

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(79) 641 final

Brussels, 27 November 1979

Recommendation for a

COUNCIL DECISION

authorizing the Commission to negotiate on behalf of the Community for the establishment of an international Convention for the conservation of salmon stocks occurring in the North Atlantic Ocean

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(submitted to the Council by the Commission)

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EXPLANATORY MEMORANDUM

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1. The Atlantic Salmon migrates yearly from rivers in North America and Europe to the waters of West Greenland and the Norwegian Sea, returning to its native river after a period of two or more years. This extensive migration lies behind the efforts which have been made to arrive at regulation of the fishing of this species through international arrangements since the late nineteen-sixties. Coastal states in whose rivers salmon stocks originate have, in order to reduce the extent of predation on these stocks, been concerned to ensure both the prohibition of salmon fishing beyond areas of fisheries jurisdiction and the limitation of catches of salmon taken within such areas.
2. The International Convention for the Northwest Atlantic Fisheries (1949) provided the forum for the first discussions on this question. In 1970 all Contracting Parties to the Convention except Denmark, the Federal Republic of Germany and Norway agreed to take appropriate action to ensure that fishing for salmon be prohibited in waters outside national fishing limits (then extending to twelve miles at most from baselines). Two years later, the Contracting Parties agreed upon a Regulation under which fishing for salmon by non-Greenlanders in Greenland waters would be eliminated by 31 December 1975, and fishing by Greenland fishermen would take place only within national fisheries limits and be limited to the average level of yearly catches from 1964 to 1971. Following the withdrawal of the Member States of the Community from ICNAF on 31 December 1978, however, this Regulation ceased to be binding upon Denmark.
3. When it became clear during 1978 that arrangements made under ICNAF would lapse, the United States and Canadian authorities expressed their concern to the Community, which had assumed competence for the management of fisheries resources in 1976, that cooperation with respect to the management of salmon fishing in Greenland waters should continue.
4. The Canadian authorities made it clear during the negotiation of the EEC-Canada fisheries agreement that conclusion of the agreement would be conditional upon an undertaking by the Community to limit catches of salmon in Greenland waters for the duration of the agreement to the level established under the ICNAF arrangements of 1972. This undertaking was given for the years 1978 and 1979 in an exchange of letters between the Community and Canada earlier this year.

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5. Meanwhile the United States authorities informed the Community that in their view arrangements for the conservation of Atlantic salmon should be the subject of multilateral rather than bilateral agreement, and to this end they presented in March 1979 proposals for an international Convention to cover the North Atlantic Ocean and its adjacent seas. As well as the establishment of an institutional framework for international cooperation on this matter, the United States' proposals would involve the adoption of specific conservation measures, such as a ban on fishing for salmon beyond 12 miles from baselines and the limitation of catches within the 12-mile zone either to the annual level obtaining during the period 1976 to 1978 or to the annual level permitted under ICNAF arrangements.

## II. The Community position

6. The Community has already accepted within the framework of its fisheries agreements with the United States and Canada the general principles formulated at the Third United Nations Conference on the Law of the Sea with regard to the conservation and management of anadromous stocks (see Article 66 of Informal Composite Negotiating Text, Revision 1, 28.4.1979). This implies inter alia acceptance that coastal states in whose rivers anadromous stocks originate have a primary interest in and responsibility for the conservation of such stocks, that states into whose waters these stocks migrate shall cooperate with the "originating" state in matters of conservation, and that conservation measures with respect to these stocks may be implemented through regional organisations where appropriate. Article VIII of the EEC-Canada fisheries agreement also declares that the parties will continue to work together for the establishment of permanent multilateral arrangements reflecting their acceptance of the primary interest of "originating" coastal states in the conservation of anadromous stocks.
7. The acceptance by the Community of these guiding principles means in the Commission's view that the Community should accept the invitation of the United States to participate in negotiations for an international Convention on Atlantic Salmon. It is clear, however, that the adoption of concrete conservation measures under such a Convention will give rise to significant conflicts of interest between the various communities exploiting these stocks within the Community. In these circumstances, the Commission believes that progress can best be assured in any future negotiations if questions of form, related to the nature of the

organisation to be set up under a future Convention, are clearly separated from, and settled before, questions of content, such as the nature of the conservation measures to be adopted under the Convention.

8. As a first step the parties to the proposed Convention should establish an organisation which will provide for the obtaining of scientific advice on salmon stocks, and for the taking of action based on such advice. Some of the more specific proposals made in the United States draft in effect prejudge the nature of the advice which will be obtained through the mechanism established under the Convention. The Community should rather suspend its judgement, in order that conservation measures may be adopted after a full examination of the need for them and of their effects. However, in order to ensure proper conservation of salmon stocks pending the effective operation of the organization established by the Convention, it would in the Commission's view be necessary to negotiate interim arrangements in parallel with negotiation of the Convention itself, which would apply, for example, for one year after the entry into force of the Convention, or two years after its signature, whichever was the shorter period.
9. Another fundamental principle which should be embodied in any future Convention on Salmon is that of equity of obligation between the Contracting Parties. While it is clear that the establishment of a Convention will lead to the imposition of constraints on commercial fishing of salmon in maritime waters, such sacrifices should be equally balanced between the "originating" states and states into whose waters the salmon migrate. It would not be acceptable to the Community for a single party or region to bear the burden of conservation on behalf of all other parties or regions. In order to respect the principle of equity of obligation, the bodies established under the Convention would also have to consider the levels of salmon fishing in internal waters.
10. The need for a balance of sacrifice between "originating" and "host" states, and the fact that salmon stocks originating in some Member States migrate both to the North-east and North-west Atlantic, would require, in the Commission's view, that the area covered by the proposed Convention should be the entire North Atlantic ocean and its adjacent seas (with the exception of the Baltic Sea) and possibly connected internal waters. Decisions on conservation could, however, be taken in two separate fisheries commissions covering the North-east and North-west Atlantic respectively, membership of each commission being confined to those Contracting Parties having a

direct interest in the stocks occurring in that region.

11. Finally, the Commission believes that, in order to ensure a similar degree of sacrifice by all parties, the point of reference for a future conservation policy should be based upon the long-term rather than short-term history of each fishery. In this connection, the three-year reference period for catches proposed by the United States appears inadequate; a longer reference period would better reflect the relative interests in the fishery.
12. With these provisos the Commission believes that the Community should participate in the proposed multilateral negotiations and in the Convention itself. Such an approach would be the only one consistent with the Community's views on the need for international cooperation for fisheries conservation. Moreover, failure to arrive at a multilateral settlement of this question will only increase the pressure upon the Community to reach a bilateral settlement.
13. The Commission therefore recommends that the Council adopt the attached decision authorizing the Commission to negotiate for the establishment of an international Convention for the conservation of Salmon stocks occurring in the North Atlantic Ocean, to which the Community would be a Contracting Party.

Recommendation for a  
Council Decision authorizing the Commission to  
negotiate on behalf of the Community for the  
establishment of an international Convention  
for the conservation of salmon stocks occurring  
in the North Atlantic Ocean.

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community;

Having regard to the Recommendation from the Commission;

Whereas on 3 November 1976 the Council adopted a set of resolutions concerning certain external and internal aspects of the common fisheries policy;

Whereas the Government of the United States of America has proposed negotiations with a view to concluding an international convention on salmon in the North Atlantic Ocean;

Whereas certain principles with respect to the conservation and management of anadromous stocks have been elaborated at the Third United Nations Conference on the Law of the Sea, including the principle of international cooperation to this end;

Whereas the European Economic Community agrees with these principles;

Whereas the Community should therefore participate in negotiations with a view to establishing a sound framework for international cooperation in this matter;

Whereas such international cooperation should aim to achieve a balance between the interests of the various communities which exploit this resource within the limits imposed by conservation requirements;

HAS DECIDED AS FOLLOWS:

Sole Article

The Commission is hereby authorized to negotiate on behalf of the Community, in accordance with the directives annexed hereto, for the establishment of an international Convention for the conservation of salmon stocks occurring in the North Atlantic Ocean.

The Commission shall conduct the negotiations assisted by representatives of the Member States.

Done at Brussels

For the Council  
The President.



- The Community shall take as a starting point for these negotiations the principles elaborated at the Third United Nations Conference on the Law of the Sea with respect to anadromous stocks (Article 66 of the Informal Composite Negotiating Text/Revision 1).
2. Having regard to the principles referred to in paragraph 1, the objective of the Community shall be a Convention which establishes a framework for the adoption of conservation measures on a regular basis for salmon stocks occurring in the North Atlantic Ocean and its adjacent seas, with the exception of the Baltic Sea. This framework could comprise, inter alia:
- (1) a scientific committee, responsible for the collection and analysis of data concerning all salmon fisheries within the Convention area, and for the formulation of management advice to the Commission;
  - (2) one or more fisheries commissions, which on the basis of available scientific advice shall propose to the Contracting Parties measures for the conservation and management of salmon stocks occurring in the Convention area in accordance with the normal procedures followed in international fisheries conventions;
  - (3) appropriate provisions for the collection and transmission by Contracting Parties of data concerning salmon fisheries within their area of fisheries jurisdiction;
  - (4) appropriate provisions for enforcement within the Convention area of conservation measures adopted under the Convention.
3. The organisation established under paragraph 2 above shall have as its goal the application of appropriate conservation measures throughout the Convention Area. It shall also ensure equality of sacrifice between the Contracting Parties in any conservation measure which involves a limitation of salmon catches, taking into account, inter alia:
- the historical development of the fisheries in question;
  - the economic dependence of certain communities upon the fisheries in question.
4. In addition to establishing the framework described above, the Convention should provide for interim conservation measures to be laid down in a separate protocol. These measures would apply from the date of signature of the proposed Convention until such time as definitive measures could be decided upon by the procedures established under the Convention, provided that such interim measures would not remain in force beyond a fixed period to be negotiated beforehand with the other parties.

