

No. 17708

**CANADA
and
PORTUGAL**

**Agreement on their mutual fishery relations. Signed at
Ottawa on 29 July 1976**

*Authentic texts: English, French and Portuguese.
Registered by Canada on 11 April 1979.*

**CANADA
et
PORTUGAL**

**Accord sur leurs relations mutuelles en matière de pêche.
Signé à Ottawa le 29 juillet 1976**

*Textes authentiques : anglais, français et portugais.
Enregistré par le Canada le 11 avril 1979.*

AGREEMENT¹ BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT OF PORTUGAL ON THEIR MUTUAL FISHERY RELATIONS

The Government of Canada and the Government of Portugal,

Having regard to the concern of both Governments for the rational management, conservation and utilization of the living resources of the sea and the concern of the Government of Canada for the welfare of its coastal communities and for the living resources of the adjacent waters upon which these communities depend,

Recognizing that the Government of Canada proposes to extend its jurisdiction over the living resources of its adjacent waters pursuant to and in accordance with relevant principles of international law and to exercise within a zone of 200 nautical miles sovereign rights for the purpose of exploring and exploiting, conserving and managing these resources,

Taking into account traditional Portuguese fishing,

Reaffirming their desire to maintain mutually beneficial cooperation in the field of fisheries,

Desirous of establishing the terms and conditions under which their mutual fishery relations shall be conducted and of promoting the orderly development of the law of the sea,

Taking into account developing State practice and the consensus emerging from the Third United Nations Conference on the Law of the Sea,

Recalling their Agreement of March 27, 1972, concerning fisheries' relations between the two countries,²

Have agreed as follows:

Article I. The Government of Canada and the Government of Portugal undertake to ensure close cooperation between the two countries in matters pertaining to the conservation and utilization of the living resources of the sea. They shall take appropriate measures to facilitate such cooperation and shall continue to consult and cooperate in international negotiations and organizations with a view to achieving common fisheries' objectives.

Article II. 1. The Government of Canada undertakes, upon the extension of the area under Canadian fisheries' jurisdiction, to permit Portuguese vessels to fish within this area, beyond the present limits of the Canadian territorial sea and fishing zones off the Atlantic coast, for allotments, as appropriate, of parts of total allowable catches surplus to Canadian harvesting capacity, in accordance with the provisions of paragraphs (2) and (3) of this article.

2. In the exercise of its sovereign rights in respect of living resources in the area referred to in paragraph (1), the Government of Canada shall determine annually, subject to adjustment when necessary to meet unforeseen circumstances:

¹ Came into force on 18 July 1977 by the exchange of the instruments of ratification, which took place at Lisbon, in accordance with article VIII.

² United Nations, *Treaty Series*, vol. 870, p. 135.

- (a) The total allowable catch for individual stocks or complexes of stocks, taking into account the interdependence of stocks, internationally accepted criteria and all other relevant factors;
- (b) The Canadian harvesting capacity in respect of such stocks; and
- (c) After appropriate consultations, allotments, as appropriate, for Portuguese vessels of parts of surpluses of stocks or complexes of stocks.

3. To fish for allotments pursuant to the provisions of paragraphs (1) and (2), Portuguese vessels shall obtain licences from the competent authorities of the Government of Canada. They shall comply with the conservation measures and other terms and conditions established by the Government of Canada and shall be subject to the laws and regulations of Canada in respect of fisheries.

4. The Government of Portugal undertakes to cooperate with the Government of Canada, as appropriate in light of the development of fisheries' relations between the two countries pursuant to the provisions of this article, in scientific research for purposes of conservation and management of the living resources of the area under Canadian fisheries' jurisdiction off the Atlantic coast.

5. The Government of Canada undertakes to authorize Portuguese vessels licenced to fish, pursuant to the provisions of this article, to enter Canadian Atlantic ports, in accordance with Canadian laws, regulations and administrative requirements, for the purpose of purchasing bait, supplies or outfits, or effecting repairs, and such other purposes as may be determined by the Government of Canada, subject to the availability of facilities and the needs of Canadian vessels. Such authorization shall become null and void in respect of any vessel upon the cancellation or termination of its licence to fish, except for the purpose of entering port to purchase supplies or effect repairs necessary for its outward voyage.

Article III. 1. The Government of Canada and the Government of Portugal recognize that States in whose rivers anadromous stocks originate have the primary interest in and responsibility for such stocks and agree that fishing for anadromous species should not be conducted in areas beyond the limits of national fisheries jurisdiction. They will continue to work together for the establishment of permanent multilateral arrangements reflecting this position.

2. Pursuant to paragraph (1), the Government of Portugal shall take measures to avoid the taking by its vessels and by persons under its jurisdiction of anadromous stocks spawned in Canadian waters.

Article IV. The Government of Canada and the Government of Portugal undertake to cooperate directly or through appropriate international organizations to ensure proper management and conservation of the living resources of the high seas beyond the limits of national fisheries' jurisdiction, including areas of the high seas beyond and immediately adjacent to the areas under their respective fisheries jurisdiction, taking into account their interests in such resources.

Article V. 1. The Government of Portugal shall take measures to ensure that Portuguese fishing vessels operate in compliance with the provisions of this Agreement.

2. The Government of Canada shall take the necessary measures to give effect to the provisions of this Agreement, including the issuance of licences pursuant to article II.

Article VI. 1. The Government of Canada and the Government of Portugal shall carry out periodic bilateral consultations regarding the implementation of this Agreement and the development of further cooperation. In particular, they shall promote future bilateral cooperation on such matters as exchanges of technical information and personnel and improvement of utilization and processing of catches. They shall examine jointly the facilitation of cooperative arrangements between Canadian and Portuguese enterprises with respect to the utilization of living resources of waters off the Canadian Atlantic coast, as well as the expansion of markets for fish and fish products originating in Canada, and, bearing in mind the obligations of both countries as contracting parties to the General Agreement on Tariffs and Trade,¹ shall promote the reduction or elimination of tariff and non-tariff barriers for such products. They shall also examine jointly the possibility of arrangements for the use of Canadian Atlantic ports by Portuguese fishing vessels to ship or discharge crew members or other persons and for such other purposes as may be agreed upon.

2. In the consultations referred to in paragraph 2 (c) of article II regarding allotments for Portuguese fishing vessels of parts of surpluses of stocks or complexes of stocks, the Government of Canada will take into consideration all relevant factors, including *inter alia* Canadian interests, the development of cooperation between the two Governments pursuant to the provisions of this Agreement, and previous catches of the Portuguese fleet in respect of such stocks or complexes of stocks. These consultations shall be held reasonably in advance of the relevant fishing season.

Article VII. 1. The present Agreement shall be without prejudice to other existing Agreements between the two Governments or to existing multilateral Conventions to which the two Governments are Party or to the views of either Government with regard to the law of the sea.

2. The present Agreement shall be subject to review by the two Governments after a period of two years or at any time following ratification by both Governments of a future multilateral Convention dealing with the same substantive matters. It may be terminated by either Party ten years after the date of its entry into force, or at the conclusion of any six-year period thereafter, provided that notice of termination is given not less than twelve months before expiry of any such period.

Article VIII. This Agreement is subject to ratification and shall enter into force on the date of the exchange of the instruments of ratification, which shall take place at Lisbon as soon as possible.

¹ United Nations, *Treaty Series*, vol. 55, p. 187.

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

DONE in two copies at Ottawa this 29th day of July, 1976, in the English, French and Portuguese languages, each version being equally authentic.

EN FOI DE QUOI les soussignés, dûment autorisés à cet effet par leurs gouvernements respectifs, ont signé le présent Accord.

FAIT en deux exemplaires à Ottawa, le 29^e jour de juillet 1976, en français, en anglais et en portugais, chaque version faisant également foi.

EM FÉ DO QUE os abaixo assinados, com os devidos poderes para o efeito, apuseram as suas assinaturas no presente Acordo.

FEITO, em dois exemplares, em Ottawa, no dia 29 do mês de Julho do ano de 1976, em inglês, francês e português, nos quais igualmente faz fe qualquer dos textos.

[Signed — Signé]¹

For the Government of Canada
Pour le Gouvernement du Canada
Pelo Governo do Canada

[Signed — Signé]²

For the Government of Portugal
Pour le Gouvernement du Portugal
Pelo Governo Portugêes

¹ Signed by Allan J. MacEachen—Signé par Allan J. MacEachen.

² Signed by Luiz Gois Givueira—Signé par Luiz Gois Givueira.