



**COUNCIL OF
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COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union
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Subject:	Proposal for a COUNCIL DECISION on the signing, on behalf of the European Union, and provisional application of an Agreement between the European Union and the Kingdom of Norway on reciprocal access to fishing in the Skagerrak

Delegations will find attached document COM(2014) 373 final.

Encl.: COM(2014) 373 final



EUROPEAN
COMMISSION

Brussels, 24.6.2014
COM(2014) 373 final

2014/0189 (NLE)

Proposal for a

COUNCIL DECISION

on the signing, on behalf of the European Union, and provisional application of an Agreement between the European Union and the Kingdom of Norway on reciprocal access to fishing in the Skagerrak

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

An Agreement on reciprocal access to fishing in the Skagerrak and Kattegat between Denmark, Norway and Sweden was signed on 19 December 1966 and entered into force on 7 August 1967. This agreement, which was in addition to the 1980 bilateral fisheries agreement between the European Union and Norway, allowed for reciprocal access between those three countries to fish up to 4 nautical miles from their respective baselines in the Skagerrak and Kattegat, which are the waters between the North Sea and the Baltic Sea. Furthermore, the Agreement established that, for the purposes of such fishing, the area in question was deemed to constitute the high seas. Thus the Agreement regulated the relationship between the flag States, on the one hand, and the respective Coastal States, on the other.

The 1966 Agreement was a simple Agreement, which took into account the particular geography of the Skagerrak and Kattegat area in respect of fisheries and recognised that there were practical reasons to allow for a simple access regime for what is essentially a very small area of seas. For that reason, the 1966 Agreement consisted of only three Articles, the first of which defined the area concerned, with the second defining the rights of access and the desire to harmonise technical regulations.

With the accession of Denmark and Sweden to the EU in 1973 and 1995 respectively, the Commission became responsible for the management of this Agreement on behalf of those two Member States. Consultations on the arrangements resulting from this Agreement have been held in parallel with consultations held under the 1980 bilateral fisheries agreement.

The 1966 Agreement remained in force for an initial period of 35 years until 2002 and was subsequently extended for two five-year periods until 2012. Termination of the agreement was possible through giving three years notice by one or other Party prior to the date of expiry of any five-year period.

In view of more recent developments in international fisheries law and, in particular, with the introduction of the UN Convention on the Law of the Sea of 1982 and the UN Fish Stocks Agreement of 1995, Norway considered that the existing agreement was not in conformity with the current provisions of the Law of the Sea. Norway was particularly concerned with regard to the provisions on control. Moreover, they considered that the Agreement was not in harmony with the principles of normal Coastal State jurisdiction pursuant to the UN Convention on the Law of the Sea and did not correspond with modern conservation and management principles.

On 29 July 2009, the Norwegian Foreign Ministry formally informed the Danish authorities, the Depository Government of the Agreement, that they wished to terminate the Agreement with a formal denunciation in accordance with Article 3(3) of the Agreement. Consequently, the 1966 Agreement expired on 7 August 2012.

Subsequently, Norway entered into formal negotiations with the Commission, on behalf of the European Union, with the aim of establishing a new Agreement on reciprocal access to fishing in the Skagerrak and Kattegat area. An Agreement was initialled on 24 October 2013, which is in conformity with the UN Convention on the Law of the Sea as well as subsequent related provisions in other agreements.

This new Agreement will maintain the exclusive access granted to vessels from Denmark, Norway and Sweden to each other's waters outside 4 nautical miles from the baselines. It will ensure continued reciprocal access for the two Member States and Norway to the respective waters of the other Parties in the Skagerrak area, whilst at the same time, ensuring sound conservation and management measures for fisheries in the area. Furthermore, it will allow for control measures in harmony with the principles of normal Coastal State jurisdiction, as is already the case for fisheries in the North Sea.

In order to guarantee the continuation of access by EU vessels for fishing activities, the new Agreement should, pending its entry into force, be applied provisionally up to two years from the date of its signature.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

Not relevant

3. LEGAL ELEMENTS OF THE PROPOSAL

This proposal seeks to authorise the signature of an Agreement between the European Union and the Kingdom of Norway on reciprocal access to fishing in the Skagerrak.

Proposal for a

COUNCIL DECISION

on the signing, on behalf of the European Union, and provisional application of an Agreement between the European Union and the Kingdom of Norway on reciprocal access to fishing in the Skagerrak

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2), in conjunction with Article 218(5) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) A neighbourhood Agreement on reciprocal access to fishing in the Skagerrak and Kattegat between Denmark, Norway and Sweden was signed on 19 December 1966 and entered into force on 7 August 1967.
- (2) This neighbourhood Agreement allowed for reciprocal access between those three countries to fish in the area up to 4 nautical miles from their respective baselines in the Skagerrak and Kattegat and that, for the purposes of such fishing, the area in question was deemed to constitute the high seas and therefore flag State jurisdiction applied in matters such as control.
- (3) With the accession of Denmark and Sweden to the EU in 1973 and 1995 respectively, the Commission became responsible for the management of this Agreement on behalf of those two Member States.
- (4) On 29 July 2009, the Norwegian Foreign Ministry notified the Danish authorities, the Depositary Government of the Agreement, that they wished to terminate the Agreement with a formal denunciation in accordance with Article 3(3) of the Agreement and consequently, the 1966 Agreement expired on 7 August 2012.
- (5) The Council authorised the Commission to negotiate with the Kingdom of Norway, on behalf of the European Union, a new Agreement on reciprocal access to fishing in the Skagerrak and Kattegat.
- (6) As a result of those negotiations, a new Agreement was initialled on 24 October 2013.
- (7) In order to guarantee the continuation of access by EU vessels for fishing activities, the new Agreement should, pending its entry into force, be applied provisionally up to two years from the date of its signature.
- (8) The new Agreement should be signed.

HAS ADOPTED THIS DECISION:

Article 1

The signing on behalf of the Union of the Agreement between the European Union and the Kingdom of Norway on reciprocal access to fishing in the Skagerrak is hereby authorised, subject to the conclusion of the said Agreement.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement on behalf of the Union.

Article 3

The Agreement shall, pending its entry into force, be applied provisionally up to two years from the date of its signature.

Article 4

This Decision shall enter into force on the day of its adoption.

Done at Brussels,

*For the Council
The President*