

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(78) 643 final

Brussels, 27 November 1978

Próposal for a
COUNCIL REGULATION (EEC)

on the conclusion of the Agreement on Fisheries
between the Government of Spain and the European
Economic Community

(submitted to the Commission to the Council)

COM(78) 643 final

EXPLANATORY MEMORANDUM

1. On 3 November 1976 the Council authorized the Commission to open negotiations with Spain concerning a fisheries agreement.
2. The negotiations ended on 23 September 1978 with the drafting of a text entitled "Agreement on Fisheries between the Government of Spain and the European Economic Community".
3. This Agreement replaces the fisheries agreements concluded previously between Spain and some Member States. The Spanish Delegation, when it initialled the negotiated agreement, however, made a unilateral declaration concerning the attitude Spain intends to adopt, if the framework agreement is terminated, with regard to the rights provided for in the fisheries agreements which it concluded previously with Member States.
4. The primary objective of the negotiated agreement is to establish the procedures for fixing the fishing possibilities of each party in the fishing zones under the jurisdiction of the other party. These possibilities will be determined for each year by consultations between the Parties and with the aim of progressively attaining a satisfactory balance.
5. Since the establishment of fishing zones by the Community Member States, the Community has decided on provisional arrangements applicable to Spanish fishermen fishing in Community waters. These arrangements have been unsatisfactory for Spanish fishermen.
6. Following the negotiations on the framework agreement, the Community consented to enter forthwith into consultations in accordance with the procedures laid down in the Agreement for fixing the fishing possibilities for each party in the other party's waters, for the period from 1 October to 31 December 1978.

7. Having regard to the fact that the Community has informed the Spanish authorities that the Council has adopted a decision whereby access by fishing vessels of a non-member country to the Community fishing zone is subject to the conclusion of a framework agreement on fisheries between that country and the Community, the consultations for the fixing of fishing possibilities for 1979 should take place on the basis of an agreement already in force. The negotiated agreement should therefore be concluded before 1 January 1979 so that it can be applied in its entirety with effect from that date.

8. In the light of the foregoing, the Commission

- recommends that the Council, at its next meeting, authorize its President to designate the persons authorized to sign this Agreement;
- proposes that the Council, after consulting the European Parliament, approve the outcome of the negotiations by adopting the proposal for a Regulation annexed hereto, thereby approving the Agreement.

PROPOSAL FOR
COUNCIL REGULATION (EEC)

on the conclusion of the Agreement on Fisheries
between the Government of Spain 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 proposal from the Commission,

Having regard to the Opinion of the European Parliament;

Whereas, by its Resolution of 3 November 1976 on certain external aspects of the creation of a 200 mile fishing zone in the Community with effect from 1 January 1977, the Council agreed, on the one hand, that the fishing by fishing vessels of non-member countries of fishery resources in the said zone would be governed by agreements between the Community and the countries concerned and, on the other hand, that fishing rights for Community fishermen in the waters of non-member countries must be obtained and preserved by appropriate Community agreements;

Whereas the Agreement on Fisheries between the Government of Spain and the European Economic Community, signed on _____, should therefore be concluded,

HAS ADOPTED THIS REGULATION :

Article 1

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

The text of the Agreement is annexed to this Regulation.

Article 2

The President of the Council shall, on behalf of the Community, give the notification provided for in Article 12 of the Agreement(1).

(1) The date of entry into force of the Agreement will be published in the Official Journal of the European Communities, through the offices of the General Secretariat of the Council.

Article 3

This Regulation shall enter into force on 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 SPAIN AND THE
EUROPEAN ECONOMIC COMMUNITY**

The Government of Spain and the European Economic Community (hereinafter referred to as the Community);

Recalling the close relations between the Community and Spain;

Considering their common desire to ensure the conservation and rational management of the fish stocks of the waters adjacent to their coasts;

Taking into account the work of the Third United Nations Conference on the Law of the Sea;

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

Having regard to the fact that the Community has agreed that the limits of the fishery zones of its Member States (hereinafter referred to as the fishery zones of the Community) shall extend up to 200 nautical miles off the coasts of the North Atlantic, the North Sea, the Skagerrak, the Kattegat and the Baltic Sea, fishing within these zones being subject to the common fisheries policy of the Community, without prejudice to a similar measure in respect of the other fishing zones within the Community's jurisdiction, and in particular the Mediterranean;

Having regard to the fact that Spain has established with effect from 15 March 1978 an economic zone which extends up to 200 nautical miles off the Atlantic coast and within which Spain exercises sovereign rights for the purpose of exploring, exploiting, preserving and managing resources, without prejudice to a similar measure in respect of the Mediterranean;

Desirous of establishing the principles and rules which will govern future mutual relations in the fisheries sphere;

Have agreed as follows :

Article 1

1. The purpose of this Agreement is to establish the principles and rules which will govern, in all respects, the fishing activities of vessels of either Party within the fishing zones under the jurisdiction of the other Party.
2. However, this Agreement shall not affect the reciprocal fishing arrangements of fishermen in the Bidassoa waters and in the Bay of Figuer as defined by the Agreement of 14 July 1959 between Spain and France.

Article 2

Each Party shall grant access to the fishing zone under its jurisdiction to the fishing vessels of the other party under the conditions laid down by the following Articles.

Article 3

1. Each Party shall determine each year, for the fishing zone under its jurisdiction, subject to adjustments necessitated by unforeseen circumstances, and on the basis of the need for rational management of the biological resources:
 - (a) the total allowable catch for individual stocks or complexes of stocks, taking into account the most reliable scientific information available to it, the interdependence of stocks, the work of appropriate international organizations and other relevant factors;
 - (b) after appropriate reciprocal consultations, the catch allotted to the fishing vessels of the other Party and the zones in which these catches may be made. The two Parties shall have as their objective the attainment of a satisfactory balance between their respective fishing possibilities in the fishing zones under the jurisdiction of the other Party.

In determining these possibilities, each Party shall take into account :

- (i) the advantage of preserving the traditional characteristics of fishery activities in the frontier coastal areas;
- (ii) the need to minimize the difficulties encountered by the Party whose fishing possibilities may be reduced in the course of achieving the above-mentioned balance;
- (iii) all other relevant factors.

2. Each Party shall be able to take any other measures to ensure the conservation and rational management of resources in the fishing zone under its jurisdiction. Such measures, when taken following the annual fixing of the other party's fishing possibilities, should not be such as to compromise the effective use of these possibilities.

Article 4

Each Party may require that in the fishing zone under its jurisdiction fishing by vessels of the other Party shall be subject to licence.

The competent authority of each Party shall communicate to the other Party the name, registration number and other relevant particulars of vessels requesting authorization to fish in the fishing zone of the other Party.

This provision shall also apply to any vessel intended to aid or assist a fishing vessel in carrying out tasks directly related to the latter's fishing activity. The second Party shall issue licences commensurate with the possibilities for fishing granted under the first sub-paragraph of Article 3 (1)(b).

Article 5

Fishing vessels of one Party shall, when fishing within the fishing zone under the jurisdiction of the other Party, comply with the conservation measures, supervisory measures and other provisions governing fishing activities in that zone. Appropriate advance notice shall be given of any new measures, conditions or provisions.

Article 6

Each Party shall take all necessary measures to ensure that its fishing vessels comply with the provisions of this Agreement and with other related measures.

Article 7

Within the fishing zone under its jurisdiction each Party may, in conformity with international law, take such measures as may be necessary to ensure that vessels of the other comply with the provisions of this Agreement.

Article 8

The Parties undertake to cooperate to ensure the proper management and conservation of the biological resources of the sea, and to facilitate the necessary scientific research in this respect, in particular with regard to :

- (a) fish stocks living within the fishing zones under the jurisdiction of both the Parties, with a view to achieving, as far as practicable, harmonization of measures to regulate the fishing of such stocks;
- (b) fish stocks of common interest living within the fishing zones under the jurisdiction of both Parties and in the areas beyond and adjacent to those zones.

Article 9

The Parties agree to consult on questions relating to the implementation and proper functioning of this Agreement or, in the event of a dispute, on questions concerning the interpretation or application of this Agreement.

Article 10

No provision of this Agreement shall affect or prejudice the position of either Party with respect to questions relating to the Law of the Sea.

Article 11

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

Article 12

This Agreement shall enter into force on the date on which the Parties notify each other of the completion of the procedures necessary for the purpose. Pending its entry into force, the Agreement shall apply provisionally as from the date of signature.

This Agreement shall remain in force for an initial period of five years after its entry into force. In the event of the Agreement not being terminated by either Party through notice of termination given at least six months before the expiry of that period, it shall remain in force for additional periods of five years, provided that notice of termination has not been given at least six months before the expiry of any such period.

Article 13

The Parties agree to examine this Agreement on the conclusion of the negotiations for a Multilateral Treaty, which are being conducted within the framework of the Third United Nations Conference on the Law of the Sea.

IN WITNESS WHEREOF, the undersigned, being duly authorized for this purpose, have signed this Agreement.

This Agreement is drafted in duplicate in the Danish, Dutch, English, French, German, Italian and Spanish languages, each of these texts being authentic.

For the Council of the European Communities

For the Government of Spain

STATEMENT BY THE SPANISH GOVERNMENT

With respect to Article 1, the Spanish Delegation recognizes that the provisions of the Agreement replace the provisions of the agreements concerning fishery relations to which the Member States of the European Economic Community and Spain are parties.

In the event of termination of the Agreement, Spain reserves the right to enforce, with regard to the Community, the provisions of the fishery agreements which formerly governed fishery relations with the Member States of the Community.