

# **COMMISSION OF THE EUROPEAN COMMUNITIES**

COM(91) 387 final

Brussels, 18 October 1991

Proposal for a  
**COUNCIL DECISION**

on the accession of the European Community  
to the FAO at the 26th session of the FAO Conference

(presented by the Commission)

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Explanatory Memorandum

1. The European Community currently has observer status at the FAO, whose work largely relates to fields in which the Community is competent. The limitations of this status are such that the Commission has decided to initiate a campaign to obtain full membership. A communication to this effect, accompanied by a decision, was sent to the Council on 16 February 1987 (SEC (86) 2201 final).
2. Discussions in the Council came to a head in April 1989 and the Commission was authorized to initiate exploratory talks with the FAO Secretariat. On 26 April 1989, the President of the Council wrote to the Director-General of the FAO on behalf of the Community and its Member States asking him to instruct the competent FAO bodies to examine the possibility of the Community obtaining membership status in keeping with its competence.
3. Similarly, on 30 June 1989 the FAO Council authorized the Director-General to explore the possibility of allowing regional economic integration organizations (REIOs), in particular the European Community, to accede to the FAO, and the legal and financial implications of such accession.

4. As a result of the exploratory talks between the Commission and the FAO Secretariat, the Council decided unanimously on 22 October 1990 to send a letter requesting the formal opening of accession negotiations.

5. The Council of the FAO replied favourably to the Community's initiative and instructed the Director-General to follow up the talks and to prepare draft amendments to the basic texts of the FAO to allow accession by the Community. The accession negotiations were formally initiated by Mr Matutes, in close partnership with the President of the Council, in Rome on 1 February 1991.

6. Accession by regional economic integration organizations was the main item discussed at the 99th session of the FAO Council in Rome on 10-21 June 1991. The report adopted by the Council concluded preparations for accession by proposing amendments to the FAO's basic texts, to be put to the Conference in November 1991. The absence of any political opposition to the Community's candidature suggests that Member Nations of the FAO will vote in favour. The FAO Council has entrusted the final phase of the negotiations to a committee of FAO Member Nations, which met in Rome from 9-13 September 1991. The Committee's work enabled the final agreements to be drawn up. However the Community will not be able to submit a formal request to accede to the Organization until after the Conference has adopted the final text of the amendments.

As for the procedure, the Community is unable to submit a request for accession by the date required, that is one month before the opening of the Conference, in time for inclusion on the agenda. Given this situation, to allow the Conference to debate the possible request for accession, the Community has decided to send a letter to the Director-General of the FAO asking him to include two items on the Conference agenda for discussion: the accession of the European Community and a derogation from Article XIX of the General Rules of the Organization<sup>1</sup>.

In this situation, in order to align the decision-making processes of the FAO and the Community, the Council needs to decide in advance to follow the procedure leading to accession, while making the decision to submit a formal request for accession conditional on the Community's achieving the objectives it has set in the course of the negotiations.

7. At this point in the negotiations proper, the bulk of the questions concerning the accession of REIOs has been settled. In the Commission's opinion, the methods proposed for defining the criteria allowing REIOs to apply for membership of the organization, the obligations resulting from the declarations of competence to be submitted on accession, and the recognition of and methods of exercising the REIOs' right to vote are satisfactory and in accordance with the Community's general practice.

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<sup>1</sup> The derogation from Article XIX of the General Rules will be put to the vote at a plenary meeting of the Conference, which will decide by a two-thirds majority of the votes cast in accordance with Rule XLII.

One essential question remains open and has yet to be resolved to the Community's satisfaction, namely that of speaking rights granted to REIOs and their Member States, in discussions on matters in respect of which they have concurrent competence. This is the only question which directly concerns the Community and its Member States. The Community seeks to be able to express its views concurrently with its Member States, while a minority of Member Nations of the FAO are arguing for the strict application of the division of competence to speaking rights, so that either the Member Organization or its Member State exercises speaking rights.

In the Commission's opinion, there is reason to believe that the majority of Member Nations of the FAO will be able to accept an amendment along the lines of the compromise proposed by the Commission, which provides that on matters in respect of which the Member Organization and its Member States have concurrent competence, both may participate in discussions, on the understanding that the Organization and its Member States will take care as far as possible to limit interventions by both on the same agenda item. If the Conference accepted an amendment to this end, the outcome of the negotiations would be fair and appropriate.

8. Accordingly, the Commission proposes that the Council decide:

- that at the 26th session of the Conference, to be held in Rome from 8-28 November 1991, the Community will apply for accession to the FAO after the Conference has adopted the appropriate amendments and

in as far as these amendments are acceptable to the Community, in particular as regards speaking rights for the Community and its Member States in discussions on matters in which both the Community and its Member States are competent.

- In as far as these conditions are met, the Council adopts the attached proposal for a decision<sup>1</sup> and the President of the Council will submit an application for membership and a formal instrument whereby the Community accepts the obligations of the Constitution of the FAO (Annex 1).
- the President of the Council will at the same time submit a declaration of competence by the Community, specifying the matters in respect of which the Member States have transferred their competence to it and the matters in respect of which the Member Organization and its Member States have concurrent competence (Annex 2).
- the President of the Council will submit the Community's request for accession to the FAO to the Conference with the support of all the Member States of the Community.

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<sup>1</sup> The Council should request consultation with the European Parliament on this proposal according to the urgent procedure agreed by the institutions, explaining to the European Parliament the reasons compelling recourse to this procedure.

## II

*(Preparatory Acts)*

## COMMISSION

Proposal for a Council Decision on the accession of the European Community to the FAO at the 26th session of the FAO Conference

(91/C 292/06)

*COM(91) 387 final*

*(Submitted by the Commission on 21 October 1991)*

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 43, 113 and 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas following exploratory talks with the FAO Secretariat, the Community and the FAO examined the possibility of regional economic integration organizations acceding to the FAO;

Whereas on 22 October 1990, the Council decided to initiate negotiations with a view to the Community's accession to the FAO;

Whereas the negotiations were initiated by the Commission, in close partnership with the President of the Council, on 1 February 1991 in Rome;

Whereas on essential points the outcome of the negotiations is fair and appropriate for the Community and its Member States, and the Constitution and the General Rules of the FAO have been amended in accordance with this outcome;

Whereas in view of the above the Community may accede to the FAO,

HAS DECIDED AS FOLLOWS:

*Sole Article*

1. The Community shall, at the 26th session of the FAO Conference, submit a request for accession to the FAO, accompanied by a formal instrument according to which it accepts the obligations of the Constitution as in force at the time of admission (Annex I) and a declaration of competence (Annex II).

2. The President of the Council shall be responsible for completing the necessary procedures to this end.



*ANNEX I*

Sir,

I have the honour to inform you that the European Community has decided to request admission as a member to the Food and Agriculture Organization of the United Nations. I would therefore ask you to submit this request, in accordance with the relevant sections of the General Rules of the Organization, to the Conference.

The European Community formally accepts the obligations attached to membership of the Food and Agriculture Organization of the United Nations, as laid down by the Constitution of the Organization, and solemnly undertakes to fulfil the obligations in force at the time of its admission in all loyalty and conscience.

Yours faithfully,

H. VAN DEN BROEK  
*President-in-Office of the Council  
of the European Communities*

The Director-General,  
Food and Agriculture Organization  
of the United Nations,  
Viale delle Terme di Caracalla,  
Rome,  
Italy.

**Instrument of acceptance**

The European Community formally accepts the obligations attached to membership of the Food and Agriculture Organization of the United Nations, as defined in the Constitution of the Organization, and solemnly undertakes to fulfil the obligations in force at the time of its admission in all loyalty and conscience.

H. VAN DEN BROEK  
*President-in-Office of the Council  
of the European Communities*

The Director-General,  
Food and Agriculture Organization  
of the United Nations,  
Viale delle Terme di Caracalla,  
Rome,  
Italy.

## ANNEX II

DECLARATION OF COMPETENCE BY THE EUROPEAN COMMUNITY IN RESPECT OF  
MATTERS COVERED BY THE CONSTITUTION OF THE FAO

*(Pursuant to Rule XLIV of the General Rules of the Organization)*

Rule XLIV of the General Rules of the FAO stipulates that at the time of their admission, regional economic integration organizations shall submit a declaration specifying the matters covered by the Constitution in respect of which competence has been transferred to them by their Member States.

The European Community was founded by the Treaties of Paris and Rome, signed respectively on 18 April 1951 and 25 March 1957. Following ratification by the signatory States, these Treaties entered into force on 25 July 1952 and 1 January 1958<sup>(1)</sup>.

In accordance with the aforementioned Rule, this declaration specifies the Community's competence in matters covered by the Constitution.

The exercise of competence which the Member States has transferred to the Community pursuant to the Treaties is, by its nature, liable to continuous change. The Community therefore reserves the right to make further declarations later.

I. *The European Community has exclusive competence in:*

- (a) *all matters relating to commercial policy*, in accordance with Article 113 of the EEC Treaty. The common commercial policy comprises not only the traditional instruments in this field (tariff measures, trade protection and promotion, the conclusion of trade agreements, etc.) but also any new instrument introduced at international level to regulate trade (e.g. support measures for specific products, agreements on the recognition of technical standards, etc.)<sup>(2)</sup>;
- (b) *all matters concerning fisheries*, which are aimed at protecting the fishing grounds and conserving the biological resources of the sea, in accordance with Article 102 of the 1972 Treaty of Accession.

II. *The Community also has competence in the following matters which come under the FAO's fields of activity:*

- (a) *Agricultural policy* (Articles 38 to 47 of the EEC Treaty), including the harmonization of standards of animal and plant health;
- (b) *the approximation of provisions laid down by law, regulation or administrative action* by the Member States (Articles 100 and 100a of the EEC Treaty);

<sup>(1)</sup> The Treaty of Paris establishing the European Coal and Steel Community was registered with the Secretariat of the United Nations on 15 March 1957 under No 3729; the Treaties of Rome establishing the European Economic Community and the European Atomic Energy Community (Euratom) were registered on 21 April 1958 and 24 April 1958 respectively under Nos 4300 and 4301.

The present members of the Community are: Belgium, Denmark, Germany, Greece, Spain, France, Ireland, Italy, Luxembourg, the Netherlands, Portugal and the United Kingdom.

The Constitution of the FAO applies, in respect of matters transferred to the European Economic Community, to the territories in which the Treaty establishing the latter is applicable, under the conditions laid down in that Treaty. This declaration is not valid for those territories of the Member States in which the Treaty is not applicable.

<sup>(2)</sup> Opinion 1/78 of the Court of Justice, [1979] ECR, p. 2871.

- (c) *Policy on research and technological development* (Articles 130f to 130q of the EEC Treaty);
- (d) *environmental policy* (Articles 130r to 130t of the EEC Treaty);
- (e) *development policy* (Articles 131 to 136a and Article 235 of the EEC Treaty);
- (f) *other Community policies* (e.g. transport, economic and social policy) which may marginally concern the activities of the FAO.

In the sectors listed under II, the distribution of competence between the Community and the Member States is fixed as follows:

(a) *Agricultural policy*

1. The common agricultural policy (CAP) is very broad in its conception. It covers both agriculture and trade in agricultural products (products of first-stage processing as well as products of the soil, of stockfarming and of fisheries). It encompasses all aspects of agricultural life (productivity, income, prices, consumers, finance, technical progress, stabilization of prices, availability of supplies, structural policy, vocational training, and research).
2. However, the CAP only covers the products listed in Annex II to the Treaty. There are therefore a limited number of products which, although they fall within the general definition of agricultural products, are not listed (e.g. wool, hides and furs, some fruits and foreign plants such as maté). These products do not come within the Community's competence unless such competence has expressly been transferred by an act adopted outside the Articles of the Treaty relating to the CAP. This is the case for cotton (see Protocol 4 to the 1980 Treaty of Accession).
3. In addition, the Community has not up to now exercised its competence for a very small number of agricultural products (potatoes, agricultural alcohol, bananas, coffee<sup>(1)</sup> and cork). The Member States retain competence in agricultural policy for these products.
4. The Community has fully exercised its competence in agricultural policy with regard to productivity, incomes, prices and structural policy; it therefore has exclusive competence to discuss these matters in external relations. On the other hand, where vocational training, research and finance are concerned, Community legislation is not comprehensive and the Member States retain partial competence which may be determined when these matters are discussed within the FAO.
5. *Forestry* is not part of the CAP, but the Community has adopted a number of measures in this area<sup>(2)</sup> for which it is competent externally.

(b) *The approximation of provisions laid down by law, regulation or administrative action*

For the purposes of the FAO, only competence in respect of food products and machines, equipment and tools intended for agricultural and food production is relevant. Even in this limited area it is impossible to list all the Community measures in force. The Community and its Member States will therefore indicate their respective competence, in accordance with the General Rules of the FAO, when these matters arise on the agenda of an FAO meeting.

(c) *Policy on research and technological development*

The Community's competence under the terms of Articles 130f to 130q of the Treaty is of the same kind as its competence in agricultural research (Article 41 of the EEC Treaty): it mainly covers basic

<sup>(1)</sup> The Community is however a contracting party to the International Coffee Agreement (under its commercial policy).

<sup>(2)</sup> These relate to agricultural policy (structural policy), environmental policy or commercial policy (trade in wood).

research (universities, research institutes) and both research and technological development relating to the food industries. Here, the Community has wide competence:

- in promoting Community cooperation with third countries and international organizations in research, technological development and demonstration (Article 130g),
- in providing for Community cooperation with third countries or international organizations via international agreements with regard to research, technological development and demonstration (Article 130n).

This competence is exercised by the Council on a proposal from the Commission on a case-by-case basis and will be indicated within the FAO when the time comes. In as far as the Community does not exercise its competence in this area, the Member States will retain competence.

(d) Environmental policy

In environmental matters the situation is the same. The Community has adopted a large number of legislative acts and under Article 130r (5) of the EEC Treaty has express competence to cooperate with third countries and international organizations, which may be laid down in international agreements. Its competence is exercised case by case, with the participation of the Member States where the latter have retained competence for part of the matter in question.

(e) Development policy

No common development policy exists under the Treaty beyond the relevant aspects of the common commercial policy (tariff measures in favour of developing countries and other support measures for certain products coming from developing countries, e.g. sugar) and the association of the overseas countries and territories (Articles 131 to 136 of the EEC Treaty and Council Decision 86/283/EEC, OJ No L 175 of 1 July 1986). Nonetheless the Community has a policy of development aid, in addition to that of the Member States, through the Lomé Convention (the association agreement with the countries known as the ACP) and numerous cooperation agreements with the countries of the Mediterranean basin, Asia and Latin America. It has also approved numerous food aid, humanitarian and technical programmes and campaigns. These acts form the basis of its competence in the field of development.

(f) Other policies

It is possible that, from time to time, other Community policies will enter into consideration as areas of Community competence within the FAO. This may in particular be the case with *economic policy* (particularly conjunctural policy, under Article 103 of the EEC Treaty), *transport policy* (Articles 74 to 84 of the EEC Treaty) and *social policy* (working conditions in agriculture; equality between men and women, see Articles 117 to 128 of the EEC Treaty).

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ISSN 0254-1475

COM(91) 387 final

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Catalogue number : CB-CO-91-443-EN-C

ISBN 92-77-76464-3

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Office for Official Publications of the European Communities  
L-2985 Luxembourg