

No. 21033

**UNITED STATES OF AMERICA
and
NORWAY**

Agreement concerning fisheries off the coasts of the United States (with annex and agreed minutes). Signed at Washington on 26 January 1981

Authentic texts: English and Norwegian.

Registered by the United States of America on 15 April 1982.

**ÉTATS-UNIS D'AMÉRIQUE
et
NORVÈGE**

Accord relatif aux pêcheries situées au large des côtes des États-Unis (avec annexe et procès-verbal approuvé). Signé à Washington le 26 janvier 1981

Textes authentiques : anglais et norvégien.

Enregistré par les États-Unis d'Amérique le 15 avril 1982.

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

The Government of the United States of America and the Government of Norway,

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 insure 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 Norway 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, 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;

¹ Came into force on 15 May 1981, the date mutually agreed by an exchange of notes, upon the completion of the internal procedures of both Parties, in accordance with article XVI.

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;

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 mammal" 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. Subject to the terms of this Agreement, the Government of the United States is willing to allow access for fishing vessels of Norway to harvest, in accordance with terms and conditions to be established in permits issued under article VII, 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 Norway.

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 of the total fleet may engage in a designated area 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 Norway of the determinations 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 Norway, the Government of the United States will promote the objective of optimum utilization of the living resources, taking into account, *inter alia*, cooperation in enhancing trade and trade opportunities for United States fisheries including access to foreign markets and purchases of United States fishery products, cooperation in enforcement, the extent to which the fish harvested in the United States zone are required for domestic consumption in Norway, contribution to the growth of the United States fishing industry including the transfer of harvesting and processing technology and the minimization of gear conflict, traditional fishing if any, contribution to fishery research and identification of stocks, and such other matters as are deemed appropriate by the United States.

Article V. The Government of Norway shall undertake to cooperate with and assist the United States in promoting the development of the United States fishing industry and increasing United States fishery exports by providing information and technical assistance, sharing expertise, transferring harvesting or processing technology to the United States fishing industry, facilitating appropriate joint venture or other arrangements, and taking such other actions as may be appropriate and mutually beneficial.

Article VI. The Government of Norway shall take all necessary measures to insure:

1. That nationals and vessels of Norway 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 VII. The Government of Norway may submit an application to the Government of the United States for a permit for each fishing vessel of Norway 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 the annex, which constitutes an integral part of this Agreement. The Government of the United States may require the payment of reasonable fees for such permits and for fishing in the United States fisheries zone.

Article VIII. The Government of Norway has and shall continue to prohibit nationals and vessels of Norway 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 IX. The Government of Norway shall insure that in the conduct of the fisheries under this Agreement:

1. The authorizing permit for each vessel of Norway 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 insure the prompt and adequate compensation of United States citizens for any loss, or damage to, their fishing vessels, fishing gear or catch that is caused by any fishing vessel of Norway as determined by applicable United States procedures.

Article X. The Government of Norway shall take all appropriate measures to the extent permissible under its national laws to ensure that each vessel of Norway authorized to fish pursuant to this Agreement, and any other Norwegian 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 XI. 1. The Government of the United States will impose appropriate penalties, in accordance with the laws of the United States, on vessels of

Norway 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 Norway by the authorities of the Government of the United States, notification shall be given promptly through diplomatic channels informing the Government of Norway of the action taken and of any penalties subsequently imposed.

Article XII. 1. The Governments of the United States and Norway shall cooperate in the conduct of scientific research required for the purpose of managing and conserving living resources subject to the fishery management authority of the United States, including the compilation of the best available scientific information for management and conservation of stocks of mutual interest.

2. The competent agencies of the two Governments shall cooperate in the development of an annual research plan on stocks of mutual concern through correspondence or meetings as appropriate, and may modify it from time to time by mutual agreement. The agreed annual research plans may include, but are not limited to, the exchange of information and scientists, regularly scheduled meetings between scientists to prepare research plans and review progress, and jointly conducted research projects.

3. The conduct of agreed research during regular commercial fishing operations on board a fishing vessel of Norway in the United States fishery conservation zone shall not be deemed to change the character of the vessel's activities from fishing to scientific research. Therefore, it will still be necessary to obtain a permit for the vessel in accordance with article VII.

4. The Government of Norway shall cooperate with the Government of the United States in the implementation of procedures for collecting and reporting biostatistical information and fisheries data, including catch and effort statistics, in accordance with procedures which will be stipulated by the United States.

Article XIII. The Government of the United States and the Government of Norway 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 XIV. Should the Government of the United States indicate to the Government of Norway that nationals and vessels of the United States wish to engage in fishing in the fishery conservation zone of Norway, or its equivalent, the Government of Norway will allow such fishing on the basis of reciprocity and on terms not more restrictive than those established in accordance with this Agreement.

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

Article XVI. 1. This Agreement shall enter into force on a date to be mutually agreed by exchange of notes, upon the completion of internal procedures of both Governments and shall remain in force until July 1, 1985, 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, January 26, 1981, in the English and Norwegian languages, both texts being equally authentic.

For the Government
of the United States of America:
[Signed — *Signé*]¹

For the Government
of Norway:
[Signed — *Signé*]²

ANNEX

APPLICATION AND PERMIT PROCEDURES

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

1. The Government of Norway may submit an application to the competent authorities of the United States for each fishing vessel of Norway 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;
- e. The ocean area in which, and the season or period during which, such fishing would be conducted; and

¹ Signed by M. D. Busby — *Signé par M. D. Busby.*

² Signed by Knut Hedemann — *Signé par Knut Hedemann.*

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 Norway of such determinations.

4. The Government of Norway 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 Norway and the payment of any fees, the Government of the United States shall approve the application and issue a permit for each Norwegian 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 Norway notifies the Government of the United States of its objections to specific conditions and restrictions, the two sides may consult with respect thereto and the Government of Norway 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.

AGREED MINUTES

The representatives of the Government of the United States and the Government of Norway have agreed to record the following in connection with the Agreement between the Government of the United States of America and the Government of Norway concerning fisheries off the coast of the United States:

With respect to article IX, paragraph 5, of the Agreement, the representatives of both Governments noted that the Governments of the United States and Norway may wish to consider establishing a joint fisheries claim board in the event Norwegian vessels fish in the United States fishery conservation zone pursuant to the Agreement.

With respect to article XII, concerning exchanges of scientists, meetings of scientists, or sending of scientists to work on jointly conducted research projects under an agreed annual research plan, the representatives of both Governments noted that the competent agencies of the two Governments may agree that the dispatching party shall cover round-trip travel expenses and the receiving party shall bear the expenses of lodging, board and local transportation within its territory and aboard its vessels, when this would be advantageous to the implementation of the agreed activity.
