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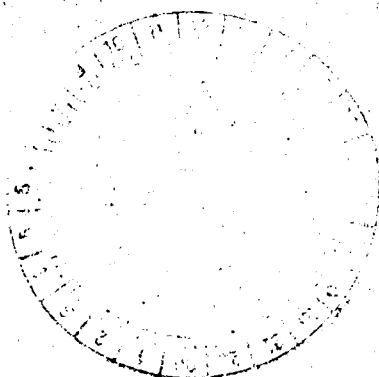
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COMMISSION OF THE EUROPEAN COMMUNITIES

COM(78) 661 final

Brussels, 21 November 1978

COMMUNICATION FROM THE COMMISSION TO THE COUNCIL
CONCERNING THE DEVELOPMENT OF THE COMMON FISHERIES
POLICY



COM(78) 661 final

COMMUNICATION FROM THE COMMISSION TO THE COUNCIL CONCERNING THE
DEVELOPMENT OF THE COMMON FISHERIES POLICY

The Commission has presented to the Council a number of proposals concerning the development of the common fisheries policy. Since late 1977 there has been a full set of proposals before the Council which includes drafts of a basic regulation (COM(78) 5 final), of a regulation on conservation measures (COM(78)635 final), of a regulation on control measures (COM(78)8 final and (COM(78) 622 final), of a regulation concerning TACs and quotas for 1978 (COM(78)173 final), of a directive concerning certain immediate measures to adjust capacity in the fisheries sector (COM(77)543 final and COM(78)247 final) and of a regulation on a common measure for restructuring the inshore fishing industry (COM(78)247 final).

The Commission has also submitted to the Council a draft resolution of the Council concerning the introduction of fishing plans (COM(78) 39 final) and the Commission is at present working on its proposals for a regulation concerning TACs and quotas for 1979.

In finalising for the Council the material listed above the Commission took the opportunity of making necessary corrections and of refining and adding matters of detail which did not involve significant matters of substance.

The Council has had these subjects on its agenda on a number of occasions. The discussions in the Council or in the Council working groups have shown that agreement is possible on most elements of the proposals although agreement has not yet been obtained on all elements in the proposals. The Commission considers that most of the outstanding elements can be agreed upon at official level as soon as certain main problems have found a political solution in the Council. The Commission consequently does not suggest that the specific items listed below are the only matters not resolved but it is of the view that other unresolved matters not listed below are unlikely to require attention at the level of Ministers in the first instance and that the particular attention of the Council should, therefore, be devoted to the main points of difficulty described in I to IV below.

The Council will also have before it the reports of the Committee of Permanent Representatives on a number of subjects including conservation and control measures and the exercise of historic rights.

I. Proposal for a Council regulation establishing a community system for the conservation and management of fisheries resources (basic regulation COM(78) 5 final).

1. Article 4, para. 3, of the draft basic regulation lays down certain general principles for the distribution of fishing possibilities among member States. These principles reflect the Resolutions of the Council of 3 November 1976 (the Hague Resolutions) and the principle of historic performance. In drawing up its proposal for TACs and quotas for 1979 the Commission will base itself on these principles but would make the following observations.

2. TACs

The Commission bases its formal proposals for TACs on the best available scientific advice. This consists in almost all cases of the recommendations made by the group of scientists whose services were provided by the member States to the Commission in September 1978 and whose conclusions, which were themselves based on earlier ICES recommendations, are to be found in the report circulated on a confidential basis to the member States on 30 October 1978. There were subsequent recommendations either by ICES (e.g. cod in IIIa and IV) or from other sources (e.g. shrimp in ICNAF O-1). For a certain number of joint stocks definitive TACs have to be settled in consultation with the third countries concerned and for a few stocks protective or status quo TACs are made either in cases where actual fishing sets the pattern (e.g. saithe in VII, plaice in VIa) or in cases where TACs are appropriate in order to avoid dumping.

3. Reservations for third countries

Because negotiations with third countries are still under way, the Commission is not yet in a position to say precisely in all cases what quantities of each stock will be available to the Community whether in the Community zone or in the zones of third countries in 1979. Its preparatory work, therefore, will be based on prudent assumptions with regard to the quantities available to the Community in 1979, once reservations have been made for distribution to third countries.

4. Available to the Community

The Commission wishes to emphasise the importance of discussing percentages in the context, not of TACs, but of quantities available to the Community. These quantities would be equivalent to the TACs in cases of stocks wholly within Community waters from which no allocation is made to any third country. In all other stocks calculations or demands related directly to percentages of the TAC leave wholly out of account what is necessarily reserved for third countries and may thus prevent a clear appreciation of what is truly available for distribution among the member States.

5. Allocation criteria

The Commission considers that the criteria for allocating the Community's fishing availabilities among the member States must be based on three main considerations. The criteria must be such as to respect historic performance in order to avoid unnecessary changes or ruptures in the existing fishing pattern; they must be consistent with the requirements of regions particularly dependent on fisheries and they must help to solve the problems caused by recent changes in the fishing pattern of the fishing fleets of the member States, e.g. due to modifications in the international context of fishing activities.

The Commission is aware that these considerations are to a certain extent conflicting and that in a number of specific cases one consideration will have to be given priority over others. However, the Commission is of the opinion that an allocations policy based on the elements discussed in the following will strike a reasonable balance between these considerations. In this context the Commission wishes to point out that allocations criteria form one element among others by which the above-mentioned considerations and in particular the needs of certain regions can be met. It should also be noted that the actual results of the application of the criteria listed below expressed in relative proportions of the individual member States in the various stocks will vary with changing TACs.

6. A basic criterion is that of historic performance which the Commission considers to be a reasonable expression of traditional fishing patterns. In the present circumstances a simple application of historic performance, however, would not be satisfactory as it does not sufficiently reflect changes in fishing patterns caused by e.g. changes in the international context of fishing activities.

7. In addition to historic performance the Commission, therefore, also took account in its 1978 proposals as amended in January 1978 and later, of the additional criterion of losses in third country waters. Changes in the international context of fishing activities have actually had significant consequences for the Community in general and for a few of its member States in particular (COM(77)635 final and SEC(77)4154). The Commission continues to be of the view that Community solidarity calls for the taking into account of these consequences in allocations policy and retains this criterion.

8. The Council has already formally recognized that there is a number of regions in the Community where the local communities are particularly dependent upon fishing. In accordance with the Council's intentions as expressed in particular in Annex VII to the Resolutions of the Council of 3 November 1976, the Hague Resolutions, the Commission will take account of the unique situation of Greenland fishermen; of the Council's intention to secure the continued and progressive development of the Irish fishing industry and of the Council's recognition of the necessity to take into consideration the vital needs of local communities dependent upon fishing in the Northern parts of the United Kingdom.

9. While basing itself on the preceding criteria for allocations the Commission is conscious that potential future, economic, social or technological changes in the fisheries industry should not be prevented by unduly rigid formulations. At the same time allowance must be made for a harmonious and stable development of the fisheries industry in the Community. Insofar, therefore, as existing allocations criteria result in quota percentages which have staying power, these would be influenced by, among other things, increased yields as present strict catch limitations and other conservation and control measures proposed by the Commission have an effect over the years.

10. A certain flexibility is obviously necessary to deal with such a situation as will occur in the event of the reconstitution of certain important stocks, e.g. herring. This may require a review of the current distribution of interim substitutes such as mackerel. In other cases a gradual change of the percentage distribution among member States could be justified to the extent that the present state of stocks does not make it possible to take sufficiently into account certain criteria or needs, e.g. changes in fishing possibilities in third country waters or of third country fishing in Community waters, regional problems outside the Hague Resolutions regions etc. Such gradual changes of percentage distributions, which could be brought about by suitable formulae for dealing with growth, might in certain quite particular cases also be appropriate insofar as certain groups of fishermen have borne special burdens in the process of reconstituting the stocks in question.

11. The Commission considers, however, that a growth formula is suitable only for application to certain important stocks where a growth of some importance is expected to take place as a result of conservation policy. Its application would have to be limited in time and in substance so as not completely to change overall fishing patterns and its effect would have to be neutralised in the case of decrease of a stock to which a growth formula had been applied. It would be inappropriate to apply a growth formula to small stocks which are currently at or near their optimum yields and difficult if not impossible to apply it to joint stocks of a kind over which third countries may have as much control as does the Community.

12. As in the case of the basic considerations set out in paragraph 5 the application of the above criteria will in certain cases conflict or give rise to anomalies. The application of the various elements coming out of the Hague resolutions - which will in practice, to a certain extent, apply to different parts of the Community fisheries zone - will in the case of limited TACs not leave room for fishing by fishermen of other regions. In some cases the TACs would not even leave room for the full application of the Hague Resolutions. The Commission is, therefore, of the view that a more global approach than the one suggested for 1978 could be appropriate not only with regard to the fulfilment of the Hague Resolutions but also as far as the allocations problem in general is concerned.

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13. Historic rights

Articles 6 and 7 of the draft basic Regulation provide for the possible extension of the principles of article 100 and 101 of the Act of Accession as well as for the continuation of the principles of these articles after 31 December 1982. Articles 6 and 7, therefore, raise the question of the exercise of historic rights within 12 miles from base-lines.

14. Exercise of historic rights

The Commission maintains its proposals as being consistent with the general principles of the Treaties. However, it would point out that the concept of "special fishing rights" to which article 6 refers has not up to the present received any clear definition and that consequently the Council might wish to examine this with a view to arriving at a clearer conceptual approach; this could have regard to the quantitative, geographical, seasonal and other characteristics of the exercise of special rights and could serve as a point of departure with regard to such regulation of the exercise of historic rights as is necessary to avoid conflict with the purposes of article 6, para. 1, which refers to "vessels which fish traditionally in those waters and which operate from ports in the local coastal area".

15. The Commission recalls that in its draft Resolution (COM(78)39 final) of 30 January 1978 it pointed to fishing plans as a way through which the mutual exercise of special rights and of traditional coastal fishing could be regulated where necessary.

II. Proposal for a Council Regulation on technical measures for the conservation of fisheries resources.

16. Safeguard clause

The Commission, in proposing a safeguard provision which would enable

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certain urgent conservation measures to be taken by a member State in certain circumstances, finds it particularly important in the light of two years experience of operating Annex VI of the Hague Resolutions that such a safeguard clause be intimately woven into the institutional system of the Community and that any action that may be taken by a member State under the safeguard clause be taken within the framework of effective Community procedures. Such procedures are contained in draft Article 17 of the revised draft conservation regulation.

17. Norway pout box

The extent of the area in which fishing with small-mesh nets (for Norway pout) is prohibited is fundamentally a choice between the demands of the human consumption fishery and the industrial fishery as none of the species involved is in danger of extinction (mainly haddock, whiting, Norway pout). The Commission has asked ICES to up-date and extend its earlier report on this subject on the basis of terms of reference agreed among the group of scientists of the member States who worked in Brussels in September. The ICES report will not be available before February 1979. The Council is, therefore, invited to discuss this matter on the basis of present Commission proposals.

III. Proposal for a Council Regulation laying down certain measures of control of fishing activities by Community vessels and a draft resolution concerning the introduction of fishing plans.

18. Fishing plans

Articles 12 and 13 of this draft regulation create the general power, under several criteria which remain in debate, to control fishing through the use of fishing plans. The draft Council resolution concerning the introduction of fishing plans is a detailed elaboration of criteria, modalities, etc. As has been mentioned above, fishing plans could be used in connection with the exercise of historic rights but they could also be used more widely in various parts of the Community zone, the Commission being of the opinion that a coherent fisheries policy concerning all aspects of fishing in the future could develop in the direction of a wider application of various forms of fishing plans. The Commission wishes to underline that it considers fishing plans, which must respect Community law and the general principles of the Treaties, to be a useful means of improving control of the provisions concerning the management of resources and thus obtaining a harmonious development of various types of fishing in the Community zone. The Commission furthermore draws attention to the responsibilities of the Commission, acting

on behalf of the Community, in the drawing up and management of fishing plans in close collaboration with the interested member States in each particular case.

- IV. Proposal for a Directive on certain immediate measures to adjust capacity in the fishery sector and Proposal for a Council regulation on a common measure for restructuring the the inshore fishing industry.

19. The basic question in regard to the former is whether the Council agrees that a comprehensive set of Community measures should be adopted to help the industry to adapt itself to the new situation, with the financial assistance of the Community: in regard to the latter, the question is whether the Council agrees that a common action be undertaken to restructure the inshore fisheries and to promote aquaculture. Assuming a positive answer to these two questions, there remain points of substance in the drafts which need further examination at official level in the first instance.

20. The Commission would, however, point out that the proposed structural measures are closely interrelated with its proposals concerning resources policy and that the need for a coherent basis for a structural policy has been growing over the past year. The Council's decision in these matters must therefore be taken in the very near future.