

AGREEMENT BETWEEN THE GOVERNMENT OF CANADA AND THE GOVERNMENT
OF THE REPUBLIC OF CUBA ON MUTUAL FISHERIES RELATIONS

The Government of Canada and the Government of the Republic of Cuba,

Having regard to the concern of both Governments for the rational management, conservation and utilization of the living resources of the sea, and the concern of the Government of Canada for the welfare of its coastal communities and for the living resources of the adjacent waters upon which these communities depend,

Recognizing that the Government of Canada has extended its jurisdiction over the living resources of its adjacent waters pursuant to and in accordance with relevant principles of international law, and exercises within a zone of 200 nautical miles sovereign rights for the purpose of exploring and exploiting, conserving and managing these resources,

Recognizing the need to ensure that fishing operations in areas of the high seas beyond and immediately adjacent to the area under Canadian jurisdiction on the Atlantic coast are managed on a scientific basis with due regard to conservation of fish stocks and the needs of Canadian coastal communities,

Desirous of establishing the terms and conditions under which their mutual fishery relations shall be conducted and of promoting the orderly development of the Law of the Sea,

Taking into account state practice and the work of the Third United Nations Conference on the Law of the Sea,

Taking into account that Cuba is a developing country which has engaged in fisheries off the coast of Canada within a framework of international cooperation,

Reaffirming their desire to maintain mutually beneficial cooperation in the field of fisheries, and in this way to contribute to relations between their countries and peoples,

Have agreed as follows:

ARTICLE I

The Government of Canada and the Government of the Republic of Cuba undertake to ensure close cooperation between the two countries 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 continue to consult and cooperate in international negotiations and organizations with a view to achieving common fisheries objectives.

ARTICLE II

1. The Government of Canada undertakes to permit Cuban vessels to fish within the area under Canadian fisheries jurisdiction beyond the limits of the Canadian territorial sea and fishing zones off the Atlantic coast as established prior to January 1, 1977, for allotments, as appropriate, of parts of total allowable catches surplus to Canadian harvesting capacity, in accordance with the provisions of paragraphs 2 and 3 of this Article.

2. In the exercise of its sovereign rights in respect of living resources in the area referred to in paragraph 1, the Government of Canada shall 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 interdependence of stocks, internationally accepted criteria, and all other relevant factors;
- b) the Canadian harvesting capacity in respect of such stocks; and
- c) after appropriate consultations, allotments, as appropriate, for Cuban vessels of parts of surpluses of stocks or complexes of stocks.

3. To fish for allotments pursuant to the provisions of paragraphs 1 and 2, Cuban vessels shall obtain licences from the competent authorities of the Government of Canada. They shall comply with the conservation measures and other terms and conditions established by the Government of Canada and shall be subject to the laws and regulations of Canada in respect of fisheries.

4. The Government of the Republic of Cuba undertakes to cooperate with the Government of Canada, as appropriate in light of the development of fisheries relations between the two countries pursuant to the provisions of this Article, in scientific research required for purposes of management, conservation and utilization of the living resources of the area described in paragraph 1. For these purposes, scientists of the two countries shall consult regarding the conduct of such research and the analysis and interpretation of the results obtained.

ARTICLE III

1. The Government of Canada and the Government of the Republic of Cuba affirm the need to ensure the conservation of the living resources of the high seas beyond the limits of national

fisheries jurisdiction, and the special interest of Canada, including the needs of Canadian coastal communities, in such resources in the area beyond and immediately adjacent to the area referred to in Article II. They accordingly undertake to cooperate in the light of these principles, both directly and through international organizations as appropriate, in order to ensure the proper management and conservation of these living resources.

2. Where the same stock or stocks of associated species occur both within the area referred to in Article II and in an area beyond and adjacent to that area, and the nationals and vessels of Cuba participate or wish to participate in fisheries for such stocks within the adjacent area, the two Governments shall seek either directly or through appropriate international organizations to agree upon measures for the conservation and management of these stocks in the adjacent area, taking into account the need for consistency between the measures applying within the area referred to in Article II and within the adjacent area, as well as the principles set out in paragraph 1.

3. Where discrete stocks occur in an area beyond and adjacent to the area referred to in Article II, and nationals and vessels of Cuba and Canada participate or wish to participate in fisheries for such stocks, the two Governments shall seek either directly or through appropriate international organizations to agree upon measures for the conservation and management of these stocks, taking into account the principles set out in paragraph 1, as well as Cuban interests with regard to these stocks.

ARTICLE IV

1. Subject to the availability of facilities and the needs of Canadian vessels, the Government of Canada undertakes to authorize Cuban vessels to enter Canadian ports, in accordance with Canadian laws, regulations and administrative requirements, for the purpose of purchasing bait, supplies or outfits or effecting repairs, or for such other purposes as may be determined by the Government of Canada, where such vessels are:

- a) licensed to fish or to support fishing operations pursuant to Article II,
- b) fishing in the area referred to in Article III, or
- c) in transit between areas outside Canadian fisheries waters.

2. Such authorization shall become null and void in respect of any vessel licensed to fish pursuant to Article II upon the cancellation or termination of its licence to fish or to support fishing operations, 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 the question of access to Canadian ports in cases of distress, medical emergency or force majeure.

ARTICLE V

1. The Government of Canada and the Government of the Republic of Cuba recognize that states in whose rivers anadromous stocks originate have the primary interest in and responsibility for such stocks, and agree that fishing for anadromous species should not be conducted in areas beyond the limits of national fisheries jurisdiction. They will continue to work together for the establishment of permanent multilateral arrangements reflecting this position.

2. Pursuant to paragraph 1, the Government of the Republic of Cuba shall take measures to avoid the taking by its vessels and by persons under its jurisdiction of anadromous stocks spawned in Canadian waters.

ARTICLE VI

1. The Government of the Republic of Cuba shall take measures to ensure that its vessels operate in compliance with the provisions of this Agreement and with any measures agreed upon from time to time by the two Governments pursuant to the provisions of this Agreement.
2. The Government of Canada shall take the necessary measures to give effect to the provisions of this Agreement, including the issuance of licences.

ARTICLE VII

1. The Government of Canada and the Government of the Republic of Cuba shall carry out periodic bilateral consultations regarding the implementation of this Agreement and the development of further cooperation. Such consultations shall be held at least annually at such level and within such framework as the two Governments may agree.
2. The two Governments shall examine jointly the possibility of expanded bilateral cooperation, including cooperation on such matters as exchanges of technical information and personnel, improvement of utilization and processing of catches, the facilitation of cooperative arrangements between Canadian and Cuban enterprises with respect to the utilization of living resources of waters off the Canadian coast, arrangements for the use of Canadian ports by Cuban fishing vessels to ship or discharge crew members or other persons and for such other purposes as may be agreed upon, expansion of markets for fish and fish products, and, bearing in mind the rights and obligations of both countries as contracting parties to the General Agreement on Tariffs and Trade, they shall promote the reduction or elimination of tariff and non-tariff barriers for such products.
3. In the consultations referred to in paragraph 2 c) of Article II regarding allotments for Cuban fishing vessels of parts of surpluses of stocks or complexes of stocks, the Government of Canada will take into consideration all relevant factors, including inter alia Canadian interests, previous catches by Cuban vessels in respect of such stocks or complexes of stocks, and the development of cooperation between the two Governments pursuant to the provisions of this Agreement.

ARTICLE VIII

1. The present Agreement shall be without prejudice to other existing Agreements between the two Governments or to existing multilateral Conventions to which the two Governments are party or to the views of either Government with regard to the Law of the Sea.
2. The present Agreement may be terminated by either party on 31 December 1982, or at any time thereafter, provided that notice of termination is given not less than twelve months in advance of such termination.

ARTICLE IX

This Agreement shall enter into force on the date of signature.

DONE in two copies at the City of Havana this 12th of May 1977 in English, French and Spanish each language version being equally authentic.

FOR THE GOVERNMENT OF CANADA

FOR THE GOVERNMENT OF THE
REPUBLIC OF CUBA