

**No. 19625**

---

**AUSTRALIA  
and  
JAPAN**

**Agreement on fisheries (with exchanges of notes, memorandum of understanding and record of discussion).  
Signed at Canberra on 17 October 1979**

*Authentic text: English.*

*Registered by Australia on 11 March 1981.*

---

**AUSTRALIE  
et  
JAPON**

**Accord dans le domaine des pêcheries (avec échanges de notes, mémorandum d'accord et procès-verbal des délibérations). Signé à Canberra le 17 octobre 1979**

*Texte authentique : anglais.*

*Enregistré par l'Australie le 11 mars 1981.*

## AGREEMENT<sup>1</sup> ON FISHERIES BETWEEN THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF JAPAN

---

The Government of Australia and the Government of Japan,

Recalling their concern for the rational management, conservation and optimum utilisation of the living resources of the sea and the need to promote the orderly development of the international law of the sea,

Taking into account developments in the international law of the sea including developments at the Third United Nations Conference on the Law of the Sea,

Recognising that the Government of Australia exercises, in accordance with international law, sovereign rights for the purposes of exploring and exploiting, conserving and managing the living resources within the zone of 200 nautical miles off its coasts (hereinafter referred to as “the Australian fishing zone”),

Considering that nationals and fishing vessels of Japan have been engaged, for a considerable period of time, in the utilisation of certain living resources off the coast of Australia and have also made a contribution to the development of and research into such resources,

Considering further the desire of the Government of Japan that fishing vessels of Japan continue to pursue their interest in the utilisation of these resources,

Desirous of establishing the terms and conditions under which their mutual fisheries relations shall be conducted, and

Taking into account their desire to promote co-operation in the field of fisheries and in this way further to develop friendly relations between Australia and Japan,

Have agreed as follows:

*Article I.* The Government of Australia and the Government of Japan undertake to ensure close co-operation between the two countries in matters pertaining to the conservation and optimum utilisation of the living resources of the sea. They shall endeavour to facilitate such co-operation and shall continue to consult and co-operate bilaterally or multilaterally, as appropriate, with a view to achieving common fisheries objectives.

*Article II.* 1. The Government of Australia shall permit fishing vessels of Japan to engage in fishing within the Australian fishing zone in accordance with the provisions of this Agreement.

2. The detailed procedures for the conduct of fishing operations by fishing vessels of Japan within the Australian fishing zone and for the issuance of licences by the Government of Australia shall be provided for in subsidiary agreements between the two Governments.

3. The Government of Australia shall require compliance by fishing vessels of Japan engaged in fishing within the Australian fishing zone with Australian law in respect of fisheries applicable to foreign fishing vessels within the Australian fishing zone.

---

<sup>1</sup> Came into force on 1 November 1979, in accordance with article XII (1).

*Article III.* 1. The Government of Australia shall, in the exercise of its sovereign rights in respect of the living resources within the Australian fishing zone, determine annually, subject to adjustment when necessary to meet unforeseen circumstances:

- (a) The total allowable catch for individual stocks or complexes of stocks, taking into account the best available scientific evidence, the interdependence of stocks and all other relevant factors;
- (b) The portion of the total allowable catch for such stocks that will be taken by fishing vessels of Australia; and
- (c) Allocations, as and where appropriate, for fishing vessels of Japan of parts of surpluses of such stocks.

2. The Government of Australia shall inform the Government of Japan, on a timely basis, of any determination or adjustment made in pursuance of this article.

*Article IV.* The Government of Japan shall take appropriate measures, in accordance with the relevant laws and regulations of Japan, to ensure:

- (a) That fishing vessels of Japan not engage in fishing within the Australian fishing zone, unless licensed under this Agreement;
- (b) That fishing vessels of Japan licensed to fish within the Australian fishing zone comply with the provisions of this Agreement; and
- (c) That persons on board fishing vessels of Japan within the Australian fishing zone allow boarding and comply with the instructions of duly authorised Australian officials for the purposes of inspection and enforcement.

*Article V.* 1. The Government of Australia shall give prompt notification through diplomatic channels informing the Government of Japan of the arrest of nationals of Japan on board fishing vessels of Japan or the seizure of such vessels. The Government of Australia also shall inform the Government of Japan of the outcome of any subsequent legal proceedings relating to such arrested nationals of Japan or seized fishing vessels of Japan.

2. In the event of arrest or seizure, nationals of Japan and fishing vessels of Japan shall, on compliance with the requirements of Australian law relating to bond or other security, be promptly released.

*Article VI.* 1. The Government of Japan shall take necessary measures to notify the Government of Australia of details of fishing vessels of Japan that wish to engage in fishing within the Australian fishing zone.

2. Fishing vessels of Japan, in order to fish within the Australian fishing zone, shall obtain licences in accordance with Australian law.

*Article VII.* 1. The Government of Japan shall co-operate with the Government of Australia in the conduct of scientific research for the purposes of the effective conservation and optimum utilisation of the living resources within the Australian fishing zone.

2. The Government of Japan shall make available to the Government of Australia such statistical and biological information as may be required by the Government of Australia for the purposes of managing and conserving the living resources within the Australian fishing zone.

*Article VIII.* The Government of Japan shall take all necessary measures, in accordance with the relevant laws and regulations of Japan, to facilitate prompt and adequate settlement of a claim for loss or damage on the part of the Government of Australia or Australian citizens for which fishing vessels of Japan licensed pursuant to paragraph 2 of article VI of this Agreement are responsible while within the Australian fishing zone for the purpose of fishing operations.

*Article IX.* The Government of Australia and the Government of Japan shall hold periodic consultations regarding the implementation of this Agreement.

*Article X.* If a dispute arises between the Government of Australia and the Government of Japan as to the interpretation or application of any of the provisions of this Agreement, the two Governments shall endeavour to settle it by negotiations between themselves. Such negotiations shall begin within sixty days after one Government receives a request for the opening of negotiations from the other.

*Article XI.* Nothing in this Agreement shall be deemed to affect other existing international agreements to which Australia and Japan are parties or to prejudice the position of the Government of either country in regard to any question under negotiation at the Third United Nations Conference on the Law of the Sea.

*Article XII.* 1. This Agreement shall enter into force on the first day of November, 1979.

2. This Agreement shall remain in force for a period of two years and shall continue in force thereafter until the expiration of twelve months from the date on which either Government shall give notice to the other of its intention to terminate this Agreement.

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

DONE in duplicate at Canberra, this seventeenth day of October, 1979, in the English language.

For the Government  
of Australia:

[Signed — Signé]<sup>1</sup>

For the Government  
of Japan:

[Signed — Signé]<sup>2</sup>

## EXCHANGES OF NOTES

### I a

Canberra, 17 October 1979

Excellency,

I have the honour to refer to the Agreement on fisheries between the Government of Australia and the Government of Japan signed today, and to confirm that the Government of Australia, in the exercise of its sovereign rights under article III

<sup>1</sup> Signed by P. J. Nixon — Signé par P. J. Nixon.

<sup>2</sup> Signed by Yoshio Okawara — Signé par Yoshio Okawara.

of the said Agreement, will take into consideration all relevant factors including Australian interests, the development of co-operation between the two Governments pursuant to the said Agreement including the development of co-operation with regard to access to the Japanese market for Australian fish and fish products, and the fact that nationals and fishing vessels of Japan have been engaged for a considerable period of time in the utilisation of certain living resources off the coast of Australia.

I should be grateful if Your Excellency would confirm that the Government of Japan comprehends the position of the Government of Australia as stated above.

I avail myself of this opportunity to extend to Your Excellency the assurance of my highest consideration.

Minister of State for  
Primary Industry

His Excellency Mr. Yoshio Okawara  
Ambassador Extraordinary and Plenipotentiary  
of Japan to Australia

II a

EMBASSY OF JAPAN  
CANBERRA

Canberra, 17 October 1979

Excellency,

I have the honour to acknowledge receipt of Your Excellency's Note of today's date, which reads as follows:

[See note I a]

I have further the honour to confirm that the Government of Japan comprehends the position of the Government of Australia as stated in the above letter.

I avail myself of this opportunity to extend to Your Excellency the assurance of my highest consideration.

[Signed — Signé]<sup>1</sup>

Ambassador Extraordinary and Plenipotentiary  
of Japan to Australia

The Honourable P. J. Nixon, M.P.  
Minister of State for Primary Industry

<sup>1</sup> Signed by Yoshio Okawara — Signé par Yoshio Okawara.

## I b

Canberra, 17 October 1979

Excellency,

I have the honour to refer to the Agreement on Fisheries between the Government of Australia and the Government of Japan signed today, and to confirm that it is the understanding of the Government of Australia that, in the consultations referred to in Article IX of the said Agreement, the two Governments shall amongst other things examine the possibility of further co-operation in the field of fisheries, including in particular:

- (1) Exchanges of technical information and personnel;
- (2) The expansion of markets, including improved market access for fish and fish products originating in Australia;
- (3) The facilitation of co-operative arrangements between Japanese and Australian enterprises for the catching of living resources from the Australian fishing zone and for the utilisation, processing and marketing of catches from the Australian fishing zone; and
- (4) Such other matters as may be agreed upon.

I should be grateful if Your Excellency would confirm that the foregoing is also the understanding of the Government of Japan.

I avail myself of this opportunity to extend to Your Excellency the assurance of my highest consideration.

Minister of State for  
Primary Industry

His Excellency Mr. Yoshio Okawara  
Ambassador Extraordinary and Plenipotentiary  
of Japan to Australia

## II b

Canberra, 17 October 1979

Excellency,

I have the honour to acknowledge receipt of Your Excellency's Note of today's date, which reads as follows:

[See note I b]

I have further the honour to confirm that the foregoing is also the understanding of the Government of Japan.

I avail myself of this opportunity to extend to Your Excellency the assurance of my highest consideration.

[Signed — Signé]<sup>1</sup>

Ambassador Extraordinary and Plenipotentiary  
of Japan to Australia

The Honourable P. J. Nixon, M.P.  
Minister of State for Primary Industry

<sup>1</sup> Signed by Yoshio Okawara — Signé par Yoshio Okawara.

## MEMORANDUM OF UNDERSTANDING

The Representatives of the Government of Australia and the Government of Japan, with respect to the Agreement on fisheries between the Government of Australia and the Government of Japan signed today, wish to record the following:

1. It is understood that for the purposes of the Agreement the term “fishing vessel of Japan” means a vessel registered in Japan and operated for commercial purposes by and for Japanese nationals or corporations and used for or equipped to be used for

- (a) Fishing;
- (b) Performing any activity relating to fishing, including transportation or processing; or
- (c) Supporting one or more vessels at sea in the performance of any activity mentioned in (a) or (b) above.

2. It is understood that in the event that a fishing vessel of Japan is observed by the competent Authorities of the Government of Australia in violation of the provisions of the Agreement within the Australian fishing zone and such vessel evades seizure or arrest by such Authorities, the competent Authorities of the Government of Japan intend, on receipt of a request from the competent Authorities of the Government of Australia, to give administrative guidance to discourage the persons responsible for the violation from further engaging in fishing within the Australian fishing zone.

Canberra, 17 October 1979

## RECORD OF DISCUSSION

In connection with the Agreement on fisheries between the Government of Australia and the Government of Japan signed today, the delegations of the Government of Australia and the Government of Japan wish to record the following:

1. The Australian delegation, during the course of discussions with regard to access to Japanese markets for Australian fish and fish products, stated that the Australian Government required from Japan an affirmative response to the following matters listed in Mr. McKay's letter of 8 May 1979:

- (a) Formal advice from the Japanese side as to the fishery items on which Japan now imposes import quotas or other non-tariff restrictions and an undertaking to warn Australia in advance of any intended alterations in access conditions on items which Australia had nominated as being of trade interest;
- (b) Where there were nominated items that were subject non-tariff restrictions, the Australian side wanted to explore arrangements whereby Australia could be assured a satisfactory level of access for its existing exports or for exports that may develop as Australian capacity developed;
- (c) Japan's agreement to enter into bilateral consultations on requests from Australia should Japanese Government import policies inhibit access for its products; and
- (d) The development of mechanisms, perhaps a joint committee comprising Government and commercial interests, which would promote the commercial development of Australia's fish exports to Japan and which could also be used to tackle and overcome any problems of a commercial nature that may arise for Australian fish exports to Japan.

2. In response, the Japanese delegation stated that the following was Japan's position:

- (a) (i) The Japanese Government is prepared to inform the Australian Government of the fish and fish product items subject to quotas under Japanese import regulations;

- (ii) Quota levels on all imports have, in principle, been announced publicly since April 1 of this year, and accordingly it has been decided to successively announce the import quotas for fish and fish products. Against this background and given the Australian Government's request, direct notification of import quotas for fish and fish products would be possible;
  - (iii) The Japanese Government would be prepared to notify the Australian Government, as far as possible in advance, of alterations in access conditions of fish and fish products of Australian interest;
- (b) Where Australian fish and fish products are commercially competitive with the fish and fish products of other nations, market access is and will be available for such Australian fish and fish products under the Japanese import system;
  - (c) The Japanese Government would be prepared to hold consultations in respect of market access for fish and fish products either through diplomatic channels or on an *ad hoc* basis, should this be requested; and
  - (d) Should a mechanism to conduct inter-industry discussions be set up at the initiative of private industry sectors in the future, the Japanese Government would study attendance at these meetings by officials with the status of observers.

Canberra, 17 October 1979

---