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## OUTCOME OF PROCEEDINGS

of : Working Party on Internal Fisheries Policy

dated : 10 May 1996

N° prev. doc.: 6281/96 PECHE 117

Subject: North-East Atlantic Fisheries Commission (NEAFC)  
- Four coastal State Agreement on the management of  
Atlanto-Scandian herring in the North-East  
Atlantic

### INTRODUCTION

1. The Commission representative explained that the four coastal States other than the Union concerned in the management of Atlanto-Scandian herring (i.e. Russia, Norway, Iceland and Denmark on behalf of the Faroe Islands) had come to an agreement on the allocation of Atlanto-Scandian herring in the North-East Atlantic, without the participation of the Union, on 6 May 1996. He had received the Protocol <sup>(1)</sup> setting out the terms of the agreement and had immediately contacted the Icelandic Minister for Foreign Affairs for clarification.

### PROTOCOL

2. The Protocol consisted of five pillars, the first four of a permanent nature and the fifth relating exclusively to 1996.

<sup>(1)</sup> The text has been circulated to delegations.

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## First four pillars

3. The first pillar related to cooperation to ensure long-term sustainability; the second to cooperation on technical measures, surveillance and control; the third provided for the participation of all five coastal States in the Protocol; the fourth envisaged collaboration with the International Council for the Exploration of the Sea on the level of the total allowable catch (TAC) and management of the stock.

## Fifth pillar

4. The fifth pillar set the TAC for 1996 at 1,107,000 tonnes, with 166,000 t to Russia, and a block quota of 256,000 t to Iceland and the Faroe Islands which disguised the fact that Iceland had obtained a higher individual quota than Russia, viz. 190,000 t. Russia would only fish 156,000 t of its quota. Norway obtained 695,000 t.
5. In addition to the distribution of the quota all parties had agreed to access to waters other than their own, either on a unilateral or reciprocal basis.
6. The Commission representative took the view that the worst possible situation for the Union would be if the Protocol were to remain in place and NEAFC were to come up with a solution for international waters only. The Union, for its part, had limited its quota to 150,000 t and had demonstrated its willingness to sustain a reduction in that quota if the other parties were prepared to do the same.

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7. The Commission representative urged delegations to react calmly to this development, adding that it was important to appear constructive if some solution in the framework of NEAFC could be envisaged. The Commission would seek a meeting of NEAFC in June, although the NEAFC rules required 60 days notice for setting an agenda for a meeting. In the meantime the full implications of the Protocol would be explored through informal contacts.

## DELEGATIONS' OBSERVATIONS

8. All delegations took the view that this Protocol required careful study.
9. The French, Swedish and United Kingdom delegations called for swift action on this matter.
10. The Spanish, French, Netherlands, Swedish and United Kingdom delegations considered that the Protocol needed careful scrutiny by a group of experts on the Law of the Sea; the Spanish delegation suggested that the Working Party could invite experts on the Law of the Sea to examine it.
11. The Spanish and French delegations in particular considered that Article 4.2 was not in conformity with the Law of the Sea, pointing to the fact that Norway was effectively trying to control foreign vessels in international waters.
12. The representative of the Council Legal Service indicated that the reference to the United Nations Agreement on straddling stocks in Article 4.3 was incorrect.

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13. The French delegation was also concerned that the Protocol was effectively setting up a new fisheries organisation which might not be in accordance with international law. Both the Spanish and Netherlands delegations believed that the Protocol could have dangerous repercussions on NEAFC as an organisation.
14. The Irish delegation warned against the Union considering any reduction in its quota. It considered 150,000 t to be the absolute minimum.
15. The Presidency observed that Norway could not act in this fashion against the Union's interest and at the same time continue to expect cooperation from the Union.
16. The French delegation insisted that Norway's actions in this instance called into question its linkage with the Union through the European Economic Area (EEA).

## COMMISSION RESPONSE

17. The Commission representative responded that the Commission had reacted as quickly as possible to this Protocol in its intention to raise it for discussion at the present meeting and in its present preparation of a *note verbale* to be sent to the other four coastal States.
18. The sending of a *note verbale* met with general support in the Working Party, the Spanish and United Kingdom delegations requesting to see the text before it is sent to the coastal States.

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19. The Commission representative replied that the usual procedure was for the Commission to send a *note verbale* without prior consultation of the Working Party as to the text. The text, however, would be made available at the next meeting of the Working Party where a general report on the state of play on this issue would be made.
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