

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(78) 227 final

Brussels, 30 May 1978

Proposal for a

COUNCIL REGULATION (EEC)

concerning the conclusion of the Agreement on fisheries
between the European Economic Community and the Govern-
ment of Sweden

(submitted to the Council by the Commission)

COM(78) 227 final



EXPLANATORY MEMORANDUM

On 14 March 1977 the Commission forwarded a recommendation to the Council concerning the signing of an Agreement on Fisheries between the European Economic Community and Sweden. In a Decision dated 21 March 1977 the Council authorized the signing of the Agreement and it was signed on the same day.

Under Article 11 the Agreement applies provisionally from the date of signature. However, its entry into force requires a conclusion procedure involving, primarily, approval by the Council.

The Commission therefore proposes that the Council approves the agreement by adopting the attached draft regulation.

PROPOSAL CONCERNING THE CONCLUSION OF AN AGREEMENT ON FISHERIES BETWEEN
THE EUROPEAN ECONOMIC COMMUNITY AND THE GOVERNMENT OF SWEDEN.

(Submitted to the Council by the Commission)

1. On 14 March 1977 the Commission submitted a recommendation to the Council concerning the signature of an agreement on fisheries between the European Economic Community and Sweden (1).

By decision of 21 March 1977 the Council authorised the Commission to sign the negotiated agreement.

It was signed on 21 March 1977.

2. According to its Article 11 the agreement is applied provisionally from the date of its signature. The entry into force of the agreement requires however a formal conclusion, which in the case of the Community involves approval by the Council, after consultation of the European Parliament, the publication of the agreement in the Official Journal, and notification of the Council's approval to the Government of Sweden.
3. In order to accomplish these procedures the Commission proposes that the Council
 - takes steps, in conformity with its normal practice, to consult the European Parliament
 - approves the agreement by adopting the attached draft regulation.

(1) Doc. COM(77)89 final, S/46/777(RELEX37), JPI39 of 21.3.77.

COUNCIL REGULATION (EEC)

concerning the conclusion of the Agreement on fisheries between the European Economic Community and the Government of Sweden.

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 rights for Community fishermen in the waters of third countries must be obtained and preserved by appropriate Community agreements;

Whereas the Agreement on fisheries between the Community and Sweden signed on 21 March 1977 should be concluded,

HAS ADOPTED THIS REGULATION :

Article 1

1. The Agreement on fisheries between the European Economic Community and the Government of Sweden is hereby approved on behalf of the Community.
2. The text of the Agreement referred to in paragraph 1 is annexed to this Regulation.

Article 2

The President of the Council shall, on behalf of the Community, give the notification provided for in Article 11 of the Agreement.(1)

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

Article 3

This Regulation shall enter into force the day following that of 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

Brussels, 15 March 1977

The Council

S/467/1/77 (RELEX 37 rev. 1)
(AGRI 39)

Subject: Agreement on Fisheries between the European
Economic Community and the Government of Sweden.
(Text finalized by the Legal/Linguistic Experts
Working Party)

S/467/1 e/77 (RELEX 37 rev. 1) em
EEC (AGRI 39)

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AGREEMENT
ON FISHERIES
BETWEEN
THE EUROPEAN ECONOMIC COMMUNITY
AND THE GOVERNMENT OF SWEDEN

THE EUROPEAN ECONOMIC COMMUNITY, (hereinafter referred to as the Community),

of the one part,

AND THE GOVERNMENT OF SWEDEN,

of the other part,

RECALLING the close relations between the Community and Sweden;

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

NOTING THAT the extension of the fishery zones of certain coastal states in the Atlantic region may cause a transfer of fishing effort which might adversely affect the state of these resources;

RECOGNIZING that in these circumstances the coastal states in the area have a primary interest to assure by appropriate measures the conservation and rational management of the living resources;

TAKING INTO ACCOUNT the work of the Third United Nations Conference on the Law of the Sea;

AFFIRMING that the extension by coastal states of their areas of jurisdiction over the living resources, and the exercise within these areas of sovereign rights for the purpose of exploring, exploiting, conserving and managing these resources, should be conducted pursuant to and in accordance with principles of international Law;

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HAVING REGARD to the fact that the Community has agreed that the limits of the fishery zones of its Member States (hereinafter referred to as the area of fisheries jurisdiction of the Community) shall extend up to 200 nautical miles, fishing within these limits being subject to the common fisheries policy of the Community;

DESIROUS of establishing the terms and conditions pertaining to fisheries of mutual concern,

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 out 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 on the basis of 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 organizations and other relevant factors;

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(b) after appropriate consultations, allotments for fishing vessels of the other Party and the areas within which these allotments may be fished. The two Parties shall have as their aim the realization of a satisfactory balance between their fishing possibilities in maritime areas of mutual interest, taking into account, as a matter of priority, the mutual interests in the areas bordering on both Parties. In determining these fishing possibilities, each Party shall take into account:

(i) the need to minimize difficulties for the Party whose fishing possibilities might be reduced in the course of the establishment of the balance referred to above;

(ii) all other relevant factors.

2. The measures to regulate fisheries taken by each Party shall not be of such a 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 which shall be eligible to fish within the area of fisheries jurisdiction of the other Party. The second Party shall thereupon issue such licences in a manner commensurate with the possibilities for fishing granted under the provisions of Article 2(1)(b).

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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, 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, and to facilitate the necessary scientific research in this respect, in particular with regard to:

- (a) stocks occurring within the areas of fisheries jurisdiction of both Parties, with a view to achieving, as far as practicable, harmonization of measures for the regulation of fisheries in respect of such stocks;

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- (b) stocks of common interest occurring within the area of fisheries jurisdiction of both Parties and in the area beyond and adjacent to those areas.

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 specific 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

This Agreement shall be without prejudice to other existing agreements between the two Parties or to existing agreements concerning fishing by vessels of one Party within the area of fisheries jurisdiction of the other Party.

ARTICLE 9

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.

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ARTICLE 10

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

ARTICLE 11

This Agreement shall enter into force on the date on which the Parties notify each other of the completion of the procedures necessary for this purpose. Pending its entry into force it shall be applied provisionally from the date of signature.

ARTICLE 12

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 13

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.

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

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

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(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 organization and procedure.