

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(79) 60 final

Brussels, 22 February 1979

Proposal for a

COUNCIL REGULATION (EEC)

concerning the conclusion of an Agreement on fisheries between the
European Economic Community and the Government of Finland

(submitted to the Council by the Commission)

EXPLANATORY MEMORANDUM

On 3 November 1976 the Council authorized the Commission to open negotiations for the conclusion of a fisheries agreement with Finland.

2. These negotiations led to the initialling on 22 December 1978 of a draft "Agreement on Fisheries between the European Economic Community and the Government of Finland".

3. The basic purpose of the Agreement is to establish procedures for settling what fishing may be done by each of the parties in the fishing zone of the other. This will be done for each year by consultation between the parties, the aim being the gradual attainment of a satisfactory balance.

4. It will be specified in an exchange of letters to be made on the day it is signed that the Agreement will be applied on a provisional basis from that day pending its entry into force in accordance with Article 10.

5. The Commission, on the basis of the above :

- recommends that the Council authorize its President to appoint the persons empowered to sign the Agreement,
- proposes that the Council, after consulting the European Parliament, approve the outcome of the negotiations by adopting the annexed proposal for a regulation approving the Agreement.

PROPOSAL FOR
COUNCIL REGULATION (EEC)

concerning the conclusion of an Agreement
on fisheries between the European Economic
Community and the Government of Finland

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas, by its resolution of 3 November 1976 on certain external aspects of the creation of a 200-mile fisheries zone in the Community with effect from 1 January 1977, the Council agreed that fishing by vessels of non-Community countries in this zone would be regulated by agreements between the Community and the countries concerned and that fishing rights for Community fishermen in the waters of non-Community countries must be obtained and preserved by appropriate Community agreements;

Whereas certain Finnish fishermen have habitually done part of their fishing in the waters which have become the Community fisheries zone, and certain Community fishermen have habitually done part of their fishing in waters which have become the Finnish fisheries zone or will shortly become part of that zone;

Whereas negotiations by the Community with the Government of Finland have led to the initialling of a draft framework agreement;

Whereas the Agreement on fisheries between the Community and Finland signed on 1978 should be concluded,

HAS ADOPTED THIS REGULATION :

Article 1

The Agreement on fisheries between the European Economic Community and the Government of Finland signed on _____, is hereby approved on behalf of the Community.

The text of the Agreement is annexed to this Regulation.

Article 2

The President of the Council shall, on behalf of the Community, give the
modification provided for in Article 10 of the Agreement.⁽¹⁾

Article 3

This Regulation shall enter into force on the day following its publication
in the Official Journal of the European Communities.

This Regulation shall be binding in its entirety and directly applicable in
all Member States.

Done at Brussels,

For the Council,
The President.

(1) the date of entry into force of the Agreement will be published in the
Official Journal of the European Communities by the General-Secretariat
of the Council.

DRAFT AGREEMENT ON FISHERIES BETWEEN THE GOVERNMENT OF FINLAND AND THE
EUROPEAN ECONOMIC COMMUNITY

The Government of Finland and the European Economic Community (hereafter referred to as the Community) :

recalling the traditionally good relations between the Community and Finland;

considering their common desire to ensure the conservation and rational management of the fish stocks of the waters adjacent to their coasts;

having regard to the fact that the Member States of the Community have decided that the limits of their fishery zones (hereafter referred to as the area of fisheries jurisdiction of the Community) shall extend up to 200 nautical miles off their coasts in the Atlantic Ocean, the North Sea, Skagerrak, Kattegat and the Baltic Sea and the fact that fishing within these limits is subject to the common fisheries policy of the Community;

having regard to the fact that Finland has taken steps towards establishing a fishery zone off its coasts in the Baltic Sea extending to median lines;

affirming that the exercise by coastal states within their fishery zones of sovereign rights for the purpose of exploring, exploiting, conserving and managing the living resources should be conducted in accordance with principles of international Law;

taking into account previous fishing activities of Finnish vessels in the North - East Atlantic and vessels of the Member States of the Community in waters adjacent to the finnish coast;

taking into account the work of the Third United Nations Conference on the Law of the Sea;

desirous of establishing the terms and conditions pertaining to fisheries of mutual concern:

4 have agreed as follows:

Article 1

Each Party shall grant access to fishing vessels of the other Party to fish within its area of fisheries jurisdiction in accordance with the provisions set forth below.

Article 2

1. Each Party shall, as appropriate, determine annually for its area of fisheries jurisdiction, subject to adjustment when necessary to meet unforeseen circumstances, and taking into account the need for rational management of the living resources,

(a) the total allowable catch for individual stocks or complexes of stocks, taking into account the best scientific evidence available to it, the interdependence of stocks, the work of appropriate international organisations and other relevant factors ;

(b) after appropriate consultations, allotments for fishing vessels of the other Party and the areas within which these allotments may be fished.

When determining the allotments referred to in subparagraph (b) the two Parties shall have as their aim the realisation of a satisfactory balance between their fishing possibilities in maritime areas of mutual interest.

2. The measures to regulate fisheries taken by each Party shall not be of such nature as to jeopardize the full exercise of the fishing rights allocated under the Agreement.

Article 3

Each Party may require that fishing in its area of fisheries jurisdiction by fishing vessels of the other Party shall be subject to licence.

The competent authority of each Party shall, as appropriate, communicate in due time to the other Party the name, registration number, and other relevant particulars of the fishing vessels for which authorisation to fish within the area of fisheries jurisdiction of the other Party is requested. The second Party shall thereupon issue such licences to the extent commensurate with the possibilities for fishing granted under the provisions of Article 2 (b).

Article 4

Fishing vessels of one Party shall, when fishing within the area of fisheries jurisdiction of the other Party, comply with the conservation measures and supervisory measures and other provisions governing fishing activities in that area. Appropriate advance notice shall be given of any new measures, conditions or provisions.

Article 5

1. Each Party shall take all necessary measures to ensure compliance with the provisions of this Agreement and other relevant regulations by its vessels.
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.

Article 6

The Parties undertake to co-operate to ensure proper management and conservation of the living resources of the sea in areas of mutual interest without prejudice to the sovereign rights of each Party in regard to the fishery zone under its jurisdiction, and to facilitate the necessary scientific research in this respect. Such cooperation may take place within appropriate international organisations.

Article 7

1. The Parties agree to consult on questions relating to the implementation and proper functioning of this Agreement.

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

If no settlement is reached following such consultations, and where it is claimed that a Party has manifestly failed to comply with specified provisions or conditions established by the present Agreement, the dispute shall be the subject of arbitration under the conditions laid down in the Annex, provided that sovereign rights for the purpose of exploring, exploiting, conserving and managing living resources within their fishery zones shall not be called in question.

Article 8

Nothing contained in the present Agreement shall affect or prejudice in any manner the views of either Party with respect to any question relating to the Law of the Sea.

Article 9

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

Article 10

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

Article 11

This Agreement shall remain in force for an initial period of ten years after the date of its entry into force. In the event of the Agreement not being

terminated by either Party through notice of termination given at least nine months before the expiry of that period, it shall remain in force for additional periods of six years duration thereafter, provided that notice of termination has not been given at least nine months before the expiry of any such period.

Article 12

The Parties agree to examine this Agreement upon the conclusion of the negotiations for a multilateral treaty resulting from the Third United Nations Conference on the Law of the Sea.

Article 13

This Agreement is drawn up in two copies in the Danish, Dutch, English, Finnish, French, German and Italian languages, each of these texts being equally authentic.

IN WITNESS WHEREOF, the undersigned, being duly authorized for this purpose, have signed this Agreement.

Done at _____, on _____, in duplicate in the Danish, Dutch, English, Finnish, French, German and Italian languages each of these texts being equally authentic.

For the Council of the
European Communities

For the Government of
Finland

ANNEX

1. Within two months from the date on which either Party has formally requested that a dispute be submitted to arbitration in accordance with Article 7, paragraph 2, of the Agreement, each Party shall appoint one member of the arbitral tribunal and these two members shall, within three months from the same date, agree upon a national of a third State as third member to be appointed by the two Parties.
2. The Party requesting arbitration shall, at the time of treating the request, submit a statement of its claim and the grounds on which such claim is based.
3. If the periods specified in paragraph 1 have not been observed, either Party may, in the absence of any other relevant arrangement, invite the President of the International Court of Justice to make the necessary appointments. If the President is a national of either Party or if he is otherwise prevented from discharging the said function, the Vice-President should make the necessary appointments. If the Vice-President is a national of either Party or if he, too, is prevented from discharging the said function, the Member of the Court next in seniority who is not a national of either Party should make the necessary appointments.
4. The arbitral tribunal shall, on the basis of the present Agreement and of other rules of international law, reach its decisions by a majority of votes. Such decisions shall be binding. Although the cost of the arbitral tribunal shall normally be borne in equal parts by both Parties, the arbitral tribunal is empowered to rule otherwise concerning costs. In all other respects, the arbitral tribunal shall determine its own organisation and procedure.

Sir,

In connection with the signing today of the Agreement on Fisheries between the European Economic Community and the Government of Finland I have the honour to confirm that the European Economic Community is ready to apply the Agreement on a provisional basis from today pending its entry into force in accordance with Article 10, provided that the Government of Finland is ready to do likewise.

I would appreciate confirmation of your Government's acceptance of such provisional application.

I avail myself of this opportunity to renew to the Chairman of the Delegation of the Government of Finland the assurance of my highest consideration.

Chairman of the Delegation
of the European Economic Community

To the Chairman of the Delegation
of the Government of Finland

Sir,

I have the honour to confirm receipt of your letter of today with the following content:

"In connection with the signing today of the Agreement on Fisheries between the European Economic Community and the Government of Finland I have the honour to confirm that the European Economic Community is ready to apply the Agreement on a provisional basis from today pending its entry into force in accordance with Article 10, provided that the Government of Finland is ready to do likewise.

I would appreciate confirmation of your Government's acceptance of such provisional application."

I hereby confirm that my Government will apply the Agreement from today on a provisional basis pending its entry into force in accordance with its Article 10.

I avail myself of this opportunity to renew to the Chairman of the Delegation of the European Economic Community the assurance of my highest consideration.

Chairman of the Delegation
of Finland

To the Chairman of the Delegation
of the European Economic Community

Sir,

I have the honour to acknowledge the receipt of your letter of
of the following contents:

"In the connection with the signing today of the Agreement on Fisheries between the Government of Finland and the European Economic Community I have the honour to state the following:

1. During the negotiations it was agreed that in the application of art. 2 1 (b) of the Agreement, fishing in Baltic Sea areas other than those covered by art. 1 of the Agreement should be fully taken into account for the purpose of achieving a satisfactory balance between the mutual fishing interests of the Parties.

2. Moreover, it was agreed that in the consultations concerning the definition of annual quotas due account shall also be taken of the Finnish production of smolts, and the extent to which it benefits the Community's fishermen in the Baltic Sea."

The Council of the European Communities has made note of the contents of this letter.

I avail myself of this opportunity to renew to the Chairman of the Delegation of Finland the assurance of my highest consideration.

Chairman of the Delegation of
European Economic Communities

To the Chairman of the Delegation
of Finland

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Sir, .

In connection with the signing today of the Agreement on Fisheries between the Government of Finland and the European Economic Community I have the honour to state the following:

1. During the negotiations it was agreed that in the application of art. 2 1 (b) of the Agreement, fishing in Baltic Sea areas other than those covered by art. 1 of the Agreement should be fully taken into account for the purpose of achieving a satisfactory balance between the mutual fishing interests of the Parties.

2. Moreover, it was agreed that in the consultations concerning the definition of annual quotas due account shall also be taken of the finnish production of smolts, and the extent to which it benefits the Community's fishermen in the Baltic Sea.

I avail myself of this opportunity to renew to the Chairman of the Delegation of the European Economic Community the assurance of my highest consideration.

Chairman of the Delegation
of Finland

To the Chairman of the Delegation
of the European Economic Community

