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Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

12501/97

RESTREINT

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REPORT

from: General Secretariat of the Council

to: Committee of Permanent Representatives

prev. doc. n°: 11651/97 PECHÉ 331

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Subject: Modification of the Recommendation for a Council Decision authorizing the Commission to open negotiations with the parties concerned with a view to establishing a framework for the conservation of the marine living resources in some areas of the high seas in the South-West Atlantic

INTRODUCTION

1. It is recalled that the above (modified) Recommendation for a Council Decision aims at authorising the Commission to open negotiations with a view to establishing a framework encompassing the protection of the living marine resources and the marine fauna and flora in some areas of the high seas of the South-West Atlantic.

STATE OF PLAY OF PROCEEDINGS

2. The Committee had a first exchange of views concerning this modified Recommendation at its meeting of 7 November 1997. On that occasion:

- the Spanish delegation came forward with a unilateral statement (see Annex I) for the Minutes of the Council on the issue of sovereignty over the Falklands Islands and Gibraltar;

-the United Kingdom delegation also reserved the possibility to make a statement regarding the same matter for the Minutes of the Council⁽¹⁾;

-the French⁽²⁾ and Spanish delegations maintained a scrutiny reservation on the matter of competences pending the result of bilateral contacts with the Commission Services in that respect;

-the Danish delegation entered a Parliamentary scrutiny reservation.

The Committee agreed to revert to this dossier at a later meeting.

PROCEDURE

3. The Committee is invited:

i) to consider the draft Council statement on competences (Annex III) suggested by the French delegation;

ii) -subject to an agreement on the above draft Council statement and subject to the lifting of the parliamentary scrutiny reservation by the Danish delegation, to agree on the modified Recommendation for a Council Decision with a view to its adoption by the Council according to the "A" item procedure;

-to invite the Council to enter the statements given in Annex I, II and III in its Minutes.

⁽¹⁾In the meantime, the United Kingdom delegation submitted the unilateral statement as given in Annex II.

⁽²⁾In the meantime, the French delegation submitted the draft Council statement as given in Annex III.

DECLARATION BY SPAIN

With regard to the modification of the recommendation for a Council Decision authorizing the Commission to open negotiations with the parties concerned with a view to establishing a framework for the conservation of the marine living resources in some areas of the high seas in the south-west Atlantic, the Kingdom of Spain hereby declares that nothing contained in that recommendation nor any of the rules allowing the future participation of any sovereign State in that arrangement, if it is finally established, may be interpreted as a modification of Spain's position concerning the controversy existing between the United Kingdom of Great Britain and Northern Ireland and the Argentine Republic regarding sovereignty over the Falkland Islands.

Similarly, nothing in the foregoing may be construed in the future as an intention to recognize that the United Kingdom has any right over Gibraltar apart from those explicitly recognized in Article X of the Treaty of Utrecht (1713).

**DECLARATION BY THE UNITED KINGDOM
ON THE SOUTH WEST ATLANTIC FISHERIES ORGANISATION**

The United Kingdom has no doubts about its sovereignty over the Falkland Islands.

The Falkland Islands are listed in Annex IV of the Treaty of Rome as a non-European territory having special relations with the United Kingdom and which is associated with the Community under Article 131.

In any South West Atlantic Fisheries Organisation overseas territories should be represented in accordance with the principles embodied in Declaration No. 25 to the Treaty of Maastricht and the procedures set out in the Declaration of 1989 of the Council, the Commission and representatives of the Governments of Denmark, France, the Netherlands, Portugal and the United Kingdom, which agreed procedures to be adopted for the representation of Certain Overseas Territories of the Member States on the rare occasions where a divergence may occur between the Community and the interests of an overseas territory.

**DRAFT COUNCIL STATEMENT
PROPOSED BY THE FRENCH DELEGATION**

The Council emphasizes that the choice of a mandate based on the principle of exclusive competence is not a reflection of the relative importance of issues of joint or national competence as compared with Community competence. To disregard the former is acceptable in this case only to the extent strictly necessary for the purpose of representing, in a non-contentious manner, the whole range of regional interests in the negotiations on the statutes of the future organization.

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