

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(77) 582 final

Brussels, 18 November 1977

Communication from the Commission to the Council

Community participation in the International Baltic Sea
Fishery Convention

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Subject : Community participation in the International Baltic Sea
Fishery Convention

In its communication to the Council of 23 September 1977, the Commission made certain proposals on the Community's participation in international fisheries organisations. The Council decided on 3 November 1976 to follow the line of action described in this proposal.

In accordance with this policy the Community has taken steps to accede to international fishery conventions for the North Atlantic.

As regards the International fishery cooperation in the Baltic Sea, the Community has recently participated in a Ministerial Conference convened by the Polish Government, in its capacity as Depositary for the Baltic Fishery Convention, and subsequently in the last Annual Session of the International Baltic Sea Fishery Commission. The Community has also been represented in certain meetings scheduled to discuss a revision of the Baltic Fishery Convention. The Community has, however, when participating in the Commission's work, the status of an observer which does not permit a full participation in the Commission's decisions.

In order to ensure the Community's effective cooperation on fishery conservation measures in the Baltic Sea, a matter of great importance to Community fishermen, it is necessary that the Community become a Contracting Party to this Convention, or to a successor organization to the existing convention.

The Commission proposes that this accession be effected by an amendment of the Convention in accordance with the procedure provided for under its Article 16. This provision requires that an amendment proposal be introduced

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by a Contracting State to the Depositary Government. The Commission proposes that the Governments of the Member States which are Contracting Parties, i.e., Denmark and the Federal Republic of Germany, introduce a proposal for amendments of the Convention as set out in Annex I hereto.

In so doing, these Member States should inform the other Contracting States that they, as Member States of the Community, cannot remain parties to the Convention beyond a limited transitional period and that the accession of the Community, therefore, is necessary for a continued cooperation on fishery conservation in the Convention Area.

The Convention in its present form provides that no party can withdraw before July 1979 and that such withdrawal cannot take effect before 31 December 1980.

The Commission finds that steps should be taken so that the Community can replace the Member States in the Baltic Convention from an earlier date. To this effect the proposed amendment also includes an amendment of Article XIX.

On the assumption that the proposed amendments are adopted in 1978 and that the two Member States concerned introduce their withdrawal notification before 31 December 1978, the Community could accede to the convention from 1 January 1980.

In view of the fact that amendments of the Convention require unanimous approval of all Contracting States it will be necessary that the Governments of the two Member States which are parties to the Convention use all existing legal possibilities to facilitate the Community's accession.

The amendment proposal attached only deals with the question of the Community's accession. This does not mean, however, that the Community disregards the need for amendments to take into account Sweden's decision to extend its fishery zone in the Convention Area.

The two Member States should make this clear when submitting the amendment proposal. They should also point out that the amendments related to the extension of fishery zones and those related to the Community's accession should be discussed in parallel and adopted at the same time.

The Commission proposes that the Governments of Denmark and the Federal Republic of Germany both submit simultaneously the amendment proposal attached accompanied by identical letters of transmission, a draft of which is likewise attached hereto.

Draft letter from the Government of Denmark and the Government of the Federal Republic of Germany to the Depositary Government for the Baltic Convention.

Excellency,

I have the honour to submit to your Government, in its capacity as Depositary of the Convention on Fishing and Conservation of living resources in the Baltic Sea and the Belts, a proposal for certain amendments to the Convention in accordance with its Article XVI, 1.

The amendments proposed, attached to this letter, have the purpose of making possible the accession of the European Economic Community to the Convention.

The reason for this proposal is that [Denmark] [the Federal Republic of Germany] as a Member State of the European Economic Community has delegated to the Community its competences in respect of the matters which fell within the scope of the Convention, and that my country therefore cannot remain a party to the Convention beyond a limited period during which the procedures for the accession of the Community could be accomplished. It follows that if the Convention is to continue to perform its important functions it is necessary that the European Economic Community replaces my country as a Contracting Party to the Convention within the shortest possible delay.

I would like you to be aware that the [Danish] Government [of the Federal Republic of Germany] finds it necessary that the amendments proposed hereby be considered in connection with the amendments proposed by the Swedish Government.

It would, therefore, be useful if a technical examination of my Government's proposal could take place before the Ministerial meeting which your Government intends to convene with a view to discussing the amendment proposal submitted by the Swedish Government. I would appreciate if you would make arrangements for convening a meeting of experts to undertake such an examination before the ministerial meeting.

Please accept, Excellency, the assurance of my highest consideration.

The amendments proposed are as follows:

- an amendment to Article XVII, paragraph 2, to enable the European Economic Community to accede to the Convention;
- amendments to Articles IV, VIII, XII, XVIII and XIX; and
- changes to refer to "Contracting Party" or "Parties" in the text.

A. Article XVII, paragraph 2

To be amended to read *:

"This Convention shall be open for accession to: (a) the European Economic Community; and (b) any State interested in preservation and rational exploitation of living resources in the Baltic Sea and the Belts, provided that this State is invited by the Contracting Parties. Instruments of accession shall be deposited with the Depositary Government."

B. Article IV

To be amended to read:

"For the purposes of this Convention the term "vessel" means any vessel or boat employed in catching or treating fish or other living marine organisms and which is registered or owned in the territory of, or which flies the flag of, any Contracting Party or of a Member State of the European Economic Community."

Article VIII, paragraph 4

To be amended to read:

* Changes underlined.

"English shall be the working language of the Commission. The official languages of the Commission shall be Danish, Finnish, German, Polish, Russian and Swedish. Only recommendations, decisions and resolutions of the Commission shall be made in those languages.

At meetings of the Commission any Contracting Party has the right to have all the proceedings translated into its own language. All the costs related to such translations shall be borne by that Party."

Article XII

Paragraph 1 to be amended to read:

"Each Contracting Party shall take in regard to its nationals and its vessels appropriate measures to ensure the application of the provisions of this Convention and of the recommendations of the Commission which have become binding for the Contracting Party and in case of their infringement shall take appropriate action. In this connection the expressions "nationals" and "vessels" shall, in respect of the European Economic Community, mean nationals and vessels of the Member States of the Community."

Paragraph 2 to be amended to read:

"Without prejudice to the sovereign rights of the coastal States in the Convention area in regard to their territorial sea and to the rights in their fishing zone, each Contracting Party shall implement recommendations of the Commission binding on that Party through its authorities, in the waters under its fisheries jurisdiction."

Article XVIII, paragraph 2

To be amended to read:

"After entry into force of the Convention in accordance with paragraph 1 of this Article, the Convention shall enter into force for any other Party which has deposited an instrument of ratification, approval or accession, on the thirtieth day following the date of deposit of such instrument with the Depositary Government."

Article XIX

To be amended to read:

"Any Contracting Party may, by giving written notice to the Depositary Government, withdraw from this Convention.

The withdrawal shall take effect for such Contracting Party on the thirty-first of December of the year which follows the year in which the Depositary Government was notified of the withdrawal."

C. Changes to refer to "Contracting Party", "Contracting Parties", "Party" or "Parties", as appropriate, should be made in the following provisions:

Preamble, line 1.

Article I, line 1.

Article III, line 2.

Article V, paragraph 2, lines 1 and 2; paragraph 3, line 5; and paragraph 4, line 2.

Article VII, paragraph 3, line 2; and paragraph 4, line 1.

Article VIII, paragraph 1, lines 3 and 4; and paragraph 3, lines 1 and 3.

Article IX, paragraph 1 c), line 3; and paragraph 2, line 4.

Article X, line 3 (Article X would also be subject to the amendments proposed by Sweden, in a form to be agreed upon).

Article XI, paragraph 1, line 1; paragraph 2, lines 1, 4 and 7; paragraph 3, line 2; and paragraph 4, line 1.

Article XII, paragraph 3, line 1.

Article XIV, line 3.

Article XVI, paragraph 1, lines 1, 2 and 8; and paragraph 2,
line 1.

Article XX, paragraph 1, line 1; and paragraph 2, line 3.