

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(80) 887 Final

Brussels, 16 december 1980

Recommendation for a Council Decision<sup>111</sup>  
concerning the conclusion of an Agreement on  
Fisheries between the Government of Canada  
and the European Economic Community

-----  
(presented by the Commission to the Council)



## EXPLANATORY MEMORANDUM

1. By its decision of 3 November 1976, the Council authorized the Commission to negotiate a framework fisheries agreement with Canada.
2. These negotiations reached their conclusion on 29 November 1980 when the text of an Agreement on Fisheries between the Community and Canada was initialled by the heads of the Canadian and Community delegations. The Agreement is to apply for six years in the first instance.
3. The Agreement provides for access by vessels of either Party to the fishery zone of the other Party in order to fish for allotments of parts of total allowable catches surplus to the harvesting capacity of the Party which is the coastal State. The Agreement specifies the conditions under which such fisheries may take place and provides for cooperation between the two Parties in the field of **fisheries**. In particular it provides for cooperation in such fields as fishery trade, exchanges of technical information and specialized personnel, the utilization and processing of catches and port facilities. The Agreement provides for bilateral consultations between the two Parties concerning such cooperation.
4. The Commission considers that the framework which this Agreement provides for access to fishing possibilities in Canadian waters over the period from 1981 until 1986 is particularly valuable in the light of the loss of access for the Community's long distance fishing fleet to the waters of several other third parties.
5. In the light of the foregoing, the Commission
  - (i) recommends that the Council, at its next meeting, authorize its President to designate the persons authorized to sign this Agreement;
  - (ii) proposes that the Council, after consulting the European Parliament, approve the outcome of the negotiations by adopting the recommendation for a decision annexed hereto, thereby approving the Agreement.

Recommendation for a  
Council decision  
concerning the Conclusion of an Agreement on Fisheries between  
the Government of Canada and the European Economic Community

---

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 recommendation from the Commission,

Having regard to the Opinion of the European Parliament(1),

Whereas it is in the Community's interest to approve the Agreement between  
the European Economic Community and the Government of Canada concerning  
fisheries by vessels of either Party in the fisheries zone of the other  
Party;

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement on Fisheries between the Government of Canada and the European  
Economic Community is approved on behalf of the Community.

Article 2

The President of the Council is hereby authorized to designate the persons  
empowered to sign the Agreement.

Article 3

The President of the Council shall, on behalf of the Community, give the  
notification provided for in Article XV of the Agreement(2).

Done at

For the Council,  
The President

---

(1) O.J. N°

(2) The date of the entry into force of the Agreement will be published in the  
Official Journal of the European Communities by the Secr.Gen. of the Council.

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

THE EUROPEAN ECONOMIC COMMUNITY (hereinafter referred to as the "Community")  
and

THE GOVERNMENT OF CANADA

RECALLING the close relations between the Community and Canada and, in particular, the Framework Agreement for Commercial and Economic Co-operation between the European Communities and Canada signed in Ottawa on 6 July 1976;

CONSIDERING 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 that the Member States of the Community have agreed that the limits of their fishing 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 co-ordinate the management of certain living resources which occur both in waters under the fisheries jurisdiction of Canada and in the fishery zone of the Community;

TAKING into account the work of the Third United Nations Conference on the Law of the Sea and State practice conforming thereto;

**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 the principles of international law;

**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;

**HAVE AGREED AS FOLLOWS:**

4

Article I

The two Parties shall 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 II

1. (a) The Government of Canada undertakes to grant access to vessels flying the flag 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.

(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.

(Article II)

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 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.

## (Article II)

3. In determining the allotments and areas where fishing may take place, each Party will take into account inter alia:

- its interests;
- the amount of the surplus of total allowable catches of relevant stocks;
- traditional fishing by vessels of the other Party;
- reciprocity of access;
- other benefits which may be offered pursuant to the cooperation referred to in Article VIII.

**Article III**

1. Each Party shall take all appropriate measures to oblige its vessels to 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.
3. Each Party shall take, within its area of fisheries jurisdiction, the necessary measures to give effect to the provisions of this Agreement, which may include the issuing of licences.
4. 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.
5. Each Party may establish measures which it deems to be required for the conservation, rational management, and regulation of fisheries within its fishery zone, provided that such measures are not taken for the specific purpose of impeding the fishing vessels of the other Party from taking the allocations granted under this Agreement.

Article IV

The two Parties shall cooperate, either bilaterally or through appropriate international organizations, to ensure the proper management and conservation of stocks occurring within the fishery zones of both Parties 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.

10

Article V

Each Party shall cooperate with the other Party, as appropriate, in light of the development of their fisheries relations pursuant to the provisions of Article II, in scientific research required for the purposes of management, conservation and utilization of the living resources in the area under the fisheries jurisdiction of that other Party. For these purposes, scientists of the two Parties shall consult regarding such research and the analysis and interpretation of the results obtained.

H

Article VI

1. Each Party shall, subject to the availability of facilities and to the needs of its own vessels, allow vessels which it has licensed 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 licensed 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.

12

Article VII

(1) The two Parties reaffirm their attachment to the cooperation provided for in the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, to which they are Contracting Parties, and, in particular, in Article XI, paragraph 4 thereof.

(2) 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 II, the two Parties agree to take cooperative action to overcome that threat.



Article VIII

1. The two Parties shall encourage economic and commercial cooperation in the field of fisheries.

2. To this end, the two Parties shall, in particular, utilize the possibilities offered by the 1976 Framework Agreement for Commercial and Economic Cooperation between Canada and the European Communities in the fisheries sector with a view to improving in a reciprocal manner the conditions and terms of their fisheries relations.

Article IX

The two Parties shall carry out periodic bilateral consultations regarding the development of further cooperation in relation to fisheries, including cooperation on such matters as fisheries trade, exchanges of technical information and specialized personnel, improvement of utilization and processing of catches, and 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.

Article X

1. The two Parties shall 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 two Parties.

26

Article XI

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

Article XII

1. Nothing in this Agreement shall prejudice any multilateral convention to which Canada and the Community, or Canada and any Member State of the Community, are parties, or the views of either Party with respect to any question relating to the Law of the Sea.

2. This Agreement is without prejudice to the delimitation of economic zones or fishery zones between Canada and Member States of the European Community.

Article XIII

- [1. This Agreement shall not affect rights under any existing Fisheries Agreement between a Member State of the Community and Canada.
  
2. However from the time of entry into force, the Community shall conduct on behalf of such a Member State all consultations which may be necessary to determine the fishing rights granted pursuant to such Agreement.]

Article XIV

The Annex to this Agreement shall form an integral part thereof.

Article XV

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 XVI

This Agreement may be terminated by either Party on December 31, 1986 or at any time thereafter, provided that notice of termination is given not less than twelve (12) months in advance of such termination.

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

For the Council of the European Communities

For the Government of Canada

Annex

COMMUNITY DECLARATION CONCERNING ARTICLE XI  
OF THE AGREEMENT ON FISHERIES BETWEEN  
THE EUROPEAN ECONOMIC COMMUNITY  
AND THE GOVERNMENT OF CANADA

Pursuant to the wish expressed by the Government of Canada, the Community confirms that Article XI of the Agreement incorporates provisions that are traditionally used in agreements concluded between the European Economic Community and third countries.