

COMMISSION OF THE EUROPEAN COMMUNITIES

COM (78) 513 final

Brussels, 30 October 1978

Proposal for a COUNCIL REGULATION (EEC) on the conclusion of
an Agreement on fisheries between the Government of Canada
and the European Economic Community

(Submitted to the Council by the Commission)

COM (78) 513 final

RECOMMENDATION CONCERNING THE SIGNATURE AND CONCLUSION OF AN AGREEMENT ON
FISHERIES BETWEEN THE GOVERNMENT OF CANADA AND THE EUROPEAN ECONOMIC COMMUNITY

1. On 3 November 1976 the Council authorized the Commission to enter into negotiations with Canada for a fisheries agreement.

Following a series of exploratory meetings which led to negotiations held in the course of December 1977 and July 1978 a draft agreement was initialled in Ottawa on 28 July 1978.

2. In view of certain difficulties which arose in the negotiations for a long-term fisheries agreement, the negotiators agreed to recommend to their authorities a shorter-term agreement on fisheries (terminating on 31 December 1979) pending further negotiations for a long-term agreement.
3. The Canadian Government has recently decided that fishing quotas will be granted only to vessels from countries which have concluded a fisheries agreement with Canada except for the quotas allocated for 1978 prior to the adoption of this new policy. The Canadian Government has however accepted to apply provisionally the draft agreement negotiated between the Community and Canada with effect from the date of its initialling, and at the same time to allocate certain supplementary quotas for 1978, on the understanding that the Community's procedures for signature and conclusion of the agreement should be opened as soon as possible. The Canadian authorities have also informed the Commission of certain fishing quotas which will be allocated to the Community in 1979 provided the agreement is confirmed.
4. In order to ensure the benefits to Community fishermen which will arise from the agreement, the Commission recommends that the Council approve the outcome of these negotiations, and set in motion the procedure for signature and conclusion of the agreement, that is :
 - that, at its next session, the Council
 - decide to proceed, subject to conclusion, to signature of the agreement
 - authorize its President to designate the persons empowered to sign the agreement
 - that the Council take steps, in conformity with its normal practice, to consult the European Parliament;
 - that the Council proceed, at the appropriate time, to the adoption of the draft regulation (attached) approving the agreement.

Article 3

This Regulation shall enter into force 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.

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

The Government of Canada and the European Economic Community (hereinafter referred to as the Community):

Recalling the close relations between the Community and Canada and, in particular, the Framework Agreement for commercial and economic cooperation between the European Communities and Canada of 6th July 1976;

Having regard to their common desire to ensure the conservation and rational management of the living resources of the waters adjacent to their coasts and their concern for the welfare of their coastal communities and the living resources of the adjacent waters upon which these communities depend;

Noting that the Government of Canada has extended its jurisdiction over the living resources of its adjacent waters to a limit of up to two hundred nautical miles from its coast and exercises within this limit sovereign rights for the purposes of exploring and exploiting, conserving and managing these resources; and having regard to the fact that the member states of the Community have agreed that the limits of their fishery zones (hereinafter referred to as the fishery zone of the Community) shall extend up to two hundred nautical miles from the coast, fishing within these limits being subject to the common fisheries policy of the Community;

Taking into account the need to coordinate the management of certain living marine resources which occur both in waters under the fisheries jurisdiction of Canada and in the fishery zone of the Community;

Noting the intention of the two Parties to participate in multilateral cooperation for the conservation and management of the living marine resources in the Northwest Atlantic area beyond the limits of national fisheries jurisdiction;

Taking into account the work of the Third United Nations Conference on the Law of the Sea and resulting state practice;

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

[Handwritten mark]

[Handwritten signature]

Taking into account the interest of each Party in developing fisheries in the fishery zone of the other Party;

Desirous of establishing the terms and conditions pertaining to fisheries of mutual concern;

Noting their intention to pursue negotiations for a long-term agreement on fisheries, to develop further cooperation between the two Parties and, in the context of these negotiations, to pursue, in particular, discussion on the nature of Canada's interest in the stocks of the Grand Banks - Flemish Cap area seaward of Canadian fisheries waters;

Have agreed as follows:

Article 1

The Government of Canada and the Community undertake to cooperate closely in matters pertaining to the conservation and utilization of the living resources of the sea. They shall take appropriate measures to facilitate such cooperation and shall consult and cooperate in international negotiations and organizations with a view to achieving common fisheries objectives.

Article 2

1. In addition to the access granted under the Agreement of 1972 between France and Canada on their Mutual Fishery Relations,

(a) the Government of Canada undertakes to grant access to vessels of Member States of the Community to fish within the area off the East coast of Canada, brought under Canadian fisheries jurisdiction after December 31, 1976, for allotments, as appropriate, of parts of total allowable catches surplus to Canadian harvesting capacity, in accordance with the provisions of this Article, and

(b) the Community undertakes to grant access to Canadian vessels to fish within the fishery zone of the Community for allotments, as appropriate, of parts of total allowable catches surplus to Community harvesting capacity, in accordance with the provisions of this Article.

2. Each Party shall determine annually for the waters under its fisheries jurisdiction referred to in paragraph 1, subject to adjustment when necessary to meet unforeseen circumstances,

(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;

(b) its harvesting capacity in respect of such stocks; and,

(c) after appropriate consultations, allotments, as appropriate, for fishing vessels of the other Party of parts of surpluses of stocks or complexes of stocks and the areas within which these allotments may be fished.

3. Each Party may require that fishing in its area of fisheries jurisdiction by fishing vessels of the other Party shall be subject to licensing requirements. Such licences will be issued to the extent necessary to allow the Party concerned the fishing effort required to take the allocations granted under this Agreement. Fishing vessels of one Party shall, when fishing within the area of fisheries jurisdiction of the other Party, comply with all laws governing fishing activities in that area. Advance notice shall be given as practicable of any new measures, conditions or provisions applying to such fisheries.

Article 3

1. Each Party shall take all necessary measures to ensure that its vessels operate in compliance with the provisions of this Agreement and with any measures agreed upon from time to time pursuant to the provisions of this Agreement.

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 4

The two Parties undertake to cooperate, either bilaterally or through appropriate international organizations, in order to ensure the proper management and conservation of stocks occurring both within the area under the fisheries jurisdiction of Canada and within the fishery zone of the Community, and stocks of associated species. In particular, they shall endeavour to harmonize the regulatory measures applicable to these stocks, and shall consult frequently and exchange relevant fisheries statistics for this purpose.

[Handwritten signature]

[Handwritten signature]

Article 5

1. The Government of Canada and the Community affirm the need to ensure the conservation of the living resources beyond the limits of national fisheries jurisdiction. They accordingly undertake to cooperate in the light of this principle, either bilaterally or through appropriate international organizations, in order to ensure the proper management and conservation of these living resources.
2. Where the same stock or stocks of associated species occur both within and seaward of Canadian fisheries waters in the Grand Banks-Flemish Cap area, and Community vessels participate or wish to participate in fisheries for such stocks within the area seaward of Canadian fisheries waters, the two Parties shall seek either bilaterally or through appropriate international organizations to agree upon measures for the conservation and management of these stocks within the area seaward of Canadian fisheries waters, taking into account the need for consistency between the measures applying within Canadian fisheries waters and those applying seaward of such waters.
3. Where discrete stocks occur in the Grand Banks-Flemish Cap area seaward of Canadian fisheries waters, and Canadian and Community vessels participate or wish to participate in fisheries for such stocks, the two Parties shall seek either bilaterally or through appropriate international organizations, to agree upon measures for the conservation and management of these stocks.
4. In the event that third party fishing causes a threat to the conservation of the living resources of the waters beyond and adjacent to the areas referred to in Article 2, the two Parties shall consult and seek to agree on action which should be taken to overcome that threat.

Article 6

The two Parties undertake to cooperate, as appropriate in the light of the development of their fisheries relations pursuant to the provisions of Article 2, in scientific research required for the purposes of management, conservation and utilization of the living resources of the areas referred to in that Article. For these purposes, scientists of the two Parties shall consult regarding the conduct of such research and the analysis and interpretation of the results obtained.

7

Article 7

1. Each Party shall, subject to the availability of facilities and the needs of its own vessels, allow vessels which it has licenced pursuant to this Agreement to enter its ports in accordance with applicable laws, regulations and administrative requirements, for the purpose of purchasing bait, supplies or outfits or effecting repairs; or for such other purposes as that Party may determine.
2. Such authorization shall become null and void in respect of any vessel licenced pursuant to this Agreement upon the cancellation or termination of its licence, except for the purpose of entering port to purchase supplies or effect repairs necessary for its outward voyage.
3. The provisions of this Article shall not affect access to the ports of either Party in cases of distress, medical emergency or force majeure.

Article 8

1. The Government of Canada and the Community recognize that states in whose rivers anadromous stocks originate have the primary interest in and responsibility for such stocks, and agree that fishing for anadromous species should not be conducted in areas beyond the limits of national fisheries jurisdiction. They will continue to work together for the establishment of permanent multilateral arrangements reflecting this position.
2. Pursuant to paragraph 1, the Parties shall take measures to prevent their vessels from taking anadromous fish in waters beyond the limits of national fisheries jurisdiction.
3. In the interest of the further conservation of anadromous species, each Party shall ensure, in the context of close scientific cooperation, the regulation of fishing of anadromous species within its area of fisheries jurisdiction. The Government of Canada shall regulate the fishing of Atlantic Salmon in the Canadian area of fisheries jurisdiction in such a manner as to avoid as far as possible the catching of Atlantic Salmon of Community origin, and the Community shall limit fishing by its vessels of Atlantic Salmon west of 44° west longitude to an annual total of 1190 tons in 1978 and in 1979, and shall ensure that such catches are taken in accordance with the fishing patterns of 1976 and 1977.

4. The Parties agree to request that the International Council for the Exploration of the Sea conduct a scientific review of the current status of North Atlantic salmon stocks, and that this review be completed and a report made available by April 30, 1979.

Article 9

1. Within the framework provided by the Framework Agreement for Commercial and Economic Cooperation Between Canada and the European Communities, done at Ottawa on July 6, 1976, the two Parties will carry out periodic bilateral consultations regarding the development of economic cooperation in the field of fisheries.

2. In such consultations, the two Parties will examine jointly the possibility of expanded bilateral cooperation, including cooperation on such matters as exchanges of technical information and personnel, improvement of utilization and processing of catches, facilitation of cooperative arrangements between Canadian and Community enterprises with respect to the utilization of the living resources of the waters off the Canadian coasts, arrangements for the use of the ports of each Party by fishing vessels of the other Party to ship or discharge crew members or other persons and for such other purposes as may be agreed upon, and expansion of markets for fish and fish products originating in Canada.

Article 10

1. The Parties agree to consult periodically 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.

[Handwritten mark]

[Handwritten signature]

Article 11

1. This Agreement shall be without prejudice to the Agreement between Canada and France on their Mutual Fishery Relations done at Ottawa on 27 March, 1972 or to any multilateral Convention to which Canada and the Community or any of its member States are parties, or to the views of either Party with respect to any question relating to the Law of the Sea.

Article 12

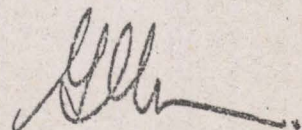
1. This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territory of Canada.

Article 13

1. 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.

Article 14

1. This Agreement shall terminate on December 31, 1979.



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, French, German, and Italian languages, each of these texts being equally authentic.

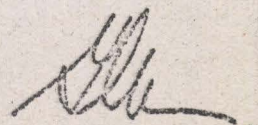


ANNEX I

Interpretative Note to Article 2.3

With reference to this Article, the Parties agree that fishing effort is a function of both the number of fishing vessels for which licences are issued and the number of fishing days for which such licences are valid.

12



ANNEX II

Interpretative Note to Article 8

With reference to this Article, the Parties agree that the term "fishing patterns" refers to fishing effort, gear types, seasons and areas of operation, and note that fishing for salmon off Greenland in 1976 and 1977 did not occur beyond 30 nautical miles from the coast of Greenland.



ANNEX III

COMMUNITY DECLARATION CONCERNING ARTICLE 12 OF THE AGREEMENT
BETWEEN THE EEC AND CANADA

Pursuant to the wish expressed by the Government of Canada, the Community confirms that it considers Article 12 of the Agreement, which incorporates provisions that are traditionally used in agreements concluded between the European Economic Community and third countries, as having no bearing upon the question of the legal status of the economic zone, currently under discussion at the Third Conference of the United Nations on the Law of the Sea.

[Handwritten signature]

[Handwritten signature]