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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	9 December 2020
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2020) 787 final
Subject:	Recommendation for a COUNCIL DECISION authorising the opening of negotiations for a new fisheries agreement between the European Union and the Kingdom of Norway

Delegations will find attached document COM(2020) 787 final.

Encl.: COM(2020) 787 final



Brussels, 9.12.2020
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Recommendation for a

COUNCIL DECISION

**authorising the opening of negotiations for a new fisheries agreement between the
European Union and the Kingdom of Norway**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The Commission proposes that negotiations be opened with Norway for a new fisheries agreement laying down the framework for the management of shared fish stocks and access to waters and resources.

In light of the United Kingdom's withdrawal from the European Union, Norway has indicated that it wants to replace the current Agreement on fisheries between the Kingdom of Norway and the European Economic Community ('the 1980 Agreement'). In July, it signalled to the Commission that it was considering giving the requisite 9 months' notice on 15 September 2020 to trigger the termination of the Agreement, which would therefore end on 15 June 2021. Terminating the Agreement without replacing it would remove the legal basis for reciprocal access to waters and thus have a negative impact on EU fleets. However, 9 months would give the Union an extremely short period of time to establish its negotiating position and conclude a new agreement, thus adding to the uncertainty.

The 1980 Agreement is the main bilateral agreement governing the Union's fisheries relations with Norway. It covers all jointly managed stocks in the North Sea, Skagerrak and Kattegat, and provides the legal basis for annual consultations to set fishing opportunities and decide on other aspects of joint management, such as control. It is also closely linked to several other agreements: the Oporto Agreement (concluded at the time of the signature of the EEA Agreement), the Neighbourhood Agreement between Sweden and Norway, and the Skagerrak and Kattegat Agreement.

While some of the fishing opportunities will be covered by a new, separate agreement between the UK, Norway and the Union, other fish stocks will remain under the sovereignty of the Union and Norway only.

Given Norway's desire to replace the 1980 Agreement and in accordance with Article 63(1) of the United Nations Convention on the Law of the Sea¹, the Union and Norway should agree on the measures needed to coordinate and ensure the conservation and development of the jointly managed stocks in the North East Atlantic.

To avoid the termination of the existing Agreement leaving a legal vacuum that would have a significant impact on the activities of EU fleets, Norway has agreed to enter into negotiations for a new agreement. Until these are concluded, the 1980 Agreement will remain in place. Norway has agreed with this approach on condition that the negotiations start in January 2021. They will run in parallel to the trilateral negotiations involving the UK.

For this purpose, the European Union seeks to conclude a new fisheries agreement ("the Agreement") with the Kingdom of Norway.

¹ United Nations Convention on the Law of the Sea (OJ L 179, 23.6.1998, p. 3).

- **Consistency with existing policy provisions in the policy area**

Since 16 June 1980, fisheries arrangements between the European Union and Norway have been based on the “Agreement on Fisheries between The Kingdom of Norway and the European Economic Community”. The 1980 Agreement, which covers the North Sea and the North East Atlantic, is the single most important fisheries agreement the Union has with another country, in terms of the exchange of fishing possibilities and joint management measures. After an initial period of 10 years, the Agreement is now automatically renewed every 6 years unless one of the parties gives 9 months’ notice of termination. The last automatic renewal was in 2015, for the period to 16 June 2021.

The 1980 Agreement provides the legal basis for agreeing on total allowable catches (TACs) from jointly managed stocks and for reciprocal access allowing the parties’ vessels to fish in each other’s waters. The new agreement should uphold the existing reciprocal access conditions and quota shares, building on the traditional activity of the Union fleet.

The new agreement will fall within the broader scope of the common fisheries policy (CFP). It will provide the basis for fisheries relations in areas where stocks are managed jointly with Norway, with a view to promoting the sustainable exploitation, management and conservation of marine biological resources, in line with CFP objectives and good governance principles.

- **Consistency with other Union policies**

Not applicable.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis for this Decision is Article 218 of the Treaty on the Functioning of the European Union (TFEU), which sets out the procedure for negotiating and concluding international agreements.

- **Subsidiarity (for non-exclusive competence)**

Not applicable (exclusive competence).

- **Proportionality**

The Decision is proportional to the objective.

- **Choice of instrument**

The instrument is provided for under Article 218(3) and (4) TFEU.

3. RESULTS OF *EX POST* EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- ***Ex post* evaluations/fitness checks of existing legislation**

Not applicable.

- **Stakeholder consultations**

Not applicable.

- **Collection and use of expertise**

Not applicable.

- **Impact assessment**

Not applicable.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

Not applicable.

4. BUDGETARY IMPLICATIONS

Not applicable.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Negotiations are expected to start in the first quarter of 2021.

- **Explanatory documents (for directives)**

Not applicable.

- **Detailed explanation of the specific provisions of the proposal**

The Commission recommends that:

- the Council authorise it to open and conduct negotiations for the conclusion of a new fisheries agreement with the Kingdom of Norway;
- the Commission be designated as the EU negotiator on this matter;
- the Commission conduct the negotiations in consultation with the special committee, as set out in the Treaty on the Functioning of the European Union;
- the Council approve the negotiating directives annexed to this recommendation.

Recommendation for a

COUNCIL DECISION

authorising the opening of negotiations for a new fisheries agreement between the European Union and the Kingdom of Norway

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 218(3) and (4) thereof,

Having regard to the recommendation from the Commission,

Whereas,

- (1) The Union's fisheries relations with Norway are based on the Agreement on Fisheries between the Kingdom of Norway and the European Economic Community, which was signed on 27 February 1980 and entered into force on 16 June 1981.
- (2) After an initial period of 10 years, that Agreement is automatically extended for additional periods of 6 years, with the most recent extension starting in 2015.
- (3) The Agreement covers the North Sea, Skagerrak and the North East Atlantic, and allows for the setting of total allowable catches for joint stocks, transfers of fishing possibilities, joint technical measures and issues relating to control and enforcement.
- (4) Norway has indicated its desire to replace the current Agreement in the light of the significant impact that the United Kingdom's withdrawal from the Union is expected to have on the shared management of stocks in the North East Atlantic. Following the transition period for the UK's withdrawal (which is due to expire at the end of 2020), stocks will be covered by either bilateral or trilateral agreements. Those inhabiting waters under the jurisdiction of the UK, the Union and Norway will be subject to a separate trilateral agreement. In the light of Norway's desire to replace the current Agreement, a new bilateral agreement will be required in respect of those that fall solely under the jurisdiction of Norway and the Union.
- (5) In accordance with Article 63(1) of the United Nations Convention on the Law of the Sea¹ and considering the Union's overall relations with Norway, it is important to maintain cooperation on responsible fisheries to ensure the long-term conservation and sustainable exploitation of marine living resources.
- (6) Negotiations should therefore be opened with Norway, with a view to concluding a new bilateral fisheries agreement.

¹ United Nations Convention on the Law of the Sea (*OJL 179, 23.6.1998, p. 3*).

HAS ADOPTED THIS DECISION:

Article 1

The Commission is hereby authorised to negotiate, on behalf of the Union, a new fisheries agreement with the Kingdom of Norway.

Article 2

The negotiating directives are set out in the Annex.

Article 3

The negotiations shall be conducted in consultation with the Council Working Party on External Fisheries Policy.

Article 4

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council
The President*