

# COMMISSION OF THE EUROPEAN COMMUNITIES

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PROBLEMS WHICH THE INTRODUCTION OF ECONOMIC  
ZONES OF 200 MILES POSES FOR THE COMMUNITY  
IN THE SEA FISHING SECTOR

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(Communication from the Commission to the Council)

The Commission has on several occasions stressed to the Council the need to find Community solutions to the problems posed in the fisheries sector by the introduction of economic zones of 200 miles. Since a further session of the United Nations Conference on the Law of Sea is about to begin, at which the principle of economic zones of 200 miles may be adopted, the Commission considers it advisable to put before the Council a communication setting out the courses which could be adopted for the management of Community resources in the fisheries sector, and covering also the negotiations with non-member countries and the Conference on the Law of the Sea.

It must be stressed that the Community should adopt an aligned approach to these problems. The guidelines suggested in this Communication constitute an overall solution to the problems posed for the Community both externally and internally as a result of the new situation emerging in the fisheries sector; only such an approach will enable an agreement to be reached in this sphere.

A. THE MANAGEMENT OF FISHING RESOURCES (1)

1. Basic facts concerning conservation

- (a) The stocks of the different species are essentially interdependent and variable from one fishing season to the next<sup>(2)</sup>. Any measure taken to ensure the conservation of one of them has an effect on the others and the total volume which can be fished cannot be considered as a constant factor on the basis of which fishing can be planned one or more fishing seasons ahead.
- (b) The stocks fished in the coastal waters of each of the Member States of the Community travel during the fishing season and in most cases they are not fished in the places where they breed; the measures designed to ensure the conservation of a stock are not therefore the sole concern of the Member State which fishes that stock.
- (c) At a first approximation, the stocks of the main species caught in the 200 mile-zone of the coastal Member States develop mainly in the same zone; the measures designed to conserve them are therefore the entire and collective responsibility of the Community. On the other hand, some stocks, described as "mixed", develop and reproduce in waters bordering on the waters of non-member countries and their conservation therefore implies consideration of external factors characterizing the conditions of biological balance in the waters of non-member countries.

(1) Special problems arise in the case of Greenland which are not dealt with in this document.

(2) The consistence of a stock, and its age breakdown, depend at a given moment on the number of breeders, and on the climatic conditions which affect the young larvae's chances of survival, and also on the stocks of other species which either feed on the former or supply them with food.

## 2. Conservation measures in Community waters

- (a) Given the present state of scientific knowledge and international practice, the fixing of an annual catch rate (ACR) seems the most effective means of guaranteeing optimum yield from a stock<sup>(1)</sup>.
- (b) In addition, the maintenance of a stock in optimum yields conditions implies a particular age breakdown of the fish composing that stock. The fixing of an ACR must therefore be accompanied by measures of a technical nature (mesh of nets, fishing seasons ...) designed to prevent the taking of fish belonging to age categories requiring priority protection and to safeguard the natural process of reproduction.
- (c) For some stocks the technical measures referred to in (b) may be sufficient without the need for an ACR.

For all of the above reasons, the Commission proposes the following measures:

- (i) The Council, acting on a proposal from the Commission, would decide in accordance with the voting procedure laid down in Article 43(2) of the Treaty on the species or group of species for which the fixing of an ACR appears necessary; the list of such species may be amended or supplemented by the Council.
- (ii) For each species or group of species on the list drawn up as provided for in (i) the Council, acting on a proposal from the Commission, again in accordance with the procedure laid down in Article 43(2), would fix simultaneously each year the annual catch rate applicable to all waters of the Member States of the Community, together with the technical measures applicable to all the species for which they prove necessary.

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(1) This solution does not preclude the search for a more detailed approach which would take the situation into account and in particular the total capacity of the fleets necessary to ensure a particular level of catches (limitation of fishing).

- (iii) The Commission would prepare its proposals for the Council on the basis of a report drawn up each year by a Scientific and Technical Committee for Fishing set up for this purpose. The Committee, chaired by a representative of the Commission, would be responsible for coordinating and processing the scientific and technical data required for estimating stocks and their composition in order to protect them.
- (iv) In the case of "mixed" stocks the Committee's report would be drawn up after consultation with the appropriate international organizations.

3. Implementation of a Community quota system<sup>(1)</sup>

Allocation between Community fishermen of the resources available in the context of the new international 200-mile limit will be done by means of assigning catch quotas.

To this end, the Commission proposes that the following measures be adopted:

- (a) The Council, acting on a proposal from the Commission, would lay down each year for each species or group of species the total catch which may be taken by the Community. This is equal to the total of the permitted catches (ACR) fixed for the whole of the Community zone for that species or that group of species, as referred to in 2 above, plus the total of the catches allocated to the Community in the waters of non-member countries and less the total of the catches allocated to non-member countries in the Community zone;
- (b) Before the quota for each Member State is fixed, the following would be deducted from the total catch thus determined:
  - . a "Community reserve" of 5% to meet exceptional situations.

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(1) See footnote on p. 4.

. a fixed quantity corresponding to catches in coastal waters.  
This quantity would be calculated in particular on the basis of the average tonnage, expressed as nominal catch, of the species or groups of species during a reference period to be determined.

- (c) The Council, acting on a proposal from the Commission, would allocate the remainder of the catch total between the Member States as follows:

The remainder is allocated between the Member States in the same proportions as the catch of the species or group of species in question by each Member State during a reference period to be determined and the total Community catch of the same species or group of species during the same period stand to each other.

- (d) The conditions of access to the Community reserve would be drawn up separately for each of these Member States.

- (e) Following the fixing of quotas by the Council and at the simultaneous request of one or more Member States, the Commission may authorize these States to exchange all or part of their quota of a particular species or group of species for an equivalent quota of another species or group of species.

These provisions, taken together, could enable the Community to provide some compensation for any losses incurred in the waters of non-member countries.

This quota mechanism could be amended subsequently, particularly if the general stock situation were seen to improve appreciably over the next few years.

To this end, the Commission will periodically present to the Council, from 1982, a report on the fishing situation in Community waters.

#### 4. Coastal waters

- (a) Article 100 of the Act of Accession authorized Member States to restrict fishing in waters situated within a limit of 6 nautical miles, calculated from the base lines of the coast, to vessels which fish traditionally in waters and which operate from ports in that geographical coastal area.

In the areas listed in Article 101 of the Act of Accession the limit of 6 miles is extended to 12 miles. Within the limit of 6 miles referred to in Article 100 and within the areas where there is a 12-mile limit referred to in Article 101, the fishing rights which Member States might have enjoyed on 31 January 1971 with regard to the coastal State continued to apply (Article 100 (2)).

All the measures in derogation of the principle of equal access laid down in Article 2 of Regulation (EEC) No 2141/70 of 20 October 1970 do not come into force until 31 December 1982. However, it is for the Council, in accordance with Article 103 of the Act of Accession, to examine the provisions which could follow the derogations.

Taking into account the major change in circumstances which will result in the creation of maritime economic zones of 200 miles, the Commission proposes that the Council should immediately take the decision of principle that the provisions which it will have to adopt in pursuance of Article 103 of the Act of Accession will include the extension beyond 31 December 1982 of the derogations laid down in Articles 100 and 101 of the Act of Accession. Further, after 31 December 1982, the special rights referred to in Article 100(2) of the Act of Accession will be gradually eliminated.

- (b) In the same context the Commission also proposes that the Council, shall authorize Member States, through amendments to the basic Community rules (Regulation (EEC) No 2141/70), to restrict fishing within the waters between the 6 mile and 12 mile limits, other than those referred to in Article 101 of the Act of Accession, to vessels which fish traditionally in those waters and which operate from ports in that geographical coastal area.

The fishing rights which Member States might have enjoyed with regard to the coastal state on the date when this measure was put into application should be gradually eliminated in these new reserved zones.

The Member States affected by this gradual elimination of fishing rights could, in this particular case, benefit from compensation in the form of structural aid measures.

These new provisions would come into force on the date on which the maritime waters under the jurisdiction of the Member States are extended to a maximum limit of 200 miles. They would remain in force for the same period and under the same conditions as the provisions referred to in (a) above.

- (c) The base lines on which the limits of coastal waters referred to in (a) and (b) above are calculated will be those which were in force on 1 February 1976.
- (d) Conservation measures and rules regulating fishing within these coastal limits which may be required in order to supplement the general measures adopted by the Council for the whole of the Community fishing area would be laid down by the coastal Member State in the light of local in-shore fishing conditions.

5. The adaptation of structures

Measures to adapt structures to the new production conditions created by the changed international context in which this sector is required to operate necessitate specific action to restructure fishing fleets in the framework of Regulation (EEC) No 2141/70. The Commission has already submitted a proposal for common action with regard to small-scale in-shore fishing to the Council.

Other action could be envisaged under regional and social policies.



B. NEGOTIATIONS BY THE COMMUNITY WITH NON-MEMBER COUNTRIES

Determination of total resources available to the Community depends in part on the fishing rights granted by non-member countries and the reciprocal rights granted in Community waters. In this context, negotiations with non-member countries are of basic concern to the Community as a whole as demonstrated by the size of the catch by Community vessels in non-member countries' territorial waters (see Tables annexed to Doc. SEC(75) 4503).

Negotiations should be opened with quite a number of countries, some of them already linked to the Community by special commitments which give them a privileged relationship. Negotiations could, depending on the case, concern not only the concession of reciprocal fishing rights and trade concessions but also any other subject which could yield balanced results. How they are conducted will depend on the situation before institution of these zones, and on the special trading arrangements or on the more general obligations contained in association, customs union or free trade agreements. The Commission is of the opinion that the Community should negotiate on a bilateral basis with non-member countries and make use of all the instruments available.

The Commission notes that some non-member coastal states have already begun or have expressed the intention of beginning negotiations based on the assumption of the eventual establishment of 200-mile economic zones consonant with the principles of a new international law. The Community has indeed already been approached on the question by certain of these countries.

Consequently, and with a view to protecting the Community's essential interests, the Commission believes that action of a precautionary nature should now be taken.

To this end, on the assumption of a general extension of fishing limits to 200 miles, the Commission proposes to initiate without delay exploratory conversations with the main non-member countries concerned with a view to identifying the practical bases for negotiations proper.

In the light of these discussions, the Commission will in due course put before the Council the necessary recommendations for negotiating briefs.

C. UNITED NATIONS CONFERENCE ON THE LAW OF THE SEA

The proposals in this communication, based on the assumption that a system of 200-mile economic zones will be established in the near future, define the measures whereby the Community should be able, both internally and externally, to protect its interests in this new situation.

The positions the Community should adopt at future sessions of the United Nations Conference on the Law of the Sea are closely related to the Community character and the anticipated effectiveness of such measures.

- (a) Extension by Member States of the limits of the maritime waters under their jurisdiction will result in the formation of an economic zone within which the Community will implement measures for the management of fishing resources. The Community's competence to enact such measures and the validity of such measures must be fully recognized on an international level by non-member countries.

The Community's competence to regulate activities in economic zones is not limited to the fishing sector. It extends also, and could in the future extend still further, to other fields, such as the campaign against pollution of the ocean and scientific marine research.

Therefore it is essential that the future convention on the Law of the Sea should contain a clause enabling the Community to be a contracting party to the convention. Such a clause has been drafted and only awaits the formal agreement of one delegation. When it is finally agreed the text should be presented at the New York session of the Conference (15 March - 7 May 1976). Appropriate diplomatic contacts should be made to explain the meaning and scope of the proposal to non-member countries and to obtain the support of as many as possible. Bearing in mind the link between the other proposals and the problem of the "EEC clause", the Commission requests the Council to take a decision.

- (b) The positions that the Community and its Member States should take in respect of the "common negotiating text" drafted in May 1975 at the end of the Geneva session of the Conference will be directly related to the fact that the provisions of the future convention on the Law of the Sea will apply to an economic zone where fishing resources will be subject to management measures adopted by the Community, and also to the fact that the negotiations to be conducted with non-member countries in the fishing sector will come within the Community's competence. If this approach is effective in protecting Community interests, Member States should be able to accept some of the points in the authentic negotiating text which have up to now been the subject of certain reservations on their part, thereby reducing the number of amendments to the common text to be presented at the New York session.

The Community and Member States should endeavour to prepare proposals for amendments to the common negotiating text so that they can be presented at the New York session with the support of all nine delegations.

Detailed suggestions regarding the drafting of proposals for amendments to be made to the common negotiating text will shortly be put before the Council. They will take full account of the drafting proposals made by different delegations at coordination meetings on the fishing question held in recent months with experts from the Member States.

In line with the proposals in this communication, these suggestions will stress the need to enable Community fishermen to operate to a maximum extent in Member States' territorial waters in preference to securing legal protection for Community interests in non-member countries' waters. Experience has shown that within the framework of the Conference there is scarcely any likelihood of achieving such protection. This could be achieved more effectively by other means, in particular through bilateral negotiations as proposed in Section B of the communication.