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THE COUNCIL

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OUTCOME OF PROCEEDINGS

of : Working Party on External Fisheries Policy
dated : 6 September 1996

Subject: Preparation of the 18th annual general meeting of the
North West Atlantic Fisheries Organisation (NAFO),
St. Petersburg, 7-13 September 1996

INTRODUCTION

1. The chief items discussed in preparation of the NAFO annual meeting were the following:
 - TACs for 1997;
 - Canadian Resolution on 2J3KL cod;
 - Canadian Proposal for a dispute settlement mechanism;
 - STACFAC;
 - Workshop on discards.

TACS FOR 1997

2. The Commission representative indicated that the state of stocks was generally not good, and existing moratoria would continue for most stocks. On the basis of the scientific advice available the Commission could accept the following TACs:
 - Redfish 3LN - 14,000 tonnes;
 - Redfish 3M - 20,000 tonnes;
 - Greenland Halibut - 20,000 tonnes in 3LMNO plus 7,000 tonnes in 2+3K.
3. The Commission representative was, however, anxious to follow the longstanding advice for a moratorium on 3M cod and to continue the moratorium on flounder. He also indicated that, while an effort limitation regime had proved acceptable last year for shrimp, the Community should not resist the establishment of a TAC if this proved necessary, in the interests of conservation within NAFO.

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4. The Portuguese delegation agreed in general with the Commission's evaluation of the stocks. However, it pointed out that major catches by the Community fleet of Greenland halibut had not been taken into account by those carrying out the research on this stock and that it had information indicating a recovery; it requested that a TAC higher than last year be sought. The Spanish delegation noted that no new scientific data had emerged on Greenland halibut in division 2+3 since the 1994 NAFO meeting and it requested the Commission to maintain the position it had held at that time.
5. The Portuguese delegation pointed to a significant increase in spawning stock biomass in 3LMNO flounder and considered that there was reason to be optimistic here. This was an important species and formed a significant part of the by-catch in the Greenland halibut fishery.
6. The Portuguese delegation also noted that the Scientific Council had indicated that between 1993 and 1995 catches of redfish in 3M shrimp had amounted to 25,000 tonnes; this information should be taken into consideration in evaluating this fishery. The German delegation supported this view. The Spanish delegation considered that greater selectivity should be pursued in this fishery.
7. While this delegation acknowledged that the scientific data for 3M cod was negative, it requested that the Commission take into account the political significance of this stock for the Community fleet in adopting a negotiating position. It wanted to maintain the status quo. The Spanish and French delegations endorsed this view. The United Kingdom delegation, while sympathising with the Portuguese position, argued that the scientific advice for this stock was unequivocal.
8. The Spanish and German delegations broadly endorsed the Commission's position, although the Spanish delegation indicated support for the Portuguese delegation's concerns on a number of stocks.
9. The Commission representative maintained his original position on all stocks on the basis of the scientific advice. He did however indicate, in response to the Portuguese delegation, that although he could not justify trying to maintain the status quo on 3M cod, he would try to negotiate a symbolic TAC of approximately 5,000 tonnes, depending on how matters developed in St. Petersburg; he would bilateralise with Portugal on this stock.

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10. The Commission representative indicated that Canada had been warned that it was not an opportune time to pursue the question of the management of 2J3KL cod: firstly because there was no cod in this fishery at present; and secondly because in NAFO TACs were set on an annual basis and the Canadian proposal might be seen by other contracting parties as a joint attempt by Canada and the European Union to dispose of this stock once and for all between them. The Commission had requested Canada therefore to take it off the table.
11. The Spanish delegation pointed out that the Canadian proposal posed difficulties of substance for Spain; it could not accept any proposal from Canada that altered the terms of the 1992 Agreement. It entered a reservation on this point.

DISPUTE SETTLEMENT MECHANISM

12. The Commission representative pointed out that the revised Canadian proposal for a dispute settlement mechanism still essentially amounted to a protocol for a revised objection procedure within NAFO.
13. The Spanish delegation informed the Working Party that it had filed a case against Canada with the International Court of Justice in the Hague. While it was not against developing a dispute settlement mechanism in NAFO, it was firmly opposed to any distortion of the objection procedure.
14. The German, French, Portuguese and United Kingdom delegations fully endorsed the Commission's reservations about this proposal. The French delegation believed that Canada would try to establish a Working Group in NAFO to deal with this issue; it was vital that such a Working Group be given as neutral and transparent a mandate as possible.

STACFAC

15. A position paper had been prepared by the Commission on possible means of dealing with non-contracting parties fishing in NAFO waters. This paper was referred to the 113 Committee with a view to determining whether the measures proposed were compatible with GATT. The result was inconclusive, the President of the Committee indicating that some elements of the paper could be used, but advising caution.

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16. The Commission representative took the view that the European Union should be constructive and take the lead in NAFO in this debate. The five steps proposed by the Commission were put to the Working Party, viz.
- non-contracting parties would be invited to join NAFO or to comply with NAFO regulations;
 - if a non-contracting party vessel did neither of the above, was sighted in the NAFO area and suspected of fishing on a regulated species, all contracting parties would be informed, according to the FAO Compliance agreement;
 - if this vessel went to the port of a contracting party, it would be inspected, according to the FAO Compliance agreement; if it was found in breach of NAFO regulations, landings would be refused;
 - if the quantity of regulated species found on board exceeded the normal by-catch figure allowed when fishing on an unregulated species, landings would be refused;
 - if the vessel repeatedly breached the NAFO regulations it would be refused entry to port.
17. A number of Member States expressed reservations about the possibility of the fifth and final step being in contravention of GATT. On the basis of a prolonged discussion, and a preliminary view from the representative of the Council legal service, it was agreed that the Commission should proceed with the first four steps outlined above only.
18. Several delegations asked for a firm legal opinion on this matter, the French delegation, in particular, requesting a written opinion from both the Commission and Council legal services.

WORKSHOP ON DISCARDS

19. The Commission representative requested Member States to contact the Commission official Mr. E. Penas directly in St. Petersburg if they wished to make any amendments to the draft discussion paper on discards which had been prepared by the Commission and circulated prior to the meeting of the Working Party.

OTHER POINTS

New members of NAFO

20. The French delegation advised the Working Party of the fact that France, on behalf of St. Pierre et Miquelon, had joined NAFO.

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21. The Commission representative pointed out that on the basis of a political agreement reached by the Commission and the Council on Member States' representation in international organisations where the EC treaty does not apply, such Member States should endeavour to adopt a position as much in line as possible with that of the Community and, where this was not possible, should notify the Commission in advance in order to avoid a conflict of views in public.
22. The French delegation confirmed its understanding of this principle.

1998 NAFO meeting

23. The Portuguese delegation requested that the Commission propose to NAFO that the NAFO 1998 meeting be held in Lisbon. The Commission representative replied that he would present this request to NAFO.

Participation by a MEP in 1996 NAFO meeting

24. The Commission representative informed the Working Party that a Member of the European Parliament would attend the plenary sessions of NAFO at the 1996 meeting in St. Petersburg.
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