

No. 17412

**BRAZIL
and
NETHERLANDS**

**Agreement concerning shrimp (with annexes). Signed at
Brasília on 4 April 1975**

*Authentic texts: Portuguese, Dutch and English.
Registered by Brazil on 20 December 1978.*

**BRÉSIL
et
PAYS-BAS**

**Accord relatif à la pêche de la crevette (avec annexes). Signé
à Brasília le 4 avril 1975**

*Textes authentiques : portugais, néerlandais et anglais.
Enregistré par le Brésil le 20 décembre 1978.*

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL AND THE GOVERNMENT OF THE KINGDOM OF THE NETHERLANDS CONCERNING SHRIMP

The Parties to this Agreement:

Noting the position of the Government of the Federative Republic of Brazil,

That it considers its territorial sea to extend to a distance of 200 nautical miles from Brazil's coast,

That the exploitation of crustaceans and other living resources, which are closely dependent on the sea-bed under the Brazilian territorial seas, is reserved to Brazilian fishing vessels, and

That exceptions to this provision can only be granted through international agreements;

Noting also the position of the Government of the Kingdom of the Netherlands that it does not consider itself obligated under international law to recognize territorial sea claims of more than 3 nautical miles nor fisheries jurisdiction of more than 12 nautical miles, beyond which zone of jurisdiction all nations have the right to fish freely, and that it does not consider that all crustaceans are living organisms belonging to sedentary species as defined in the 1958 Geneva Convention on the Continental Shelf,² and further;

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

Motivated by the friendly relations existing between them and their peoples;

Taking into account the fact that the agreement between them, signed in 1972, related to the fishing of shrimp in the waters adjacent to the coast of Brazil³ is no longer in force, and that it should be replaced by a new Agreement regulating the same matter;

Expressing the desirability that developing countries of the region should grant each other preferential treatment in the access to their respective territorial waters for the purpose of the exploitation of fisheries resources in these waters;

Noting that the Brazilian Government has adopted the concept of gradual replacement of foreign fishing vessels by Brazilian vessels in the area demarcated in this Agreement;

Taking note of their common intention to develop cooperation between the two countries in the fields of research and exploitation of the resources of the seas, through joint ventures;

Believing that their common interests as coastal states in the conservation of shrimp resources should be effectively safeguarded and their diverging interests regarding shrimping reconciled, and that therefore it is desirable to arrive at an interim solution for the conduct of shrimp fisheries without prejudicing either Party's legal position concerning the extent of territorial seas or fisheries jurisdiction under international law;

¹ Came into force on 4 April 1975 by signature, in accordance with article XII.

² United Nations, *Treaty Series*, vol. 499, p. 311.

³ *Ibid.*, vol. 901, p. 41.

Noting, finally, the fact that Surinam is actually preparing for independence, which will be attained at the end of 1975;

Concluding that, while general international solutions to issues of maritime jurisdiction are being sought, it is desirable to conclude the following interim Agreement,

Have agreed as follows:

Article I. 1) This Agreement shall regulate the operation of shrimp fishing by Surinamese vessels flying the flag of the Kingdom of the Netherlands during the fishing season in an area demarcated to the South west by the isobath of 30 meters, to the South by the Latitude of 1° degree North (1° N), and to the East by the Longitude of 47 degrees and 30 minutes West (47° 30' W).

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

3) The fishing season shall be limited to the period of the 1st of March to the 30th of November. However, shrimp fishing in the part of the above-mentioned area located to the South East of the true demarcation line of 240° degrees established with the radiobeacon of Ponta do Ceu as reference shall be limited to the period of 1st March to the 1st July.

4) The Surinamese vessels flying the flag of the Kingdom of the Netherlands operating in the area demarcated in article I of this Agreement, shall not exceed 85 feet in length.

Article II. In view of their common interest in preserving shrimp resources, the Parties agree that in the exercise of shrimp fishing operations, destructive practices in general must be prohibited, especially the following:

- a) the use of equipment considered to have destructive effects on the stocks, including electrical or electronic equipment;
- b) the use of chemical, toxic or explosive substances in or near the fishing area;
- c) jettisoning of oil and other polluting substances;
- d) fishing operations in breeding or spawning areas to be identified by any of the Parties and communicated to the other.

Article III. 1) Information on the catch and on the fishing operations as well as biological data relating to the catching of shrimp in the area demarcated in article I shall be compiled and exchanged by the Parties.

2) In order to attain the aforementioned objective, the vessels operating under the terms of this Agreement shall maintain fishing log books, in accordance with a specimen mutually agreed upon (annex II). Such fishing log books shall be delivered quarterly to the appropriate Party, which shall utilize the data therein, as well as other information that they shall obtain in the area demarcated in article I to prepare reports on catching conditions in the area, which shall be transmitted periodically and appropriately to the other Party.

3) Entities duly designated by the two Parties shall meet periodically, to exchange scientific data, publications and information acquired on shrimp fishing in the area demarcated in article I.

Article IV. 1) The Parties further agree, while maintaining their respective positions, that it shall be incumbent upon the Government of the Federative Republic of Brazil to ensure the proper conduct of shrimp fisheries in the area demarcated in article I.

2) The Party which under this article has the responsibility for enforcement shall examine the data as specified in article V, shall verify if these data are complete and in good order, and shall inform the other Party, within 10 days after the receipt of said data in Brasília, which vessels have, in its judgement, fulfilled the specifications required under this Agreement. Those vessels shall then be considered registered and authorized to operate for the purposes of this Agreement and a list of the authorized vessels shall be submitted to the Party exercising control; such list shall be updated during the catching season.

3) The same Party shall also communicate to the Government of the Kingdom of the Netherlands which vessels in its opinion have not met the requirements of article V. Such cases will be [the] object of consultation between the Parties.

4) The Surinamese vessels flying the flag of the Kingdom of the Netherlands operating in the area demarcated in article I shall have the following documents on board: certificate of registry, crew list and fishing log-book.

Article V. 1) The Government of the Federative Republic of Brazil shall receive from the Government of the Kingdom of the Netherlands information necessary for the identification and other enforcement functions, particularly the following:

a) An official list, containing:

I) Name of the vessel;

II) Official number;

III) Agreement identification;

IV) Port of registry and usual port of operation;

V) Radio frequency and radio call letters;

VI) Methods and equipment employed for catching.

b) Copies of registration certificate and photograph of the vessel accompanied by its general description, including colours of side, deck house, top house and trim; speed and horsepower of the main engine.

2) After this information is compiled and organized, it shall be communicated, through diplomatic channels, to the Government of the Federative Republic of Brazil.

3) The information referred to in the present article, when not written in the Portuguese or English languages, shall always be accompanied by a translation into one of those two languages.

4) Administrative details for identification of the Surinamese vessels flying the flag of the Kingdom of the Netherlands and other agreed measures to facilitate the implementation of this Agreement are set in the annex I to this Agreement.

Article VI. 1) A duly accredited authority of the Federative Republic of Brazil, while exercising the responsibilities specified in article IV, and with justification for believing that any provision of the Agreement has been infringed, may board a Surinamese fishing-vessel flying the flag [of] the Kingdom of the Netherlands and effect a search. Such action may not unduly obstruct fishing operations. If after tak-

ing such measure the authority justifiably maintains that a provision of the Agreement has been infringed, it may seize and detain the vessel, and escort it to the port of Belém, or any other place mutually agreed upon by the Parties. The Government of the Federative Republic of Brazil will inform the Government of the Kingdom of the Netherlands of such an action within two days.

2) Providing that the terms of paragraph 3 of article X have been [ful]filled, the Surinamese vessel flying the flag of the Kingdom of the Netherlands seized and detained under the terms of the paragraph will be handed over, as soon as possible, to an authorized officer of the Government of the Kingdom of the Netherlands in the port of Belém or in any other place mutually agreed upon by the Parties. After returning the vessel, the Government of the Federative Republic of Brazil will provide the Government of the Kingdom of the Netherlands with a full report of the violation and the circumstances of the seizure and detention of the vessel.

3) In the event of any legal suits being brought against the owner of the vessel by the Government of the Kingdom of the Netherlands, that Government will transmit the results of the suit to the Government of the Federative Republic of Brazil.

4) After carrying out the provisions of article X and if the nature of the violation so justifies, the fishing equipment and that part of the catch which was caught in infringement of this Agreement may be confiscated.

Article VII. The vessels referred to in article IX shall unload their catch in the territory of Surinam, trans-shipment being permitted only to another vessel equally authorized to operate in the area agreed upon.

Article VIII. 1) The Parties shall encourage joint ventures between national entities authorized by them for the purpose of developing fisheries and related industries.

2) The Parties shall also seek to co-operate for the expansion of international trade in fisheries products, particularly in the areas of storage, transportation, processing and marketing.

Article IX. 1) The number of Surinamese vessels flying the flag of the Kingdom of the Netherlands authorized to operate in the area of the Agreement shall be: 23 in the first year of the Agreement; and 17 in the second year. Such vessels shall be the property of authentically Surinamese or Dutch entities, being excluded the use of the flag of the Kingdom of the Netherlands as a "flag [of] convenience" for vessels of other origin.

2) At the end of each year of the Agreement, the Brazilian Government may offer to increase the quota of vessels for the following year of the Agreement, taking into account the interest of the Brazilian fishing industry.

Article X. 1) In the spirit of the preambular paragraph regarding the preferential treatment for the developing countries in the region and in connection with the enforcement arrangement specified in article IV, the Government of the Federative Republic of Brazil will be compensated in the amount of US\$ 1,360.00, annually, for each vessel duly registered under the terms of this Agreement.

2) The above-mentioned compensation amounts to 40% of the operational fee of US\$ 3,400.00 per vessel required by Brazilian Government for fishing operations in the area of [this] Agreement.

3) The Government of the Federative Republic of Brazil will be compensated for any extraordinary expenses arising from the seizure of any vessel flying the flag of the Kingdom of the Netherlands under the terms of article VI, which shall not exceed US\$ 500.00 per day when the vessel is at sea and US\$ 200.00 per day when the vessel is in port.

Article XI. Problems concerning the interpretation of this Agreement will be resolved through diplomatic channels.

Article XII. This Agreement shall enter into force on the date of its signature and shall remain in force until December 31st, 1976.

DONE in the city of Brasília, on the 4th of April, 1975, in duplicate, in the Portuguese, Dutch and English languages. In case of differences in interpretation, the English language shall prevail.

For the Government
of the Federative Republic of Brazil:

ANTONIO F. AZEREDO DA SILVEIRA

For the Government
of the Kingdom of the Netherlands:

Jonkheer LEOPOLD QUARLES VAN UFFORD

ANNEX I

1. Authorized vessels shall be required to have an Agreement Identification displayed.
2. The Agreement Identification shall consist of numbers and letters, such as "SB" (for Suriname-Brazil), in order to distinguish such numbers from others displayed by different authorized vessels. The numbers shall consist of two digits numbered consecutively from 01.
3. The Agreement Identification shall be displayed on boards (approximately sixty centimeters high and one hundred fifty centimeters wide), attached to the two sides and on the top of the pilot house, or the rail, in such a way that they should be visible from both sides of the vessel, and from the air.
4. The letters and numbers of the Agreement Identification must be black, having an orange background, being at least forty-five centimeters high, and of adequate width. They can be painted on the sides and on the top of the pilot house, instead of being displayed on boards as described in paragraph 3 above.
5. The Agreement Identification, the name of vessel and the port of registration shall be displayed clearly; no parts of the vessel, ropes or fishing equipment shall interfere with its visibility.
6. One or more lights, either portable or fixed, shall be provided to light the Agreement Identification, name and port of registry, at night, or during periods of bad visibility, so as to avoid the necessity of the Brazilian patrol boats or airplanes to use search lights to identify such vessels, and thus interfering with the vessel's navigation in the specified area.
7. The numbers from the Agreement Identification shall be assigned permanently to individual vessels, and these numbers will not be reassigned to replacement vessels entering in the Surinamese fleet.
8. The standard radio frequencies for communications between fishing vessels and enforcement vessels shall be 2182 KHz and 2638 KHz.

ANNEX II

Your fishing log information will be treated confidentially

INSTRUCTIONS

Instructions are illustrated in the annexed specimen of the fishing log sheet.

If you want copies of your log, carbon paper is included.

Make an entry in all columns of the log every day.

Record the following information:

1. DATE: Log the month and day.
2. FISHING AREA: Write the name of the fishing grounds, the zone number (shown in black circles on the chart) and the depth in fathoms. Use the names of the fishing grounds shown on the chart or if possible give more exact location by other commonly used names or by distance and direction from known landmarks.
3. FISHING TIME:
 - (a) *Day or night.* Put D for day fishing or N for night fishing. If you fish both day and night in the same 24-hour day, use a separate line for each type of fishing.
 - (b) *Number of drags.* Log the total number of drags made.
 - (c) *Total hours fished.* Log the total number of hours from of first set to last haulback.
4. SHRIMP CATCH:
 - (a) *Total pounds.* Record the estimated total pounds caught, heads-off weight.
 - (b) *Kind and size of shrimp.* Check the kind of shrimp caught. List the chief size count (for example 21-25, 26-30, etc.)
5. REMARKS: You may use this space for various purposes, such as logging running time to and from fishing grounds, transfer of catch at sea, engine breakdown, or bad weather.

NOTE: The Brazil-Netherlands Fishery Agreement area is shown as a shaded area on the log sheet chart. This area covers the waters adjacent to the coast of Brazil from the international boundary between French Guiana and Brazil on the north to 1° North Latitude on the south. The Agreement area extends eastward from the 30-meter (16.4 fathom) depth contour to 47°30 West Longitude. Under the current terms of the Agreement, this area is open to shrimp fishing from March 1 to November 30, except for the portion of the area south of a true bearing of 240° from seaward to Ponta do Céu lighthouse and radiobeacon, which is open only from March 1 to June 30.

[illegible]

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