

# COMMISSION OF THE EUROPEAN COMMUNITIES

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## COMMISSION COMMUNICATION TO THE COUNCIL

on a draft International Convention for the control of  
the spread of major communicable fish diseases

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1. An International Convention for the control of the spread of the major fish diseases is being prepared under the auspices of the FAO and the IOE. It consists of general enacting terms and technical annexes. The enacting terms specify the basic obligations of the contracting parties, the health standards to be observed in international transport of fish and fish roes, the conditions for certification and the financial arrangements; a secretariat and scientific advisory committee are also provided for. The technical annexes include specimen certificates, instructions for the issue of certificates, classification standards for fish-breeding establishments, isolation and identification methods for pathogens and the list of diseases to be covered.
2. A first government consultation on a draft Convention was held at Aviemore in Scotland in April 1972 and a second in Paris in January 1977. At the conclusion of the latter the opinion was expressed that it was neither necessary nor desirable to have a third consultation on the enacting terms of the Convention but that more work might be needed on the technical annexes. It was confirmed that the ultimate aim was definitive adoption of the Convention by a conference of plenipotentiaries. A recommendation was adopted that the delegations should consult their governments to find one which would be interested in acting as host to such a Conference. Because of the delays that could be expected before it was called the consultation considered the question of transitional measures and recommended that the content of the Convention, particularly the health certificates and certification procedures, be integrated into the IOE's international animal health code, which has recommended status.

3. At the second government Consultation the United Kingdom Delegate read the following statement:

"As representative of the country which at present holds the Presidency of the Council of the European Communities, I should like to point out that the subject matter covered by this draft Convention is a matter of Community interest and that it is planned to introduce Community legislation in this field. I should therefore like to reserve the possibility for the Community to communicate at a later stage its views on the terms of the draft Convention. The observations of the representatives of the Member States of the Community should be understood against this background."

4. The motive behind the preparation of the Convention by the FAO and the IOE is the need, following the intensification of international trade in fish and fish roes, to establish health standards for this trade in order to prevent the spread of communicable diseases. The purpose of the Convention is to facilitate international trade and at the same time create a system of international cooperation in the study, prevention, control and eradication of the major communicable diseases of fish.
5. The Commission shares the point of view of the FAO and the IOE on the need to draw up measures to prevent the spread of disease in an expanding sector, and approves their initiative; as far as the Community is concerned, however, it feels that the attainment of a single market based on the liberalization of internal trade, the adoption of a common position towards non-member countries and the application of health regulations for preventing the spread of infectious diseases through trade and imports can be better achieved by Community legislation in this sector. Such legislation could be better adapted to the Member States' administrative structures, to their health situation, and to the pathology and epizootologic conditions prevailing in the Community, and would therefore be more likely to solve the problems with which the Community has to deal. This point of view was also taken by delegates from the Member States at a meeting on 7 June 1977. The Council in its Resolution of 12 March 1968 on Community measures to be taken in the veterinary sector (OJ No C 22 of 18 March 1968) had already provided for Community legislation in this area, and the Commission intends to begin studies as soon as possible.

6. It should also be stated that the draft Convention contains a number of principles, provisions and procedures which do not correspond to the principles and standards adopted in the various sets of rules already in force in the Community.

The Community's accession to the Convention would therefore have to be subject to the following conditions :

- the Convention would have to allow the Community's accession as such as deem it the competent body for all acts and obligations;
- trade within the Community would have to be regulable by the Community's own provisions.

7. It is obvious from paragraph 5 above that the subject of the draft Convention is unquestionably - despite the absence of appropriate legislation - a matter of Community competence. The Member States must therefore, in accordance with the rulings of the Court of Justice, notably the judgment in Case 22/70 (AETR) and Opinion 1/76, adopt a common position and from the moment when the Community, in order to attain an objective defined in the Treaty, has decided to deal with the subject they are debarred from either individually or collectively entering into any agreement with countries outside the Community or with international organizations.

This does not of course exclude participation by the Member States in the work to be done : ; on the contrary, close cooperation between the institutions and the Member States will be extremely useful in considering the proposals which, by a procedure to be determined, will be put to the FAO and the IOE.

8. Taking the above into account and the fact that a study must be undertaken at Community level on the subject covered by the draft convention in order to establish Community legislation, it is not at present possible for the Community to give an opinion and valid comments on the Conventions articles and technical annexes or to define its position on possible adhesion.

The Commission proposes to transmit the main points formulated in this communication to the FAO and the IOE as soon as possible.

