

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(81) 80 final

Brussels, 5th March 1981

MODIFIED PROPOSAL FOR A COUNCIL REGULATION (EEC)

establishing a Community system for the conservation and  
management of fishery resources

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(presented by the Commission to the Council)

COM(81) 80 final

EXPLANATORY MEMORANDUM

The proposals of the Commission concerning the basic principles of the Common Fisheries Policy, in adapting it to the general extension of fishery zones to 200 miles, were formulated for the most part in October 1976. They were later adjusted, notably in January 1978, to take account of the results of discussions which took place in different Community bodies.

1. The original proposals comprise the basic elements of a conservation policy, criteria for fixing annual total allowable catches and their distribution, provisions on access, supervisory measures and the establishment of the specialised Community committees necessary to the administration of the Common Fisheries Policy.

2. In the framework of these proposals the Council has already approved and put into effect elements of the conservation policy in the form of a technical regulation; this regulation is periodically continued by the Council while awaiting a definitive approval.

A similar situation exists in regard to supervisory measures; the general principles and the implementing rules have received agreement in principle and a few provisions are at present in force.

The Commission has already, by decision of 8 June 1979, established a Scientific and Technical Committee. Nevertheless, the Commission considers it desirable that the Council have an opportunity to confirm the establishment of the Committee in Article 12.

3. In regard to the distribution of the resources available among member States, the Commission's proposals were intended to cease to be applicable on 31 December 1982. This had two consequences:

- on the one hand, it reserved the possibility, after a sufficient period had elapsed both for testing the efficiency of the system and for allowing the resources to build up, to review automatically the allocation procedure taking account, in particular, of the restructuring in the meantime of the fishing fleets;
- on the other hand, the deadline of 31 December 1982 linked implicitly the distribution of resources to the access problem which also becomes a live issue again on that date when the derogation provisions of the Act of Accession cease to be applicable.

4. In regard to access, the proposals included a generalisation, from their adoption, of the coastal zone up to 12 miles within which fishing activity was reserved for coastal fishing by the coastal state subject to respect for "historic rights".

In the view of the Commission, this extension proposed in 1976 of the derogation provided in the Act of Accession would have covered a period of six years at most during which fishing could be organised and structured on a lasting basis. Under the terms of the Act of Accession the revision of these rules would have happened towards the end of 1982.

5. As of 1 March 1981 the Council has not yet taken a decision on the substance of the rules for allocating resources or on access and the time limit of 31 December 1982 set down in Article 103 of the Act of Accession is now too close for limiting new mechanisms to such a short life. It is necessary, therefore, to modify the Commission's proposals to take account of new likely time limits:

- in regard to distribution of resources, the revised proposal incorporates the allocation criteria mentioned in the Declaration of the Council on the Common Fisheries Policy of 30 May 1980
- it is proposed to amend the earlier proposals on access contained in Articles 6 and 7 so as to create, following the expiry of the derogation system fixed by the Act of Accession, conditions which assure the protection and balanced development of coastal fishing activity in the sense of the objectives fixed by the Council

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in the Hague Resolutions of 3 November 1976. For this purpose it is proposed to maintain for ten years after 31 December 1982 the derogation régime at present applicable generalising it, however, to 12 miles for all coastal waters of member States; at present this derogation is still limited in principle to six miles in the areas not designated in Article 101 of the Act of Accession. At the end of that period it is proposed to maintain the possibility of certain derogations to the principle of equal conditions of access to the extent that these will be necessary to continue the stability of coastal fishing activity. In the coastal band of 12 miles fishing activity is, therefore, reserved to local coastal fishermen; however, to the extent that member States may enjoy rights, these are maintained throughout the whole derogation period it being understood that "historic rights" are those described in the Act of Accession.

In addition, it is necessary to complete this proposal by arrangements of fishing effort that ensure consideration for the problems of coastal fisheries in particular of economically disadvantaged regions as well as the desirability of regulating fishing activity within a coastal belt. Such arrangements presuppose a delimitation of the area concerned and of the stocks in question as well as a quantification of the fishing effort to be enjoyed by each member State. In the immediate term, such arrangements should be made for a coastal band around the Shetland and Orkney Islands and in certain parts of the Irish Sea.

6. In making its modified proposals, the Commission has also cleaned up the text in order to clarify the proposal as a whole and rationalise its presentation.

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MODIFIED PROPOSAL FOR A

COUNCIL REGULATION (EEC) No. /81

OF

establishing a Community system for the conservation  
and management of fishery resources.

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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 (\*)

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(\*) O.J. No. C

Whereas the Council of the European Communities has agreed that the Member States would act in concert to extend their fishing zones to 200 nautical miles with effect from 1 January 1977 along their North Sea and North Atlantic coastlines, without prejudice to action of the same kind in respect of other fishing zones within their jurisdiction, in particular in the Mediterranean; whereas, since that time and on this basis the Member States concerned have also extended their fishing limits in certain areas of the West Atlantic, the Skagerrak and the Kattegat and the Baltic Sea; whereas, in this context, in view of the over-fishing of stocks of the main species, it is essential that the Community, in the interests of both fishermen and consumers, ensure by an appropriate policy for the protection of fishing ground that stocks are conserved and reconstituted; whereas, it is therefore desirable that the provisions of Council Regulation (EEC) No. 101/76 of 19 January 1976 laying down a common structural policy for the fishing industry (1) be supplemented by the establishment of a Community system for the conservation and management of fishery resources that will ensure balanced exploitation;

Whereas this system should in particular include conservation measures which may involve, by appropriate means, limitations of the fishing effort, rules for the use of resources, special provisions for inshore fishing and supervisory measures.

Whereas measures regulating fishing effort may include restrictions, established by species or group of species, on catches, with overall catches being limited by reference to a stock or group of stocks;

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(1) O.J. No. L 20 of 19 January 1976, p. 19

Whereas the overall catch should be distributed among the Member States;

Whereas this distribution should be based on the guidelines, set by the Council in its declaration of 30 May 1980;

Whereas there should be special provisions for inshore fishing to enable this sector to cope with the new fishing conditions resulting from the institution of 200 mile fishing zones; whereas, to this end, Member States should be authorized to maintain to 31 December 1992

the derogation régime defined in Article 100 of the Act of Accession and to generalize up to 12 miles the limit of six miles prescribed in that Article; Whereas, these measures constitute, pursuant to the Act of Accession, the arrangements succeeding those provided for up to 31 December 1982;

Whereas, for the zones where Member States have not, until now, used the authorization to extend their fishing limits, existing fishing practices shall be maintained;

Whereas particular arrangements of fishing effort should be agreed in certain sensitive regions which take into consideration the problems of certain coastal fisheries as well as the desirability of regulating fishing activity within a coastal belt;

Whereas, to this end, inter alia, a system of licences should be introduced;

Whereas, on the basis of a report by the Commission the Council shall decide the derogation régime necessary after 31 December 1992;

Whereas the creation of a Community system for the conservation and management of fishery resources should be accompanied by the institution of an effective system of supervision of activities in the fishing grounds and on landing;

Whereas, with a view to the preparation of the scientific and technical information to be used to assess the situation regarding the biological resources of the sea as well as the conditions for ensuring the conservation of stocks, a standing Scientific and Technical Committee of an advisory nature should be set up under the auspices of the Commission;

Whereas, to facilitate implementation of this Regulation, a procedure should be laid down for close co-operation between the Member States and the Commission within a Management Committee;

HAS ADOPTED THIS REGULATION :

Article 1

In order to ensure the protection of fishing grounds, the conservation of the biological resources of the sea and their balanced exploitation on a lasting basis and in appropriate economic and social conditions, a Community system for the conservation and management of fishery resources is hereby established.

For these purposes, the system will consist, in particular, of conservation measures, rules for the use and distribution of resources, special provisions for coastal fishing and supervisory measures.

Article 2

1. The conservation measures necessary to achieve the aims set out in Article 1 shall be formulated in the light of the report prepared by the Scientific and Technical Committee for Fisheries provided for in Article 12.

2. The measures referred to in paragraph 1 may include, in particular, for each species or group of species :

- (a) the establishment of zones where fishing is prohibited or restricted to certain periods, types of vessel, fishing gear or certain end-uses;
- (b) the setting of standards as regards fishing gear;
- (c) the setting of a minimum fish size or weight per species;
- (d) the restriction of fishing effort, in particular by limits on catches.

Article 3

Where, in the case of one species or a group of related species, it becomes necessary to limit the catch, the total allowable catch for each stock or group of stocks, the shares available to the Community as well as, where applicable, the specific conditions for taking these catches shall be fixed each year.



Article 4

1. The volume of the catches available to the Community referred to in Article 3 shall be distributed between the Member States taking account most particularly of :

- traditional fishing activities;
- the special needs of regions where the local populations are particularly dependent upon fishing and the industries allied thereto, among others Ireland, Greenland and the northern parts of the United Kingdom;
- the loss of catch potential in third country waters.

2. The provisions of this article are applicable until 31 December 1982. The provisions to be applied after that date shall be adopted by the Council, on a proposal by the Commission.

Article 5

1. Member States which jointly so request may be authorized by the Commission to exchange all or part of the quotas in respect of a species or group of species allocated to them under Article 4.

2. The Member States shall determine, in accordance with the applicable Community provisions, the detailed rules for the utilisation of the quotas allocated to them. Detailed rules for the application of this paragraph shall be adopted, if necessary, in accordance with the procedure laid down in Article 14.

Article 6

1. From 1 January 1983 to 31 December 1992 Member States are authorized to maintain the régime defined in Article 100 of the Act of Accession annexed to the Treaty establishing the European Communities and to generalize up to 12 nautical miles for all waters under their sovereignty or jurisdiction the limit of six miles prescribed in that Article.

If a member State makes use of the above-mentioned authorisation to generalise, it shall maintain, in the zones not mentioned in Article 101 of the Act of Accession, existing fishing practices so that no retrograde change by comparison with the situation existing at the date of entry into force of the present regulation will result.

2. For the zones where, at the date of entry into force of the present regulation, the fishing limits have been maintained effectively at less than the limits applicable under the terms of Article 100 of the Act of Accession, existing fishing practices within twelve nautical miles are maintained so that no retrograde change by comparison with the situation existing at the date of entry into force of the present regulation will result.

3. Without prejudice to the rights and obligations resulting from the provisions of the previous paragraphs and for species of special interest to sensitive regions of the Community, the exercise of the rights which all member States may enjoy may be subjected to an arrangement of their fishing effort, agreed between the Commission and the Member States concerned, which takes into consideration the problems of coastal fisheries in particular of economically disadvantaged regions as well as the desirability of regulating fishing activity within a coastal belt.

#### Article 7

1. Before the 31st December 1991 the Commission shall present a report to the Council on the fisheries situation in the Community, the economic and social development of the coastal areas, the state of the stocks and their likely evolution.

2. On the basis of this report and bearing in mind the objectives of the Common fisheries policy, and if necessary, the Council, acting on a proposal by the Commission, shall decide the provisions which will be valid after the 31 December 1992 in order to continue the stability of coastal fishing activity.

#### Article 8

1. In the sensitive regions prescribed in Article 6 (3) a Community licensing system shall be established with a view to regulating fishing activities on species representing a special interest therein in accordance with agreed arrangements of fishing effort.

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2. The number of licences attributed to each member State involved in the arrangements described at paragraph 1 shall be fixed taking into account in particular:

- the state of the stock concerned
- the distribution among member States of the volume of the catches available to the Community
- the technical characteristics of the kind of activity, and of the vessels and gear used in the region and for the species in question.

3. The means of managing the licences, on a non-discriminatory basis, must not have the effect of preventing the catching of the quotas of the species affected by this system which are allocated to member States.

4. The granting of licences shall be conditional upon an undertaking by the beneficiary to respect in particular the measures for the conservation and exploitation of resources prescribed in Articles 2, 3, 4 and 6 of the present regulation.

#### Article 9

1. Member States shall communicate to the Commission, at its request, all the information necessary for the implementation of this Regulation.

2. The Commission shall forward each year to the European Parliament and to the Council a report on the application of measures taken pursuant to this Regulation.

#### Article 10

Supervisory measures to ensure compliance with this Regulation and with the measures adopted in implementation thereof shall be adopted.

#### Article 11

The measures foreseen at Articles 2, 3, 4, 8 and 10 shall be adopted by the Council acting by a qualified majority on a proposal from the Commission.

#### Article 12

The Commission shall set up under its auspices a Scientific and Technical Committee for Fisheries. The Committee shall be consulted periodically and shall prepare an annual report on the situation as regards fishery resources, on the ways and means of conserving fishing grounds and stocks and on the scientific and technical facilities available within the Community.

Article 13

1. A Management Committee for Fishery Resources, hereinafter called "the Committee" is hereby established consisting of representatives of the Member States under the Chairmanship of a representative of the Commission.
2. Within the Committee the votes of the Member States shall be weighted in accordance with Article 148 (2) of the Treaty. The Chairman shall not vote.

Article 14

1. Where the procedure laid down in this article is to be followed, the Chairman shall refer the matter to the Committee either on his own initiative or at the request of the representative of a Member State.
2. The representative of the Commission shall submit a draft of the measures to be taken. The Committee shall deliver its opinion on such measures within a time limit to be set by the Chairman according to the urgency of the questions under consideration. An opinion shall be adopted by a majority of forty-five votes.
3. The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the Opinion of the Committee, they shall forthwith be communicated by the Commission to the Council. In that event the Commission may defer application of the measures upon which it has decided for not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within one month.

Article 15

The Committee may consider any other question referred to it by its Chairman either on his own initiative or at the request of the representative of a Member State.

Article 16

This Regulation shall enter into force on the third 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