

Agreement on Fisheries Between the Government of Canada and the European Economic Community (1981)

Done in Brussels on 1981-12-30.

Entered into force on 1981-12-30.

Parties: Canada, European Economic Community

The Government of Canada, and

The European Economic Community, (hereinafter referred to as the "Community")

RECALLING the close relations between the Community and Canada and, in particular, the Framework Agreement for Commercial and Economic Co-operation between Canada and the European Communities (CTS1976/35) signed in Ottawa on 6 July 1976;

CONSIDERING their common desire to ensure the conservation and rational management of the living resources of the waters adjacent to their coasts and their concern for the welfare of their coastal communities and the living resources of the adjacent waters upon which these communities depend;

NOTING that the government of Canada has extended its jurisdiction over the living resources of its adjacent waters to a limit of up to two hundred nautical miles from its coast and exercises within this limit sovereign rights for the purposes of exploring and exploiting, conserving and managing these resources; and that the Member States of the Community have agreed that the limits of their fishing zones (hereinafter referred to as the fishery zone of the Community) shall extend up to two hundred nautical miles from the coast, fishing within these limits being subject to the common fisheries policy of the Community;

TAKING into account the need to co-ordinate the management of certain living resources which occur both in waters under the fisheries jurisdiction of Canada and in the fishery zone of the Community;

TAKING into account the work of the Third United Nations Conference on the Law of the Sea and State practice conforming thereto;

AFFIRMING that the exercise of sovereign rights by coastal states within their areas of jurisdiction over the living resources for the purpose of exploring, exploiting, conserving and managing these resources, should be conducted in accordance with the principles of international law;

TAKING into account the interest of each Party in developing fisheries in the fishery zone of the other Party;

DESIROUS of establishing the terms and conditions pertaining to fisheries of mutual concern,

HAVE AGREED AS FOLLOWS:

Article I

The two Parties shall cooperate closely 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 consult and cooperate in international negotiations and organizations with a view to achieving common fisheries objectives.

Article II

(a) The Government of Canada undertakes to grant access to vessels flying the flag of Member States of the Community to fish within the area off the East coast of Canada, brought under Canadian fisheries jurisdiction after 31 December 1976, for allotments, as appropriate, of parts of total allowable catches surplus to Canadian harvesting capacity, in accordance with the provisions of this Article.

(b) The Community undertakes to grant access to Canadian vessels to fish within the fishery zone of the Community for allotments, as appropriate, of parts of total allowable catches surplus to Community harvesting capacity, in accordance with the provisions of this Article.

Each Party shall determine annually for the waters under its fisheries jurisdiction referred to in paragraph 1, 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 scientific evidence available to it, the interdependence of stocks, the work of appropriate international organizations and other relevant factors;

(b) its harvesting capacity in respect of such stocks; and

(c) after appropriate consultations, allotments, as appropriate, for fishing vessels of the other Party of parts of surpluses of stocks or complexes of stocks and the areas within which these allotments may be fished.

In determining the allotments and areas where fishing may take place, each Party will take into account, inter alia:

—its interests;

—the amount of the surplus of total allowable catches of relevant stocks;

—traditional fishing by vessels of the other Party;

—reciprocity of access;

—other benefits which may be offered pursuant to the cooperation referred to in Article VIII.

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Article III

1. Each Party shall take all appropriate measures to oblige its vessels to operate in compliance with the provisions of this Agreement and with any measures agreed upon from time to time pursuant to the provisions of this Agreement.

2. Each Party may take within its area of fisheries jurisdiction such measures, in conformity with international law, as may be necessary to ensure compliance with the provisions of this Agreement by vessels of the other Party.

3. Each Party shall take, within its area of fisheries jurisdiction, the necessary measures to give effect to the provisions of this Agreement, which may include the issuing of licences.

4. Fishing vessels of one Party shall, when fishing within the area of fisheries jurisdiction of the other Party, comply with all laws governing fishing activities in that area.

5. Each Party may establish measures which it deems to be required for the conservation, rational management, and regulation of fisheries within its fishery zone, provided that such measures are not taken for the specific purpose of impeding the fishing vessels of the other Party from taking the allocations granted under this Agreement.

Article IV

The two Parties shall cooperate, either bilaterally or through appropriate international organizations, to ensure the proper management and conservation of stocks occurring within the fishery zones of both Parties and stocks of associated species. In particular, they shall endeavour to harmonize the regulatory measures applicable to these stocks, and shall consult frequently and exchange relevant fisheries statistics for this purpose.

Article V

Each Party shall cooperate with the other Party, as appropriate, in light of the development of their fisheries relations pursuant to the provisions of Article II, in scientific research required for the purposes of management, conservation and utilization of the living resources in the area under the fisheries jurisdiction of that other Party. For these purposes, scientists of the two Parties shall consult regarding such research and the analysis and interpretation of the results obtained.

Article VI

1. Each Party shall, subject to the availability of facilities and to the needs of its own vessels, allow vessels which it has licenced pursuant to this Agreement to enter its ports in accordance with applicable laws, regulations and administrative requirements, for the purpose of purchasing bait,

supplies or outfits or effecting repairs, or for such other purposes as that Party may determine.

2. Such authorization shall become null and void in respect of any vessel licenced pursuant to this Agreement upon the cancellation or termination of its licence, except for the purpose of entering port to purchase supplies or effect repairs necessary for its outward voyage.

3. The provisions of this Article shall not affect access to the ports of either Party in cases of distress, medical emergency or force majeure.

Article VII

1. The two Parties reaffirm their attachment to the cooperation provided for in the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, to which they are Contracting Parties and, in particular, in Article XI, paragraph 4, thereof.

2. In the event that third-party fishing causes a threat to the conservation of the living resources of the waters beyond and adjacent to the areas referred to in Article II, the two Parties agree to take cooperative action to overcome that threat.

Article VIII

1. The two Parties shall encourage economic and commercial cooperation in the field of fisheries.

2. To this end, the two Parties shall, in particular, utilize the possibilities offered by the 1976 Framework Agreement for Commercial and Economic Cooperation between Canada and the European Communities in the fisheries sector with a view to improving in a reciprocal manner the conditions and terms of their fisheries relations.

Article IX

The two Parties shall carry out periodic bilateral consultations regarding the development of further cooperation in relation to fisheries, including cooperation on such matters as fisheries trade, exchanges of technical information and specialized personnel, improvement of utilization and processing of catches, and arrangements for the use of the ports of each Party by fishing vessels of the other Party to ship or discharge crew members or other persons and for such other purposes as may be agreed upon.

Article X

1. The two Parties shall consult periodically on questions relating to the application of this Agreement.

2. In the event of a dispute concerning the interpretation or application of this Agreement, such dispute shall be the subject of consultations between the two Parties.

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Article XI

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territory of Canada.

Article XII

1. Nothing in this Agreement shall prejudice any multi-lateral convention to which Canada and the Community, or Canada and any Member State of the Community, are parties, or the views of either Party with respect to any question relating to the Law of the Sea.

2. This Agreement is without prejudice to the delimitation of economic zones or fishery zones between Canada and Member States of the Community.

Article XIII

This Agreement is without prejudice to any existing bilateral agreement between a Member State of the Community and Canada relating to fisheries.

Article XIV

The Annex to this Agreement shall form an integral part thereof.

Article XV

This Agreement shall enter into force on the date on which the Parties notify each other of the completion of the procedures necessary for this purpose.

Article XVI

This Agreement may be terminated by either Party on 31 December 1987 or at any time thereafter, provided that notice of termination is given not less than twelve months in advance of such termination.

Annex

Community declaration concerning Article XI of the Agreement on fisheries between the Government of Canada and the European Economic Community

Pursuant to the wish expressed by the Government of Canada, the Community confirms that it considers Article XI of the Agreement, which incorporates provisions that are traditionally used in agreements concluded between the European Economic Community and third countries, as having no bearing upon the question of the legal status of the economic zone, currently under discussion at the Third Conference of the United Nations on the Law of the Sea.

Agreement In The Form of An Exchange of Letters Between The Government of Canada And The European Economic Community Concerning Their Fisher-

ies Relations

Brussels, 30 December 1981

Sir,

With reference to the Agreement on Fisheries between the European Economic Community and the Government of Canada signed on this date, in particular, to Article VIII, I have the honour to confirm that the Government of Canada will provide to vessels flying the flag of Member States of the Community the opportunity to fish according to the laws and regulations of Canada the allocations listed in Annex I to this letter.

The maintenance of these allocations shall be contingent upon the fulfilment by the Community of its obligations with regard to commercial cooperation set out below.

If the benefits from this undertaking are nullified or impaired by direct or indirect action by Canada, the two Parties shall consult promptly with a view to removing such nullification or impairment.

I have the honour in addition to confirm my understanding that the Community will open tariff quotas for the importation of fisheries products as specified in Annex II to this letter during the period 1 January 1982 to 31 December 1987.

In the interest of the conservation of anadromous species, each Party, in the context of close scientific cooperation, shall regulate the fishing for anadromous species within its area of fisheries jurisdiction, and shall take measures to prevent vessels flying the flag either of Canada or of a Member State of the Community from taking anadromous species in waters beyond the limits of their fishery zones.

The two Parties had agreed on the following measures for 1981:

—the Government of Canada shall regulate the fishing of Atlantic salmon in the Canadian area of fisheries jurisdiction in such a manner as to avoid as far as possible the catching of Atlantic salmon of Community origin;

—the Community will limit fishing for Atlantic salmon west of 44° west longitude by vessels flying the flag of Member States of the Community to 1,190 tonnes, and will ensure that such catches are taken in accordance with the fishing patterns of 1976 and 1977.

This quota of 1,190 tonnes is based on a fishing season which opens on 10 August.

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Please accept, Sir, the assurance of my highest consideration.

Richard M. Tait

for the Government of Canada.

Annex I

Annual quotas to be allocated to the Community by Canada for the period:

1 January 1982 to 31 December 1982

Species	Zone	Quantity (in tonnes)
Cod	213KL	8,000
Cod	2GH	6,500
Squid	3 and 4	7,000

1 January 1983 to December 1987

Cod	213KL	9,500
Cod	2GH	6,500
Squid	3 and 4	7,000

Annex II

Tariff quotas to be opened by the European Economic Community 1982-1987 (in tonnes)

Item	Rate	1982	1983	1984	1985	1986	1987
03.01.B.I.h)2 Cod frozen round	3.7%	5,000	5,000	6,000	6,000	6,000	6,000
03.01.B.I.f)2 Red fish frozen round							
03.01.B.II.b)l Cod fillets, frozen(l)	4%(2)	7,000	8,000	8,000	9,000	9,000	9,000
03.02.A.I.b) Cod whole, Salted	0%	(3)	(3)	(3)	4,000	5,000	6,000
03.02.A.II.a)	0%	(3)	(3)	(3)	2,500	3,500	4,000

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Item	Rate	1982	1983	1984	1985	1986	1987
Cod fillets Salted Cod fillets Salted ex 16.04.C.II.	10%	3.000	4.000	4.500	6.000	6.500	7.000
“Herring-flaps” prepared or preserved in vinegar, in packings of a net capacity of 10 kg or more							

(1) Of the species *gadus morhua*, North Atlantic cod; imports into the Community will be permitted only when accompanied by a certificate of origin.

(2) The suspension shall apply to fish intended to undergo any treatment unless they are intended to undergo exclusively one or more of the following treatments:

- cleaning, gutting, heading, tailing
- cutting (excluding filleting or cutting of frozen blocks)
- sorting,
- labelling,
- packing,
- icing,
- freezing,
- deep freezing,
- thawing, separation.

The suspension shall not apply to products intended to undergo one treatment which qualifies for the grant of the benefit of suspension but which is carried out at retail or catering level.

The suspension shall apply only to fish intended for human consumption. Control of the use for this special purpose shall be carried out pursuant to the relevant Community provisions.

(3) Without quantitative limits.

Brussels, 30 December, 1981

Sir, I have the honour to acknowledge receipt of your letter of today’s date, which reads as follows:

“(See Canadian letter)”

I have the honour to confirm that the foregoing proposals are acceptable to the Community and that your Note together

with this reply shall constitute and evidence an Agreement in accordance with your proposal.

William Nicoll Eamon Gallagher

On behalf of the Council of the European Communities.