**Exchange of notes constituting an agreement concerning
shrimp (with annexes and agreed minute). Brasília,
1 May 1977**

Authentic texts: English and Portuguese.

Registered by the United States of America on 24 November 1978.

**ÉTATS-UNIS D'AMÉRIQUE
et
BRÉSIL**

**Échange de notes constituant un accord relatif à la cre-
vette (avec annexes et procès-verbal officiel). Brasília,
1^{er} mai 1977**

Textes authentiques : anglais et portugais.

Enregistré par les États-Unis d'Amérique le 24 novembre 1978.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹ BETWEEN THE UNITED STATES OF AMERICA AND BRAZIL CONCERNING SHRIMP

I

The American Ambassador to the Brazilian Minister of External Relations

EMBASSY OF THE UNITED STATES OF AMERICA

Brasília, May 1, 1977

No. 131

Excellency:

I have the honor to refer to negotiations concerning shrimp between representatives of our two Governments that occurred in Brasília February 23–March 1 of this year, and the resulting proposed Agreement, Agreed Minute, and the Joint Report of the two Delegations dated March 1, 1977,²

I have the further honor to inform your Government that my Government has reviewed the proposed text of an Agreement Concerning Shrimp between our two Governments, which was forwarded to our Governments by the Joint Report referred to above, and proposes the following revised text:

AGREEMENT BETWEEN THE GOVERNMENTS OF THE UNITED STATES OF AMERICA AND THE FEDERATIVE REPUBLIC OF BRAZIL CONCERNING SHRIMP

The Parties to this Agreement,

Considering that the Agreement between them concerning shrimp signed at Brasília on March 14, 1975³ will soon expire and desiring to continue their cooperation in respect of shrimp resources;

Noting that legislation adopted by the Federative Republic of Brazil provides

- That its territorial sea extends to a distance of 200 nautical miles from its coast;
- That the exploitation of living resources within the Brazilian territorial sea is reserved to Brazilian fishing vessels;
- That exception to this can be granted by international agreements; and

Noting that the Government of the Federative Republic of Brazil is willing to allow United States shrimp fishing vessels to operate in the area defined in, and in accordance to the terms of this Agreement, for the duration of this Agreement, during which the Brazilian fishing industry is unable to fully utilize the shrimp of the area and during which arrangements of a different nature can be sought in order to help achieve the full utilization of the living resources of the area by the Brazilian fishing industry; and

¹ Came into force on 1 May 1977, in accordance with the provisions of the said notes.

² The proposed Agreement, Agreed Minute and the Joint Report referred to are of a preliminary nature. (Information supplied by the Government of the United States of America.) Only the text of the Agreed Minute is reproduced herein (see p. 216 of this volume).

³ United Nations, *Treaty Series*, vol. 1049, p. 57.

That the Government of the Federative Republic of Brazil considers that there are no universally accepted limits for the delimitation of the territorial sea;

Noting also that the Fishery Conservation and Management Act of 1976 enacted by the United States of America provides that the Government of the United States of America will exercise and recognize fishery conservation and management authority as set forth therein in a zone extending 200 nautical miles from its coast;

Noting further that the Government of the United States of America considers that it is not obligated under international law to recognize territorial seas claims of more than three nautical miles from the coast.

Recognizing that the difference in the respective juridical positions of the Parties may give rise to certain problems relating to the conduct of certain shrimp fisheries;

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

Concluding that, while general international solutions to issues of maritime jurisdiction are being developed and until more adequate information regarding the shrimp fisheries is available, it is desirable to maintain arrangements which take into account, *inter alia*, their mutual interest in the conservation of the shrimp resources of the area;

Mindful of the common desire of the two Governments to develop further cooperation between their scientists with respect to expanding scientific knowledge concerning the living resources of the sea and to encourage joint ventures for the development of shrimp resources;

Having arrived at an accommodation for the conduct of shrimp fisheries without prejudice to either Government's juridical position concerning the extent of territorial seas or fisheries jurisdiction under international law,

Have agreed as follows:

Article I. This Agreement shall apply to the fishery for shrimp (*Penaeus (M) duorarum notialis*, *Penaeus Brasiliensis* and *Penaeus (M) aztecus subtilis*) in an area hereinafter referred to as the "area of the agreement", defined as follows: the waters within 200 nautical miles off the coast of Brazil having the isobath of thirty (30) meters as the south-west limit and the latitude of one degree north (1° N) as the southern limit and forty-seven degrees and thirty minutes west (47° 30' W) longitude as the eastern limit. Except in the area above defined, fishing for shrimp by vessels of the United States of America in any other area within 200 nautical miles off the coast of Brazil is prohibited and shall be subject to the penalties provided for in the Brazilian legislation.

Article II. (1) Taking into account their common concern with preventing the depletion of the shrimp stocks in the area of the agreement and the substantial difference in the stages of development of their respective fishing fleets, which 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 management and conservation measures set forth in Annex I to this Agreement and the United States shrimp fishing vessels shall be subject to the measures set forth in the Annexes II and III to this Agreement.

(2) The measures set forth in the 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 the 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 shrimp fishing log, according to a commonly agreed model. Such fishing logs shall be delivered quarterly through the Government of the United States of America to the Government of the

Federative Republic of Brazil which shall use the data therein contained, and other information it obtains about the area of the agreement, to prepare reports on the fishing conditions in that area, which shall be transmitted periodically to the Government of the United States of America as appropriate.

(3) The Parties consider it desirable to expand research on shrimp, on a national basis as well as in the form of coordinated research, according to a program developed by the scientists of both Parties. Scientists duly appointed by the two Parties shall meet at least once during the period of the Agreement for the purpose of exchanging scientific data, publications, and knowledge on shrimp stocks and fishing effort in the area of the agreement, and to exchange information on research plans and to develop an expanded coordinated research program, which should include, *inter alia*, such exploratory fishing and scientific training activities as may be feasible. The two Governments will proceed in due time to an exchange of notes concerning the implementation of this expanded program.

Article IV. (1) The Government of the United States of America shall transmit to the Government of the Federative Republic of Brazil, on behalf of the United States shrimp fishing vessel owners concerned, the following information in respect of each vessel that applies to fish for shrimp in the area of the agreement, accompanied by advance payment of the amount required as provided for in paragraph one of Article VI of this Agreement:

- a) Name of vessel;
- b) Name and business address of the owner;
- c) Official number and agreement number;
- d) Port of registry and usual port of operation of the vessel;
- e) A photograph of the vessel, accompanied by its general description, including colors of side, deck house, top of house and trim, and speed and horse power of the main engine;
- f) Radio frequency and radio call letters for the establishment of communications;
- g) Methods and equipment employed for catching; and
- h) Other information necessary for the identification and other enforcement functions in implementation of this Agreement.

(2) The Government of the Federative Republic of Brazil shall verify whether the information is complete and in good order, and shall inform the Government of the United States of America within 20 days after official receipt of the information of the vessels found to comply or not comply with the requirements of this Agreement, as well as of those that may require further consultation among the Parties.

(3) The Government of the United States of America, upon receipt of the official notification from the Government of the Federative Republic of Brazil, shall inform the shrimp fishing vessel owner concerned that the vessel may start fishing operations in the area of the agreement, and shall inform him of the applicable requirements of this Agreement.

(4) The information referred to in the present Article shall be accompanied by a translation in the Portuguese language.

(5) Each United States shrimp fishing vessel engaged in fishing activities pursuant to this Agreement shall display an identification sign as described in Annex III.

Article V. (1) The Government of the Federative Republic of Brazil shall carry out such enforcement measures as may be necessary to ensure that the conduct of shrimp fisheries by United States fishing vessels conforms with the provisions of this Agreement.

(2) A duly authorized official of Brazil, in exercising the responsibility referred to in paragraph one of this Article, if he has reasonable cause to believe that a United States shrimp fishing vessel is fishing in violation of any provision of this Agreement, may

stop, board and search such 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 the Federative Republic of Brazil shall promptly inform the Government of the United States of America of its action.

(3) Arrested vessels and their crews shall be promptly released upon the payment of the sums required under paragraph 2 of Article VI of this Agreement. It is understood that Brazilian law does not provide for imprisonment or any other form of corporal punishment for violations of fisheries regulations.

(4) 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.

(5) The Government of the Federative Republic of Brazil shall promptly inform the Government of the United States of America in particular of the disposition of any case of an unusual nature involving seizure and detention of a United States vessel.

(6) The Government of the United States of America shall, to the extent permissible under its laws, seek to ensure that United States shrimp fishing vessels comply with the requirements of this Agreement.

Article VI. (1) Each United States shrimp fishing vessel owner that applies to fish under this Agreement shall pay to the Government of the Federative Republic of Brazil the sum of US\$3,600.00 per vessel, which shall be forwarded to the Government of the Federative Republic of Brazil at the time the Government of the United States of America transmits the information referred to in paragraph one of Article IV. If the Government of the Federative Republic of Brazil finds that any particular vessel does not comply with the requirements of this Agreement, such sum shall be returned immediately to the Government of the United States of America for transmission to the vessel owner concerned.

(2) In the event a United States shrimp fishing vessel is seized and detained by the appropriate authorities of the Federative Republic of Brazil for a violation of any of the provisions of this Agreement, the owner of such vessel shall pay to the Government of the Federative Republic of Brazil, for expenses incurred in carrying out the seizure and detention, the sum of US\$500 for each day during which the vessel is being escorted to port, and the sum of US\$200 for each day while the vessel is in port. Fines as provided by Brazilian law shall be imposed if such sums are not paid within 10 working days of the arrival of such vessel in port.

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.

Article VIII. The Parties shall cooperate 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. Any problems concerning the interpretation and implementation of this Agreement shall be resolved through diplomatic channels.

Article XI. This Agreement shall enter into force on the date mutually agreed upon by exchange of notes and shall remain in force until December 31, 1977.

ANNEX I

1. Prohibition of shrimp fishing activities, for conservation purposes, in spawning and breeding areas;
2. Prohibition of the use of chemical, toxic or explosive substances in or near fishing areas;
3. Registry of all fishing vessels with the Maritime Port Authority (Capitania dos Portos) and with SUDEPE;
4. Imposition of fees and taxes for periodical inspections;
5. Use of the official shrimp fishing logs to be returned to SUDEPE after each trip or weekly;
6. Prohibition of the use of fishing gear and of other equipment considered by SUDEPE to have destructive effects on the stocks;
7. Prohibition of discharging oil and polluting waste.

ANNEX II

1. Not more than 90 United States fishing vessels shall be authorized by the Government of the Federative Republic of Brazil to fish for shrimp in the area of the agreement. Such vessels shall be of the same type (up to approximately 85 feet in length) and have the same gear as those previously employed in the fishery. They shall not employ, in fishing operations, electrical fishing equipment, nor shall chemical, toxic, explosive or polluting substances, or other material with similar destructive effect, be employed.
2. In the event United States fishing vessel owners apply for authorizations for more than 90 vessels to fish for shrimp in the area of the agreement, the Government of the Federative Republic of Brazil will exclude new applicants to the fishery as necessary. In such event, vessel owners may make substitutions on a vessel for vessel basis within the same number of authorizations by complying with Article IV of this Agreement, without regard to the requirement of Article VI, paragraph (1).
3. Shrimp fishing in the area of the agreement shall be limited to the period from March 1st to November 30th.
4. Shrimp fishing in that part of the area of the agreement Southeast of a bearing of 240° from Ponta do Céu radiobeacon shall be limited to the period from March 1st to July 1st.
5. Transshipment of catch may be made only between vessels fishing in the area of the agreement under the terms of the Agreement.

ANNEX III

1. The identification numbers, which shall consist of three digits numbered consecutively from 001, shall be preceded by the identification letters "UB" (for United States-Brazil), in order to distinguish such numbers from others displayed by different authorized vessels.
2. The identification letters and numbers shall be displayed on boards (approximately sixty centimeters high and one hundred 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. 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 above.
3. The identification letters and numbers must be black having an orange background, being at least forty-five centimeters high and of adequate width.

4. 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.

5. One or more lights, either portable, or fixed, shall be provided to light the agreement number, name and port of registry 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 vessel's navigation in the specified area.

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

7. United States–Brazil identification numbers shall be assigned permanently to individual vessels and these numbers will not be reassigned to replacement vessels entering the United States of America fleet, during the term of the Agreement concerning shrimp fishing.

8. The standard radio frequencies selected for communications between fishing vessels and enforcement vessels shall be frequencies 2182 KHz and 2638 KHz.

9. The vessels flying the U.S. flag, fishing in the area of Agreement under the terms of this Agreement, will have the following documents on board: certificate of registry, crewlist, shrimp fishing log for the current trip and a copy of a current notice that the vessel is authorized to fish in the area of the agreement by the Government of the Federative Republic of Brazil.

Finally, I have the further honor to propose that, if it is acceptable to your Government, the above proposed Agreement and Annexes enter into force on May 1, 1977. If the foregoing is acceptable to your Government, I propose that this Note and Your Excellency's Note in reply concurring therein shall constitute an Agreement between our two Governments.

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

JOHN HUGH CRIMMINS

His Excellency Antonio Francisco Azeredo da Silveira
Minister of External Relations
Brasília, D.F.

II

[PORTUGUESE TEXT — TEXTE PORTUGAIS]

REPUBLICA FEDERATIVA DO BRAZIL
MINISTÉRIO DAS RELAÇÕES EXTERIORES

Em 01 de maio de 1977

Urgente

DPB/DAI/DCS/24/662.8(B46)(B13)

Senhor Embaixador,

Tenho a honra de acusar o recebimento da Nota de Vossa Excelência de nº 131, de 1º de maio de 1977, cujo teor em português é o seguinte:

[TRANSLATION¹ — TRADUCTION²]

*The Brazilian Minister of External Relations
to the American Ambassador*

FEDERATIVE REPUBLIC OF BRAZIL
MINISTRY OF EXTERNAL RELATIONS

May 1, 1977

Urgent

DPB/DAI/DCS/24/662.8(B46)(B13)

Mr. Ambassador:

I have the honor to acknowledge receipt of Your Excellency's note No. 131 of May 1, 1977, which reads in Portuguese as follows:

[*See note I*]

In reply, I have the honor to inform Your Excellency that the Brazilian Government is in agreement with the terms of the above-mentioned note.

I avail myself of this opportunity to renew to Your Excellency the assurances of my high esteem and most distinguished consideration.

A. F. AZEREDO DA SILVEIRA

His Excellency John Hugh Crimmins
Ambassador of the United States of America

AGREED MINUTE

The delegations of the Government of the United States of America and of the Government of the Federative Republic of Brazil consider it desirable to record the points set forth below, relating to Article III, paragraph (3), Article VIII and Annex II of the Agreement concerning Shrimp between their two Governments initiated today.

1. The appropriate measures to carry out the provisions of Article VIII concerning arrangements between the fishing enterprises of both Parties will be the object of consultations between the two Governments during 1977, notwithstanding any private understanding that the representatives of the fishing industries of the two countries may reach during the same period.

2. The appropriate measures to carry out the provisions of Article III, paragraph (3) concerning an expanded co-ordinate research program which should include, *inter alia*, exploratory fishing activities and training of scientists, will be the object of consultations between the two Governments to be held,

¹ Translation supplied by the Government of the United States of America.

² Traduction fournie par le Gouvernement des Etats-Unis d'Amérique.

as soon as possible, in connection with the meetings of scientists as provided for in the same Article.

3. The Brazilian delegation took note of the request of the United States delegation that, in making a determination not to authorize particular fishing vessels in the event more than 90 fishing vessels apply, as provided in Annex II, paragraph 2, the Government of the Federative Republic of Brazil would take into account, *inter alia*, the fact that shrimping operations in the area of the agreement are conducted by independent fleets, with a view to minimizing economic dislocations which might affect United States shrimp fishing enterprises.

March 1, 1977

[Signed]

PAULO DYRCEU PINHEIRO
For the delegation
of the Federative Republic of Brazil

[Signed]

THOMAS A. CLINGAN Jr.
For the delegation
of the United States of America

[PORTUGUESE TEXT — TEXTE PORTUGAIS]

MINUTA ACORDADA

As Delegações do Governo da República Federativa do Brasil e do Governo dos Estados Unidos da América consideram conveniente registrar os pontos expostos a seguir, com relação ao parágrafo (3) do Artigo III, Artigo VIII e Anexo II do Acordo sobre o Camarão concluído entre os dois Governos e rubricado no dia de hoje.

1. As medidas apropriadas para executar o disposto no Artigo VIII, referentes a ajustes entre as empresas de pesca de ambas as Partes, serão objeto de consultas entre os dois Governos no curso de 1977, independentemente dos entendimentos particulares que possam ser alcançados no mesmo período entre representantes das indústrias de pesca dos dois países.

2. As medidas apropriadas para executar o disposto no parágrafo (3) do Artigo III. — no que se refere ao programa ampliado de pesquisa coordenada que deverá incluir, *inter alia*, atividades pesqueiras de caráter exploratório e o treinamento de cientistas. — serão objeto de consultas entre os dois Governos, consultas estas a serem realizadas tão cedo quanto possível, em conjugação com os encontros de cientistas previstos no referido Artigo.

3. A Delegação brasileira tomou nota da solicitação da Delegação norte-americana de que, ao decidir não autorizar determinados barcos pesqueiros, caso seja solicitada autorização para mais de 90 barcos, tal como previsto no parágrafo (2) do Anexo II, o Governo da República Federativa do Brasil leve em conta, *inter alia*, o fato de que as operações camaroneiras na área do acordo são efetua-