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RESTREINT

PECHE 20

OUTCOME OF PROCEEDINGS

of: Working Party on External Fisheries Policy

dated: 15 January 1998

This note covers the following items :

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- I. South Africa: Preparation of the first round of negotiations for a fisheries Agreement (Cape Town, 21-23 January 1998)
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I. Morocco: Information on the state of play of fisheries relations

1. The Commission representative having sketched out the latest developments in fisheries relations with Morocco since the meeting of the Joint Committee on 3 and 4 December in Rabat, stated that since then various informal and formal efforts had been deployed with a view to re-launching discussions with Morocco on several contentious items surrounding the implementation of the Agreement, and in particular on the biological rest period for cephalopod fisheries in 1998. He confirmed that Morocco in the meantime had decided that this biological rest period should be for four months in 1998 (broken down into two periods of two months : March/April and September/October). With reference to the exchange of letters at the highest political level between Morocco and the Community, this decision had, in the Commission's view, been taken unilaterally and hence could not be considered as being in compliance with either the letter or the spirit of the Agreement. The Commission would nevertheless pursue a positive approach in an effort to find satisfactory solutions to the various problems, which had now arisen.

1. The Portuguese and Spanish delegations expressed support for the Commission's stance. They considered that, in view of the overall relations with Morocco, it was important that the dialogue with Morocco not be broken off and urged the Commission to take up consultations with Morocco at the earliest possible opportunity. The Spanish delegation, in particular, specified that firm indications with regard to the duration of the biological rest period were urgently needed, bearing in mind its direct impact on programming fishing operations in Moroccan waters.

1. The Working Party agreed to revert to this dossier in the light of future developments.

II. South Africa: Preparation of the first round of negotiations for a fisheries Agreement (Cape Town, 21-23 January 1998)

Timetable of negotiations

1. The Commission representative, referring to a letter sent by the South African authorities to the Commission delegation in Pretoria, explained that at the request of the South African authorities, the first round of formal negotiations between the EC and South Africa for a fisheries Agreement - which had been scheduled for 21-23 January 1998 - had been postponed. South Africa's request was motivated by its concern not to give at this stage, - when a parliamentary debate on the future of the South African sector is still ongoing - too high a political profile to talks with the Community on a Fisheries Agreement. Whilst earlier dates would now serve to carry forward exploratory talks, it had been suggested by South Africa that formal negotiations be held on 7 and 8 April 1998 in Brussels. The Commission would take appropriate steps to bring forward the negotiations.

1. The Spanish delegation expressed its serious misgivings regarding this course of events. It pointed out that the negotiations in respect of the Free Trade Agreement (FTA) were making headway and expressed concern that this latest development might jeopardise the parallelism between negotiations, which the Council itself had decided⁽¹⁾, and thus possibly weaken the Community's negotiating position on the Fisheries Agreement. In these circumstances, this delegation felt that in order to safeguard the Community's position, the Community should withdraw any element relating to fisheries from the offer it was about to make in the context of the FTA⁽²⁾.

1. The Portuguese delegation, whilst also advocating the parallelism between negotiations, underscored the importance it attached to a prompt conclusion of the fisheries Agreement with South Africa. Accordingly, it would support any initiative to bring forward formal negotiations.

⁽¹⁾ See Council Statement made on adoption of the (complementary) directives with regard to the negotiation of the FTA with South Africa (cfr. doc. 6096/96 PECHE 18).

⁽²⁾ See also last paragraph of Spanish Memorandum in doc. SN 1062/98.

1. The French delegation was also in favour of the global and coordinated approach decided by the Council with respect to the different negotiations with South Africa. Nevertheless, this delegation whilst expressing sympathy for the concerns of the Spanish delegation, took the view that arguments invoked by South Africa for requesting the postponement of formal negotiations were valid. Consequently, it backed the Commission's line to conduct further exploratory talks on 21-23 January 1998, while seeking to bring forward the formal negotiations. The Italian delegation took a similar view and pointed to the possible impact of the future South African Fisheries Bill on negotiations to come.

1. The Danish delegation stated that in its view no close link other than a parallelism was to be established between negotiations in question.

1. The Commission representative pointed out that the Commission would continue its talks with South Africa in the light of relevant negotiating directives. He stressed that Commission departments had constantly insisted in these talks with South Africa that any progress in negotiations was subject to the proviso that similar progress be achieved with respect to the Fisheries Agreement.

1. In conclusion the Commission was urged to use its best endeavours to bring forward dates of future negotiations. This would certainly be helpful with a view to avoiding Fisheries Agreements proceedings complicating negotiations on the FTA.

Substance of the Agreement

1. The Commission representative, on the basis of a "fiche technique", explained what he considered should become the main features⁽³⁾ of a future fisheries Agreement with South Africa.

⁽³⁾ The Commission would, *inter alia* seek to obtain fishing opportunities in joint venture and joint enterprise arrangements, but also in the form of classical licences. This latter had not been mentioned in the "fiche technique".

1. Several delegations, in particular ES, F, IRL, I, NL and P expressed interest in obtaining fishing opportunities⁽⁴⁾ in South African waters. Bearing in mind operational and economic considerations, insufficient knowledge on the state of resources, lack of any previous experience with joint enterprises and joint ventures, these delegations preferred fishing opportunities to be granted in the form of the traditional licensing schemes. Where second generation arrangements had to be negotiated, it was important, bearing in mind, *inter alia*, past experiences under the Argentinian Agreement:

- to avoid the insertion of any condition which might discriminate against Community shipowners;
- that prior to setting up joint enterprises and/or joint ventures experimental fisheries be allowed⁽⁵⁾;
- that quotas to the Community fleet be granted so as to provide for sufficient long-term stability of operations;
- that operational conditions be sufficiently specified, to avoid in particular, because of lack of sufficient detail, claims that national legislation become directly applicable to one or more components of the Agreement;
- that provision be made to safeguard Community employment.

1. The Danish, German, Swedish and United Kingdom delegations entered scrutiny reservations on the "fiche technique". The D and UK delegations would inform the Commission of their possible interests in fishing opportunities. The D, S and UK delegations drew attention to the budgetary aspects of the Agreement. Finally some delegations (in particular DK and NL) expressed their satisfaction at the involvement of DG VIII in the preparatory work for this Agreement.

⁽⁴⁾ It was agreed, without prejudice to some delegations having already formulated specific requests at the meeting, that delegations would submit their requests in writing to the Commission at the earliest possible opportunity.

⁽⁵⁾ The Spanish and Netherlands delegations expressed their clear preference for joint ventures (temporary associations) over joint enterprises. The Netherlands delegation also showed interest in setting up, at a future stage, ventures with South African companies in the field of on-shore activities (processing and marketing).

1. The Commission representative agreed to reflect the requests of Member States in the preparatory talks with South Africa. It was, however, important that Member States provide, where necessary, more detailed information as to their aspirations regarding the different components of the Agreement.

1. In conclusion the Working Party agreed to revert to the matter at a later session.

III. Mozambique: Debriefing on the results of the second preparatory meeting (Maputo, 19-21 November 1997)

1. The Commission representative gave a summary of the background to the exploratory talks between the Community and Mozambique for a Fisheries Agreement.

1. The Community had had in the past a traditional or classic Fisheries Agreement with Mozambique, which the latter party renounced in 1993 in order to pursue a 3rd generation-type of Agreement. In this respect, one of the principal objectives for Mozambique was to develop its semi-industrial fishing sector for shrimp. It could offer fishing possibilities for both deep water and shallow water shrimp, and was at present carrying out a study on its resources for this latter stock. It was prepared to enter into negotiations with the Community in April 1998, in Brussels.

1. In response to concerns expressed by the Spanish and Portuguese delegations, the Commission representative confirmed that the Commission would endeavour to maintain the traditional system of licensing for tuna fishing in the new Agreement with Mozambique.

1. The Spanish delegation was prepared to go along with 2nd generation elements for shrimp in this Agreement, such as joint enterprises, but considered that the financing of such projects should be based on the financing model of the Fisheries Agreement between the Community and Argentina in order to make this kind of Agreement more attractive to ship owners and to promote partnership with the Union rather than with other third countries.

1. The Portuguese delegation endorsed the Spanish position, and emphasised its interest in industrial sized shrimp and consequently in any information which might be forthcoming from the Mozambique authorities on the state of the shrimp stocks.

1. Delegations' initial reactions to these negotiations were noted and it was agreed to discuss this subject again at a later date.

IV. Gabon : Debriefing on the results of preliminary discussions (November 1997) for a fisheries agreement

1. The Commission representative, on the basis of a "fiche technique", informed delegations of the results of the preliminary discussions which took place in November 1997. He indicated that as a result of these talks it had been agreed to organise a first round of negotiations by the end of March in Libreville. Furthermore, the Commission representative pointed out that already at this stage the Gabonese authorities had accepted that 50% of the EC financial compensation be earmarked for development actions in the Gabonese fisheries sector. Finally, it was the Commission's intention to negotiate this tuna agreement on the basis of a reference tonnage of 8.000 to 10.000 per year.
1. The French and Spanish delegations confirmed their interest in the prompt conclusion of this Agreement. Whilst the French authorities could accept the Commission approach, the Spanish delegation entered a reservation on the suggested reference tonnage.
1. In conclusion, it was agreed this matter would be considered at a later meeting of the Working Party.

V. Comoros: State of play of fisheries relations

1. Updating the Working Party ⁽⁶⁾ on the negotiations the Commission representative explained that the "fiche technique" set out all the salient features of the proposed Agreement. The Draft Protocol was for a period of three years and contained identical conditions to the previous Protocol, with the following exceptions:
 - the number of licences for tuna seiners would be increased from 37 to 44 and the advance payments for such licences increased from 1,500 écus to 1,750 écus;

⁽⁶⁾ It was recalled that the Working Party, at its last discussion of the issue in December 1997, had expressed support for the Commission's general approach in the negotiations.

- the possibility of fishing with surface longliners would be introduced, and 10 licences granted, all for Spanish vessels. Advance payments for such licences would be fixed at 750 écus, which should be acceptable to Member States.

1. Demands from the Comoros for additional financial contributions had been resisted. In the Commission's view, it was in the Community's interest to maintain this Agreement, to act as a spur to the Comoros to become a member of the Indian Ocean Tuna Commission (IOTC) where it could be a useful partner to the Union. An additional consideration was that the cost was modest. Finally Member States were urged to provide any data which might usefully update the "fiche technique".

1. The French delegation endorsed the Commission's approach.

1. The Portuguese delegation asked that the Commission take into account requests it had received from Portuguese shipowners for licences for longliners to be included in the Agreement. It sought 4 to 5 such licences, a request supported by the Spanish delegation which pointed out that it had originally sought 18 licences for longliners. The latter delegation considered that it should be possible to negotiate for more than 10 such licences for Spain. It was also of the view that the advance payments for longliners should be fixed at 500 écus rather than 750 écus.

1. The Netherlands delegation remarked that in the Draft Protocol, the financial contributions had been left blank. It wondered if the contributions under Article 3 were to be increased and, whether the contributions from shipowners should also be increased in order to rebalance the Agreement in accordance with the Council Conclusions on Fisheries Agreements with Third Countries.⁽⁷⁾

1. The Commission representative reminded the Working Party that the fishing season would begin in March so that there should be no delay in signing this Agreement. In response to the Netherlands delegation, he explained that what was envisaged under Article 3 was a global contribution of 50% of the overall Community financial contribution.

⁽⁷⁾ Conclusions on European Community Fisheries Agreements with Third Countries adopted by the Council on 30 October 1997 (Doc. 11784/97 PECHE 332)

1. Following bilateral discussions with the Spanish and Portuguese delegations, he concluded that these delegations would be content to accept that the fees for surface longliners be set at 750 écus as long as the Commission would request the Comoros to make some further adjustment to the number of licences for surface longliners permitted to fish in Comoros waters.
1. The Commission was urged to proceed along these lines and to report back to the Working Party on any progress made.

VI. Guinea (Conakry) : Debriefing on the negotiations for a new fisheries Protocol (Brussels, 9-11 December 1997)

1. The Commission representative, on the basis of the "fiche technique", explained the main features of this new Protocol which covers the period from 1 January 1998 until 31 December 1999. He pointed to the fact that a number of technical conditions governing fisheries had been harmonised with those already included in other agreements concluded by the EC with the countries of the region. Furthermore he underscored that 50% of the financial compensation would be focused on the development of the local fisheries sector, and that for the first time a provision had been introduced in the Protocol enabling the use of Community funds to be closely monitored. Finally he informed the Working Party that the formal Proposals for the provisional application and conclusion of the Protocol would be submitted shortly.
1. The French, Italian and Spanish delegations expressed their satisfaction at the result of negotiations. The Austrian, Netherlands and United Kingdom delegations however, in view of the increase of the financial compensation to be paid by the Community, took the view that the cost of this Agreement had not sufficiently been re-balanced in terms of increasing fees to be paid by shipowners.
1. The Commission representative, replying to the latter delegations, said that shipowners fees were to be increased by 5% as from 1 January 1999. Furthermore he pointed out that the implementation of the Council's Conclusions on Fisheries Agreements needed further discussions within the Working Party with a view to providing the proper framework for future negotiations.

1. The Working Party agreed to revert to this matter once the Commission had submitted its Proposals to the Council.

VII. SEAFO: Results of the meeting in Windhoek (Namibia) with a view to creating a regional fisheries organization in the area

1. The Commission representative referred to the record of proceedings of the first meeting of Coastal States and Other Interested States on a regional fisheries management organization for the South East Atlantic (Windhoek, Namibia 3-4 December 1997) and other relevant documentation prepared by the Coastal States in question⁽⁸⁾. In the Commission's view, there was general interest for the Community to promote the prompt establishment of a regional fisheries management organization in the area.

1. With regard to the text of the draft Convention, the Commission representative drew delegations' attention to the following specific issues:

- the draft Convention provides for budgetary contributions to the future organization to be calculated and paid by individual fishermen on the basis of the relative importance of their quota. It was the Commission's view that such a mechanism would not guarantee the much needed stability in terms of providing funds for the new organization;
- in the draft Convention the geographical scope of the regulatory area of the future organization encompasses the EEZ of coastal states⁽⁹⁾. In the Commission's view it would not be logical and nor in line with tradition if fishermen of local communities had to pay a contribution to a regional fisheries organization;
- the draft Convention develops in detail a precautionary approach scheme and control arrangements. In the Commission's view it would be much more appropriate that a simple reference only be made to the Convention. They could then be developed separately.

⁽⁸⁾ In particular, the Principles underlying the establishment of a regional fisheries management organization for the South East Atlantic Ocean and the draft text of a Convention on the Conservation and Management of Living Marine Resources in the South East Atlantic Ocean.

⁽⁹⁾ A US suggestion.

1. The Commission representative indicated that further analysis of the document in question was under way with a view to drawing up a draft Community position paper. Following approval by the Working Party, this would then be submitted to the interested coastal states. The draft negotiation directives would also be submitted shortly to the Council, which should be adopted in due time, since the Conference on the establishment of the organization was scheduled to take place in the week of 18-22 May 1998 in Cape Town.

1. The Portuguese delegation expressed concern that the mechanism sketched out in the draft Convention might entail a possible transfer of fishing entitlements from the individual contracting parties to the future body.

1. The Working Party agreed to revert to the matter once further relevant documentation (draft position paper and/or draft negotiation directives) became available.

VIII. Any Other Business

(i) Mauritania

1. The Commission representative informed delegations that the ad hoc Scientific Working Party on the minimum size for cephalopods was due to meet for the first time towards the end of January in Santa Cruz, Tenerife. A second meeting was scheduled to take place in February in Nouakchott.

(ii) Information on the implementation of the Council Conclusions on Fisheries Agreements with Third Countries

1. The Commission indicated that the call for tenders with regard to the cost/benefit analysis of the Fisheries Agreements with Third Countries had been published in O.J. S 240 of 10 December 1997. To date the Commission had received 25 applications. As to the timetable of work it was expected that the consultant would be able to produce a preliminary report by the end of June. An interim report would have to be made available by the end of October 1998.

1. As to the implementation in general of the various guidelines flowing from the Council Conclusions, the Commission representative indicated that reflection within the Commission departments would start shortly. The Commission would forward a report on the results of these internal consultations in due time.

(iii) Chile: Information on cooperation in the Fisheries sector

1. In reply to the concerns expressed by the Spanish delegation with regard to the ban on transhipments in port imposed by the Chilean authorities, the Commission representative, pointed out that the Commission departments had suggested that a meeting between the Commission and the Chilean authorities be held by end January/beginning February. The reply from the Chilean side was still awaited.

(iv) IATTC: Commission Non-Paper on Community participation

1. In preparation for a more substantive discussion at the meeting of 29 January 1998, the Commission representative pointed to the interests at stake for the Community in membership of IATTC. At the same time he drew delegations' attention to the fact that negotiations were under way - the next and perhaps the last meeting is scheduled to take place in La Jolla from 2-6 February 1998 - with a view to drawing up an "Agreement on the International Dolphin Conservation Program" for the area in question.

(v) Evaluation of the format of the "fiche technique"⁽¹⁰⁾

1. Delegations expressed their satisfaction at the fact that the Commission had now submitted and would in principle in future continue to submit "fiches techniques" in relation to the various Agreements/Protocols. They could generally speaking accept the format at present used by the Commission Services. However, and following a brief exchange of views, there seemed to be a consensus that these "fiches" might be usefully supplemented in the following manner:

⁽¹⁰⁾ This exchange of views took place in the context of discussions on South Africa.

- the "fiche" should contain appropriate scientific data on the state of resources in the waters of the third country in question;
- the Fisheries Agreements which the third country in question had concluded with other parties should be mentioned;
- the regional fisheries organizations with competences in the area should be mentioned together with their relevant recommendations.

1. Furthermore it was noted that in future the information regarding the financial and budgetary aspects of an Agreement would no longer be included in the "fiche" but given orally. On the other hand, delegations could always request the Council Secretariat to provide them with a copy of the relevant Council negotiating directives.

1. Finally it was underscored that these fiches techniques by their very nature were confidential and that they needed to be treated accordingly.

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