

No. 17288

**UNITED STATES OF AMERICA
and
MEXICO**

Agreement concerning fisheries off the coasts of the United States (with annexes). Signed at Washington on 26 August 1977

Authentic texts: English and Spanish.

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

**ÉTATS-UNIS D'AMÉRIQUE
et
MEXIQUE**

Accord relatif aux pêcheries situées au large des côtes des États-Unis (avec annexes). Signé à Washington le 26 août 1977

Textes authentiques : anglais et espagnol.

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

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF MEXICO CONCERNING FISHERIES OFF THE COASTS OF THE UNITED STATES

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

Recognizing that the United States has established a fishery conservation zone within 200 nautical miles of its coasts within which the United States exercises fishery management authority over all fish and that the United States also exercises such authority over the living resources of the continental shelf appertaining to the United States and to anadromous species of fish of United States origin throughout their migratory range, 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 ensure 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 Mexico 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, all anadromous species of fish that spawn in the fresh or estuarine waters of the United States and migrate to ocean waters, throughout their migratory range, 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;

¹ Came into force on 29 December 1977, the date mutually agreed upon by an exchange of notes (effected on 29 December 1977) by which the Parties informed each other of the completion of the required internal procedures, in accordance with article XV (1).

5. “Fishing” means

- (a) The catching, taking or harvesting of fish;
- (b) The attempted catching, taking or harvesting of fish;
- (c) Any other activity that can reasonably be expected to result in the catching, taking or harvesting of fish;
- (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 other legitimate uses of the high seas, including any scientific research activity conducted by a scientific 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;

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 polar bears; and

9. “Authorized enforcement officer” means persons authorized by the Government of the United States to enforce the provisions of this Agreement, who, in most cases, will be agents of the United States National Marine Fisheries Service and officers of the United States Coast Guard.

Article III. 1. The Government of the United States is willing to allow access for fishing vessels of Mexico 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 Mexico.

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 Government of Mexico of the determination 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 Mexico, 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 research and conservation of fishery resources of mutual concern, and other factors, including the history of close cooperation between the Government of the United States and the Government of Mexico as neighboring states based on the interrelationship of their fisheries interests.

Article V. The Government of Mexico shall take all appropriate measures, to the extent permissible under its national laws, to ensure:

- (1) That nationals and vessels of Mexico 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 Government of Mexico may submit an application to the Government of the United States for a permit for each fishing vessel of Mexico 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 Government of Mexico has and shall continue to prohibit nationals and vessels of Mexico 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 Government of Mexico shall ensure that in the conduct of the fisheries under this Agreement:

- (1) The authorizing permit for each vessel of Mexico 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 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) All necessary measures are taken to ensure the prompt and adequate compensation of 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 Mexico as determined by applicable United States procedures.

Article IX. The Government of Mexico shall take all appropriate measures to the extent permissible under its national laws to ensure that each vessel of Mexico authorized to fish pursuant to this Agreement, and any other Mexican fishing vessel 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 officer of the United States, and shall cooperate in such enforcement action as may be undertaken pursuant to the laws of the United States.

Article X. 1. The Government of the United States will impose appropriate penalties, in accordance with the laws of the United States, on Mexican vessels, or their owners or operators, that violate the requirements of this Agreement or of any permit issued hereunder.

2. Arrested vessels and their crews shall be promptly released, subject to such reasonable bond or other security as may be determined by the court.

3. The representatives of the United States will recommend to the court in any case arising out of fishing activities under this Agreement that the penalty for violation of fishery regulations not include imprisonment or any other form of corporal punishment.

4. In cases of seizure and arrest of a vessel of Mexico by the authorities of the Government of the United States, notification shall be given promptly through diplomatic channels informing the Government of Mexico of the action taken and of any penalties subsequently imposed.

Article XI. 1. The Government of the United States and the Government of Mexico undertake to cooperate in the conduct of scientific research related to living resources of mutual interest. The competent agencies of the two Governments shall enter into such arrangements as may be agreed upon to facilitate such cooperation, including the exchange of information and scientists, and regularly scheduled meetings between scientists to prepare research plans and review progress.

2. The Government of Mexico shall cooperate with the Government of the United States in the implementation of procedures for collecting, recording, and reporting fisheries data in accordance with the procedures in annex II, which constitutes an integral part of this Agreement.

Article XII. The Government of the United States and the Government of Mexico shall carry out periodic 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.

Article XIII. The Government of the United States shall allow nationals and vessels of Mexico to fish in the United States fishery conservation zone and the Government of

Mexico shall allow nationals and vessels of the United States to fish in the area established by the "Law Establishing an Exclusive Economic Zone" off the coast of Mexico in accordance, respectively, with this Agreement and the Fisheries Agreement between the United States of America and Mexico signed November 24, 1976,¹ and on the basis of reciprocity.

Article XIV. Nothing contained in the present Agreement shall affect other bilateral agreements in force between the two Governments or prejudice the views of either Government with respect to the law of the sea or the Third United Nations Conference on the Law of the Sea.

Article XV. 1. This Agreement shall enter into force on a date to be mutually agreed by exchange of notes, upon the completion of the internal procedures of both Governments and shall remain in force until July 1, 1982, unless extended by exchange of notes between the Parties. Notwithstanding the foregoing, either Party may terminate this Agreement after giving notice of such termination six months in advance.

2. This Agreement shall be subject to review by the two Governments 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.

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

DONE at Washington, August 26, 1977, in duplicate, in the English and Spanish languages, both texts being equally authentic.

For the Government
of the United States of America:
[Signed — Signé]²

For the Government
of Mexico:
[Signed — Signé]³

ANNEX I

APPLICATION AND PERMIT PROCEDURES

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

1. The Government of Mexico may submit an application to the competent authorities of the United States for each Mexican fishing vessel 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;

¹ Registered with the Secretariat of the United Nations on 10 June 1981 under No. 1-19848.

² Signed by Patsy T. Mink — Signé par Patsy T. Mink.

³ Signed by J. Sáenz Hinojosa — Signé par J. Sáenz Hinojosa.

- (e) The ocean area in which, and the season or period during which, such fishing would be conducted; and
- (f) Such other relevant information as may be requested, including desired transshipping areas.

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 Government of Mexico of such determinations.

4. The Government of Mexico 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 Government of Mexico and the payment of any fees, the Government of the United States shall approve the application and issue a permit for each Mexican fishing vessel, 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 Government of Mexico notifies the Government of the United States of its objection to specific conditions and restrictions, the two sides may consult with respect thereto and the Government of Mexico 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 Governments.

ANNEX II

DATA REQUIREMENTS FOR VESSELS OF MEXICO

The reporting procedures are designed to contribute to continuing needs for assessment of the status of stocks and their conservation and management. However, specific needs may develop from time to time which require a change in procedures, or additional data for special studies. Also, the pattern of fisheries will change. These aspects require that the procedures must be flexible enough to accommodate necessary changes. Therefore, the United States shall develop procedures for reporting and recording statistical information, including catch and effort information, and shall make available to authorities of the Government of Mexico the procedures and the forms for reporting such statistical information. The procedures will be announced and forms for reporting will be made available in sufficient time to allow compliance.

All data referred to in this annex shall be reported to the designated representative of the National Marine Fisheries Service.

1. PROCEDURES FOR SCIENTIFIC SAMPLES FROM ATLANTIC FISHERIES. a. *Length-age composition samples.* (i) 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.

(ii) 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.
- (iii) Sample 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., 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.

c. The collection of samples, specified above, shall be annotated in fishing logbooks.

2. Applicable procedures for scientific samples from fisheries in areas other than the U.S. North Atlantic coast will be provided as necessary by the United States.

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