

No. 16232

**UNITED STATES OF AMERICA
and
GERMAN DEMOCRATIC REPUBLIC**

**Agreement concerning fisheries off the coasts of the United States (with annexes, agreed minutes and related letter).
Signed at Washington on 5 October 1976**

Authentic texts of the Agreement, annexes and agreed minutes: English and German.

Authentic text of the related letter: English.

Registered by the United States of America on 27 January 1978.

**ÉTATS-UNIS D'AMÉRIQUE
et
RÉPUBLIQUE DÉMOCRATIQUE ALLEMANDE**

Accord relatif aux pêcheries au large des côtes des États-Unis (avec annexes, procès-verbal approuvé et lettre connexe). Signé à Washington le 5 octobre 1976

Textes authentiques de l'Accord, des annexes et du procès-verbal approuvé : anglais et allemand.

Texte authentique de la lettre connexe : anglais.

Enregistré par les États-Unis d'Amérique le 27 janvier 1978.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE GERMAN DEMOCRATIC REPUBLIC CONCERNING FISHERIES OFF THE COASTS OF THE UNITED STATES

The Government of the United States of America and the Government of the German Democratic Republic,

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

Acknowledging the fishery management authority of the United States as set forth in the Fishery Conservation and Management Act of 1976;

Having regard for the discussions of the Third United Nations Conference on the Law of the Sea regarding coastal state rights over fisheries off its coasts; 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 the German Democratic Republic 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 as defined in paragraph 7 of this Article; 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

¹ Came into force on 4 March 1977, the date agreed upon by an exchange of notes, upon the completion of the internal procedures of the Parties, in accordance with article XVI (1).

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;

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; or

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 research 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; and

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.

Article III. 1. The Government of the United States is willing to allow access for fishing vessels of the German Democratic Republic to harvest, in accordance with terms and conditions to be established in permits issued under Article VI, an allocation of that portion of the 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, including data from relevant international organizations, 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 the German Democratic Republic.

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.

4. The Government of the United States shall notify the Government of the German Democratic Republic 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 the German Democratic Republic, 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 conservation and management of fishery resources of mutual concern, and the need to minimize economic dislocation to the German Democratic Republic in cases where vessels of the German Democratic Republic have habitually fished for living resources over which the United States now exercises fishery management authority.

Article V. The Government of the German Democratic Republic shall take all necessary measures to ensure:

1. that nationals and vessels of the German Democratic Republic 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 the German Democratic Republic may submit an application to the Government of the United States for a permit for each fishing vessel of the German Democratic Republic 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 the German Democratic Republic shall ensure that nationals and vessels of the German Democratic Republic refrain 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 the German Democratic Republic shall ensure that in the conduct of the fisheries under this Agreement:

1. the authorizing permit for each vessel of the German Democratic Republic 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 proximately caused by any fishing vessel of the German Democratic Republic as determined by applicable United States procedures.

Article IX. 1. The Government of the German Democratic Republic shall take such measures as may be necessary to ensure that each vessel of the German Democratic Republic authorized to fish pursuant to this Agreement, and any other fishing vessel of the German Democratic Republic 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 official of the United States, and shall cooperate in such enforcement action as may be undertaken pursuant to the laws of the United States.

2. In cases of an enforcement action undertaken by the authorities of the Government of the United States concerning vessels of the German Democratic Republic, notification shall be given promptly through diplomatic channels informing the Government of the German Democratic Republic of the action taken.

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

2. In cases of an enforcement action undertaken by authorities of the Government of the United States, the vessels of the German Democratic Republic and their crews shall be promptly released, subject to such reasonable bond or other security as may be determined.

Article XI. The Government of the German Democratic Republic undertakes to cooperate with the Government of the United States 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 the management and conservation of stocks of mutual concern. The competent agencies of the two Governments shall enter into appropriate arrangements to facilitate such cooperation, including the exchange of information and scientists, regularly scheduled meetings between scientists to prepare research plans and review progress, and the implementation and maintenance of a standardized system for the collection and archiving of relevant statistical and biological information 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 the German Democratic Republic shall carry out periodic bilateral consultations at least annually 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 undertakes to authorize fishing vessels of the German Democratic Republic allowed to fish pursuant to this Agreement to enter designated ports in accordance with United States laws for the purpose of purchasing bait, supplies, or outfits, or effecting repairs, or for such other purposes as may be authorized.

Article XIV. Should the Government of the United States indicate to the Government of the German Democratic Republic that nationals and vessels of the United States wish to engage in fishing in the fishery conservation zone of the German Democratic Republic, or its equivalent, the Government of the German Democratic Republic 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 or prejudice in any manner the positions of either Government with respect to the extent of internal waters, of the territorial sea, of the high seas, or of coastal state jurisdiction or authority for any purpose other than the conservation and management of fisheries which are the subject of this Agreement.

Article XVI. 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 Parties, and shall remain in force until July 1, 1983, unless extended by exchange of notes between the Parties. Notwithstanding the foregoing, either Party may terminate this Agreement at any time after giving notice of such termination one year 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, October 5, 1976, in duplicate, in the English and German languages, both texts being equally authentic.

For the Government
of the United States of America:

[Signed — Signé]¹

For the Government
of the German Democratic Republic:

[Signed — Signé]²

ANNEX I

APPLICATION AND PERMIT PROCEDURES

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

1. The Government of the German Democratic Republic may submit an application to the Government of the United States for each fishing vessel of the German Democratic Republic 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
- 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 the German Democratic Republic of such determinations.

4. The Government of the German Democratic Republic 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.

¹ Signed by Rozanne L. Ridgway — Signé par Rozanne L. Ridgway.

² Signed by Werner Lange — Signé par Werner Lange.

5. Upon acceptance of the conditions and restrictions by the Government of the German Democratic Republic and the payment of any fees, the Government of the United States shall approve the application and issue a permit for each fishing vessel of the German Democratic Republic, 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 the German Democratic Republic notifies the Government of the United States of its objections to specific conditions and restrictions, the two Governments may consult with respect thereto and the Government of the German Democratic Republic 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 COLLECTION AND REPORTING REQUIREMENTS FOR VESSELS OF THE GERMAN DEMOCRATIC REPUBLIC

The reporting procedure described below is designed to contribute to continuing needs for assessment of the status of stocks. However, specific needs may develop from time to time which require a change in standard procedures, or additional data for special studies. Also, the pattern of fisheries will change. These aspects require that the procedures for reporting must be flexible enough to accommodate necessary changes. It also implies that some form of archiving of the basic data be developed so that retrieval at a later date in a different format from that specified below is possible.

All data described below for the Atlantic area shall be reported to the Director, Northeast Fisheries Center, National Marine Fisheries Service, Woods Hole, Massachusetts:

1. Statistical Information Requirements for Atlantic Fisheries Catch and Effort: Three months after the close of each quarter, catch-effort statistics for biweekly time periods for 30-minute square areas will be reported by vessel for the previous quarter. These will be reported using biweekly 30-minute square Statlant 21 B Forms or magnetic tape, computer cards or printouts for all species and gear types.

Vessel logbook data is to be available for selected, specific joint assessment studies. The collection of samples, specified in 2 below, should also be annotated in the logbook.

2. Procedures for Scientific Samples from Atlantic Fisheries

a. Length-age composition samples

- (1) 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.

- (2) 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

(3) Sampling 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., expected yearly catch in 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. The length range of fish 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.

- 3. Applicable data collection and reporting requirements for fisheries of the German Democratic Republic in areas off the Pacific coast or other coastal areas of the United States will be provided by the United States if necessary.
- 4. 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 the German Democratic Republic have agreed to record the following in connection with the Agreement Between the Government of the United States of America and the Government of the German Democratic Republic Concerning Fisheries off the Coasts of the United States signed today:

1. With respect to Article III, paragraph 2, *d*, of the Agreement, signed today, the two Governments agreed to take note that the administration of the Agreement during the first year of its operation would be in some respects transitional in nature. The two Governments further noted that, taking this into account, the Government of the United States informed the Government of the German Democratic Republic that, without prejudice to the completion of certain internal procedures resulting in operative determinations in this regard, it had determined on a tentative and contingency basis that the portion of the allowable catch for certain fisheries that will not be harvested by United States fishing vessels and that could be made available to the German Democratic Republic during 1977 is expected to be as follows: should the International Commission for the Northwest Atlantic Fisheries (ICNAF) cease to be effective with respect to the United States in 1977, the portion of the allowable catch that could be expected to be made available to the German Democratic Republic would reflect the United States views offered at the December 1976 meeting of ICNAF.

2. Regarding Article IV of the Agreement, the Representative of the Government of the German Democratic Republic requested that the Government of the United States, in determining the portion of a surplus that can be made available to vessels of the German Democratic Republic, take into account the contributions of the German Democratic Republic to the exploration of the fish stocks off the coasts of the United States, its previous cooperation in the implementation of conservation and management measures, its past portion in the utilization of fish stocks off the coasts of the United States, and possible economic dislocations related to the fishery of the German Democratic Republic off the coasts of the United States. The Representative of the Government of the United States noted this statement by the Representative of the Government of the German Democratic Republic.

3. It is the understanding of the Representative of the Government of the German Democratic Republic with respect to Article VIII, paragraph 3, of the Agreement that the utilization of observers and the costs for such utilization to be reimbursed by the German Democratic Republic will be kept as low as possible. The Representative of the Government of the United States stated that the costs for the utilization of United States observers will be determined in accordance with provisions of United States law.

4. In connection with Article IX and X of the Agreement, both representatives stated that it was their understanding that when a fishing vessel of the German Democratic Republic is the subject of an enforcement action by authorities of the United States, the vessel would as a general rule be allowed to use its communications facilities to report its situation to its owner. In cases of an enforcement action taken by the United States against a fishing vessel of the German Democratic Republic, the citizens of the German Democratic Re-

public against whom proceedings are instituted would have the right freely to choose competent counsel for their defense.

5. With respect to the provisions of Article X of the Agreement, the Representative of the Government of the United States stated that, should there be cases involving fishermen of the German Democratic Republic arising out of fishing activities under this Agreement, the appropriate Representatives of the Government of the United States will recommend to the court that the penalty for violation of fishery regulations not include imprisonment or any other form of corporal punishment. The Representative of the Government of the German Democratic Republic noted this statement by the Representative of the Government of the United States.

6. With respect to Article XII of the Agreement, both Representatives noted the desirability of cooperation among commercial fishing enterprises of the United States and the German Democratic Republic.

RELATED LETTER

DEPARTMENT OF STATE
WASHINGTON, D.C.

October 5, 1976

Sir:

In Article XIII of the Agreement Concerning Fisheries off the Coasts of the United States of America, signed today between our two Governments, the Government of the United States undertook to authorize vessels of the German Democratic Republic which have been issued permits pursuant to the Agreement to enter designated ports beginning on the date of entry into force of the Agreement.

I wish to inform you that the Government of the United States will authorize the entry of fishing, fishery research and fishing support vessels of the German Democratic Republic into the ports of Boston, New York, Philadelphia and Baltimore pursuant to the procedures in this letter.

Vessels of the German Democratic Republic may enter the ports specified above to replenish ship's stores or fresh water, obtain bunkers, provide rest for or make changes in their crews, and to obtain repairs and other services normally provided in these ports.

Entry shall be permitted subject to notice to the United States Coast Guard, forwarded so as to be received four days in advance of the port entry using (1) Telex, using Telex number 89-2427, (2) TWX, using TWX number 710-822-1959, or (3) Western Union, using the address "U.S. Coast Guard Headquarters, 6th and D Streets, S.W., Washington, D.C." All such entries are subject to the applicable laws and regulations of the United States.

The Government of the United States of America at its Embassy in Berlin will accept crew lists in application for visas valid for a period of six months for multiple entry into the specified United States ports. Such a crew list shall be submitted at least 14 days prior to the first entry of a vessel into a port of the United States. Submission of an amended (supplemental) crew list subsequent to departure of a vessel from a port of the German Democratic Republic will also be subject to the provisions of this paragraph, provided that visas thereunder shall only be valid for six months from the date of issuance of the original crew list visa. Notification of entry shall specify if shore leave is requested under such multiple entry visa.

In cases where a seaman of the German Democratic Republic is evacuated from his vessel to the United States for the purpose of emergency medical treatment, authorities of the German Democratic Republic will ensure that the seaman departs from the United States within fourteen days after his release from the hospital. During the period that the seaman is in the United States, a representative of the German Democratic Republic will be responsible for him.

The exchange of crews of vessels of the German Democratic Republic in the specified ports shall be permitted subject to submission to the United States Embassy in Berlin of applications for individual transit visas and crewman visas for replacement crewmen. Applications shall be submitted 14 days in advance of the date of the arrival of the crewmen in the United States and shall indicate

the names, dates and places of birth, the purpose of the visit, the vessel to which assigned, and the modes and dates of arrival of all replacement crewmen. Individual passports or seaman's documents shall accompany each application. Subject to United States laws and regulations, the United States Embassy will affix transit and crewman visas to each passport or seaman's document before it is returned. In addition to the requirements above, submission to the Department of State 14 days in advance of arrival of the name of the vessel and date of its expected arrival, a list of names, dates and places of birth for those crewmen to be paroled into the United States for repatriation to the German Democratic Republic and the dates and manner of their departure from the United States.

Special provisions shall be made as necessary regarding the entry of research vessels of the German Democratic Republic which are engaged in a mutually agreed research program in accordance with the terms of Article XI of the Agreement. Requests for visits of fishery research vessels should be forwarded to the United States Department of State, Washington, D.C. through diplomatic channels.

Sincerely,

[Signed]

Rozanne L. Ridgway
Chairman of the Delegation
of the United States of America

The Honorable Werner Lange
Chairman of the Delegation
of the German Democratic Republic