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EUROPEAN COMMISSION

Brussels, 8.3.2010
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2010/0042 (NLE)

Proposal for a

COUNCIL DECISION

**concerning the approval, on behalf of the European Union, of amendments to the
Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries**

EXPLANATORY MEMORANDUM

The Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (the Convention), was signed in Ottawa on 24 October 1978 and entered into force on 1 January 1979. The European Economic Community acceded to the Convention on 28 December 1978 through Council Regulation (EEC) No 3179/78¹.

The Convention established the Northwest Atlantic Fisheries Organization (NAFO), a so-called Regional Fisheries Management Organisation (RFMO), with the aim of promoting the conservation and optimum utilisation of fisheries resources of the Northwest Atlantic within a framework appropriate to the regime of extended Coastal State jurisdiction over fisheries, and accordingly of encouraging international co-operation and consultations with respect to resources.

The Contracting Parties to the Convention adopted the "Amendment to the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries" (the Amendment) at the Annual Meetings of NAFO in 2007 (English version) and in 2008 (French version). The Amendment revises the Convention comprehensively with the primary purpose of making it more in line with other regional Conventions and international instruments and of incorporating modern concepts on fisheries management. The Amendment thus streamlines the structure of the organisation, introduces clear definitions of the responsibilities of Contracting Parties, Flag States and Port States, provides for a more coherent decision making process and modernises the contribution formula for the NAFO budget. Finally, the Amendment provides for a dispute settlement mechanism in case disputes arise between Contracting Parties.

In the light of the fishing possibilities accruing to the European Union under the Convention, it is in the European Union's interest to approve the proposed Amendment to the Convention, while Council Regulation (EEC) No 3179/78 of 28 December 1978 concerning the conclusion by the European Economic Community of the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries will remain in force for the provisions of the Convention that are maintained unchanged.

The proposal intends to approve the Amendment to the Convention on behalf of the European Union.

The Council is requested to adopt this proposal as soon as possible following the consent of the European Parliament.

¹ OJ L 378, 30.12.1978, p. 1.

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concerning the approval, on behalf of the European Union, of amendments to the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries

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(6)(a), thereof,

Having regard to the proposal from the Commission²,

Having regard to the consent of the European Parliament³,

Whereas:

- (1) The Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (the Convention), was signed in Ottawa on 24 October 1978 and entered into force on 1 January 1979, thereby establishing the Northwest Atlantic Fisheries Organisation (NAFO).
- (2) The European Economic Community acceded to the Convention through the adoption by the Council of Regulation (EEC) No 3179/78 of 28 December 1978 concerning the conclusion by the European Economic Community of the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries⁴.
- (3) By virtue of Article 1, third paragraph, of the Treaty on European Union, the European Union has replaced and succeeded to the European Community.
- (4) Pursuant to Article XXI(2) of the Convention, an amendment of the Convention requires that three quarters of the Contracting Parties to the Convention adopt the amendment. In accordance with Article XXI(3) of the Convention, an amendment will take effect 120 days following the date of notification by the Depositary of receipt of written notification of approval of three quarters of all Contracting Parties.
- (5) The Contracting Parties to the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries adopted the Amendment to the Convention on Future Multilateral Cooperation in Northwest Atlantic Fisheries at the Annual Meetings of NAFO in 2007 (English version) and in 2008 (French version). The Amendment

² OJ C , , p. .

³ OJ C , , p. .

⁴ OJ L 378, 30.12.1978, p. 1. Regulation as last amended by Council Regulation (EEC) No 653/80 of 17 March 1980, OJ L 74, 20.3.1980, p. 1.

revises many aspects of the Convention with the primary purpose of bringing it more into line with other more recent regional Conventions and international instruments within the field of fisheries and to incorporate modern concepts of fisheries management.

- (6) The objective and general principles of the Convention have been reviewed and broadened to ensure the long term conservation and sustainable use of fisheries resources rather than their optimum utilisation. In addition to these objectives, the Amendment provides that NAFO shall safeguard the marine ecosystem in which the fisheries resources are found, and that the Contracting Parties shall take into account the precautionary approach, the ecosystem approach and the need to conserve marine biological diversity.
- (7) According to the Amendment, NAFO shall, in performing its functions, take account of the best scientific evidence available to it.
- (8) The structure of NAFO has been streamlined to better suit the needs of the organisation. In particular, the two decision bodies in the current structure, General Council and the Fisheries Commission, have been merged into one body.
- (9) The budget contribution formula has been modernised to reflect the user pay principle in relation to the services provided to the Contracting Parties of NAFO.
- (10) New definitions on the obligations of Contracting Parties, Flag States and Port States have been introduced in line with international developments to provide clear guidance on the rights and obligations of the Contracting Parties of NAFO.
- (11) The decision making process has been reviewed, in particular to bring more clarity as regards the obligations of Contracting Parties wishing to make an objection to Conservation and management measures adopted by NAFO.
- (12) A new dispute settlement procedure established under the Convention will allow the expeditious settlement of disputes, which would be in the interest of the European Union.
- (13) The proposed Amendment to the Convention would help the European Union towards fulfilling its international obligations in relation to sustainable fisheries as well as furthering objectives of the Treaty.
- (14) In the light of the fishing possibilities accruing to the European Union under the Convention, it is in the EU's interest to approve the proposed Amendment to the Convention, while Council Regulation (EEC) No 3179/78 should remain in force for the provisions of the Convention that are maintained unchanged,

HAS ADOPTED THIS DECISION:

Article 1

The Amendment to the Convention on Future Multilateral Cooperation in Northwest Atlantic Fisheries as set out in the Annex is hereby approved.

Article 2

The President of the Council shall designate the person empowered to proceed, on behalf of the European Union, to notify the Depositary Government of the European Union's approval in accordance with Article XXI(3) of the Convention on Future Multilateral Cooperation in Northwest Atlantic Fisheries.

Article 3

This Decision shall enter into force on the day of its adoption. It shall be published in the *Official Journal of the European Union*.

The date of entry into force of the Amendment to the Convention on Future Multilateral Cooperation in Northwest Atlantic Fisheries shall be published in the *Official Journal of the European Union*.

Done at Brussels,

*For the Council
The President*