

FISHERIES COOPERATION AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF CHILE
AND THE GOVERNMENT OF THE KINGDOM OF SPAIN

The Governments of Chile and Spain, considering that:

It is their intention to develop their respective fisheries sectors through mutual collaboration, envisaging the possibility of strengthening Chile's fisheries by the transfer of Spanish technology and capital to fishing companies established in Chile, with the objective of supplying both the two countries and other international markets;

Spain has a developed fisheries sector with appreciable accumulated experience and has succeeded in generating technology and capital goods in this sector;

The Government of Chile is prepared to grant fishing rights to Spanish fishing vessels whose owners show interest in operating in the waters under Chile's jurisdiction through the granting of fishing licences as stipulated in its current legislation, provided these vessels give all the collaboration envisaged in the present agreement, as regards fish finding and complete information on their fishing effort;

The Spanish Government proposes to facilitate the transfer of technology and capital to fishing companies established in Chile on the most favourable terms possible;

The Government of Chile proposes to take all the steps necessary to facilitate issuance of, and make effective, all fishing licences granted, as well as the above-mentioned transfer of technology, financing and capital;

The Government of the Republic of Chile and the Government of the Kingdom of Spain, wishing to intensify the existing friendly relations between their two countries, and considering their common interest in the sound exploitation and conservation of their fisheries resources, in order to augment the economic, social and scientific-technological development of both States,

Hérebly agree:

SECTION ONE

SCIENTIFIC AND TECHNICAL COOPERATION

ARTICLE I

Both Governments shall cooperate in the development of initiatives and programmes for the conservation and sound exploitation of fisheries resources.

To this effect, without prejudice to other forms of cooperation they agree:

- a) to coordinate the efforts and programmes of their respective research institutes regarding such topics of mutual interest as will be determined periodically;
- b) to exchange regularly scientific information which can help to afford a better knowledge of the marine species being investigated by these institutes;

- c) to conduct seminars, symposia and other types of meetings of scientists and experts, at appropriate intervals;
- d) to provide the best facilities available to enable experts of both countries to participate in advanced training courses in the research programmes being conducted. Such facilities shall include embarkment of the said experts on board the scientific vessels of both Governments. The said scientists may also embark on fishing vessels with whose owners prior agreement has been reached to carry out research or surveying operations;
- e) to publish jointly, when appropriate, the results of the studies conducted in cooperation, of which both Governments shall be owners.

ARTICLE II

The Spanish Government shall make available to the competent Chilean authorities a number of scholarships for training in seamanship with reference to fisheries and/or professional fisheries training, which shall number no less than 33 scholarships a year during the first three years of application of this Agreement and shall cover, inter alia, travel, subsistence and university costs.

ARTICLE III

The two Governments shall consult one another regularly, either on a bilateral basis or within the framework of the International Organizations, with a view to strengthening international cooperation to safeguard their fisheries interests whenever possible.

SECTION TWO

FISHING LICENCES

ARTICLE IV

The Government of the Republic of Chile shall grant fishing licences or permits to the vessels flying the Spanish flag that apply for them, under the conditions laid down by Chile's pertinent laws and regulations, in accordance with the special rules set forth below; without prejudice to any regional and international commitments to which it is already pledged or to which it may be pledged in the future.

ARTICLE V

Licences shall be granted for the catching of any species for no matter what purpose in waters South of the 37°S parallel, with the exception of the area East of the 74°W meridian, between the 37°S and 40°S parallels, which shall be governed by what is laid down in the next article.

ARTICLE VI

In the geographic area excluded from the previous article and in the waters north of the 37°S parallel, licences shall be granted for the fishing of cod ("merluza") and cephalopods ("cefalópodos") in accordance with what is laid down in Article IX.

In order to obtain a fishing licence as laid down in the present Agreement, authorized vessels operating in the area referred to in this Article must submit the pertinent request in legal association with a Chilean company, or, in default of this, previously sign a special "surveying commitment" with the Under-Secretariat for Fisheries, who shall indicate in detail the programme of fishing activities to be carried out.

ARTICLE VII

Licences shall be granted by the Government of the Republic of Chile for finding and fishing of Tunnidæ ("tunidos") in all waters under Chile's jurisdiction, in conformity with what is laid down in Article IX. In order to obtain these licences Spanish vessels must first sign with the Under-Secretariat for Fisheries a special commitment as regards fish finding and systematic compilation of data and information.

ARTICLE VIII

The Government of Chile shall grant the licences referred to in the present Agreement with respect to surplus stocks of fish existing at any time, up to coverage of the estimated maximum sustainable yields for the fisheries for which the fishing licences are requested.

ARTICLE IX

The vessels granted licences shall pay the registration, permit and licence taxes stipulated in Executive Decree 500 for the cases laid down in Article V of the present convention. As a special concession the same taxes shall apply to vessels that fish cod, cephalopods and Tunnidæ under the conditions laid down in Articles VI and VII.

The Government of the Republic of Chile may modify the above-mentioned dues starting from the second year after this Agreement comes into effect.

ARTICLE X

The competent Spanish authorities shall remit to the Chilean authorities a list of the Spanish fishing vessels interested in obtaining fishing licences, in order to expedite issuance of the same.

ARTICLE XI

The Chilean Government reserves the right to annul or withdraw the licence to fish in waters under its national jurisdiction for any vessel infringing the prevailing legal provisions or what is laid down in the present Agreement. In this event the Spanish authorities shall be notified accordingly.

ARTICLE XII

Vessels flying the Spanish flag which obtain licences under the provisions of this Agreement may make use of Chile's port facilities, and must provide the Under-Secretariat for Fisheries with all the data and information it requires pertaining to their fishing effort, as well as accept on board, at no cost, a minimum of two officials appointed by the agency for research and control purposes.

In no case shall the licences granted confer rights which hamper or impede the fishing effort of Chile's industry and fishermen.

ARTICLE XIII

Spanish vessels that obtain licences to fish in waters under Chile's jurisdiction may freely embark Chilean personnel.

Without prejudice to the above, the competent Chilean authorities reserve the right to require that the number of Chilean crew members on board be no less than 20 percent of the regular fishing crew of the vessel.

SECTION THREE

JOINT SPANISH-CHILEAN FISHING COMPANIES

ARTICLE XIV

The constitution and activities of the joint Spanish-Chilean fishing ventures shall be governed by the laws of the appropriate country in each instance.

ARTICLE XV

The Chilean Government shall promote the launching of joint Spanish-Chilean fishing enterprises and their fishing under conditions not inferior to the most favourable conditions granted to third countries.

SECTION FOUR

ECONOMIC COOPERATION

ARTICLE XVI

The two Governments shall cooperate to promote Spanish investments in projects aimed at setting up support structures for fisheries and at establishing and developing secondary industries.

In this respect the Government of the Kingdom of Spain will consider authorizing under its current legislation the promotion of investment in the projects mentioned in the previous paragraph.

ARTICLE XVII

The Government of the Kingdom of Spain shall grant permits for the importation of products of Chile's fishing sector on terms not inferior to the most favourable terms granted to third countries.

ARTICLE XVIII

The joint Spanish-Chilean Commission established under the convention on commercial and economic cooperation between the Government of the Republic of Chile and the Government of the Kingdom of Spain, shall undertake to implement all measures facilitating the application of the provisions of the present Agreement and to suggest to the Governments of both countries any broadening of the same that it deems advisable, with a view to strengthening their cooperation with regard to fisheries.

SECTION FIVE

VALIDITY AND NOTICE OF TERMINATION

ARTICLE XIX

This Agreement shall come into effect as soon as both governments inform one another that the internal arrangements necessary for its entry into force have been made. It shall have a duration of three years, starting from the day it goes into effect, and may be renewed for equal periods by tacit consent, unless rescinded by one of the parties, which shall be done through diplomatic channels by written notice six months prior to the date of expiration.

ON BEHALF OF THE GOVERNMENT
OF THE REPUBLIC OF CHILE

ON BEHALF OF THE GOVERNMENT
OF THE KINGDOM OF SPAIN

Pablo Baraona Urzúa
Minister of Economy, Development
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José Lladó and Fernández-Urrutia
Minister of Commerce of Spain

Republic of Chile
Ministry of Finance
Santiago

7 June 1977

Mr. José Lladó and Fernández-Urrutia
Minister of Commerce of Spain

Excellency,

Having today concluded the negotiations between our respective delegations for the implementation of cooperation in fishery matters between the Governments of the Republic of Chile and of the Kingdom of Spain by the signature ad referendum of a Fisheries Cooperation Agreement, I wish to inform you that the Chilean authorities interpret Article VII of Executive Decree 500 governing the general management of fisheries in Chile as follows:

Article VII of Executive Decree 500 on the provisional regime for fishing operations of vessels flying foreign flags in waters under national jurisdiction, established that the catch of the foreign vessels authorized to operate in Chilean waters intended for export would be subject to the rules and control of the Banco Central de Chile, which would give access to the Foreign Exchange Market through applications for drafts simultaneously with the return shipment of the exports, both operations taking place at the same rate of exchange.

The obligation of return shipment in no way implied heavier levies on operations of foreign vessels, aside from the duties imposed in Articles V and VI of Executive Decree 500, since it gave them direct access to the Foreign Exchange Market via a return shipment constituting a simple control mechanism.

The mechanism referred to did create problems for some foreign companies which were operating vessels in waters under national jurisdiction, since because of this the exported product was considered Chilean in the country of origin of the vessel and was consequently subject to the payment of customs duties and other levies, making fishing operations in Chilean waters non-profitable.

To eliminate this problem and find a legal solution to the manner of operation of the Banco Central de Chile with a view to permitting the operation of such vessels, Executive Decree 1 679 was enacted and published in the Official Gazette of 11 January 1977. It introduced into Article VII of Executive Decree 500 a new clause authorizing the Banco Central de Chile, on the report of the Government's Delegate for the fisheries sector, to exempt fishing companies from the obligation of requital, considering this accomplished through the payment of the duties envisaged in Articles V and VI of Executive Decree 500, when provisions exist in other countries for levying customs or other duties on commodities obtained in Chilean territorial waters or in any way impeding their entry.

Thus the difficulty created because of the original text of Article VII of Executive Decree 500 has definitively been solved.

Consequently at the present time foreign fishing vessels operating in waters under national jurisdiction have to pay only the duties mentioned in Article V and VI of Executive Decree 500 and are free of the obligation to make a return consignment of the value of the exports.

The duties referred to are the following:

- a) U.S.\$ 1 000 for foreign registration
- b) U.S.\$ 60 per net ton registered (NTR) and
- c) U.S.\$ 20 per ton of fish.

I avail myself of this opportunity, Excellency, to assure you of my highest consideration.

Yours sincerely,

/s/ Sergio de Castro
Minister of Finance