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REPORT

on International Fisheries Agreements

Committee on Fisheries

Rapporteur: Mr Peter Duncan Crampton

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By letter of 29 November 1995, the Committee on Fisheries requested authorization to draw up a report on International Fisheries Agreements.

At the sitting of 5 September 1996, the President of Parliament announced that the Conference of Presidents had authorized the Committee on Fisheries to report on this subject. At the sitting of 11 April 1997, the President of Parliament announced that the Committee on Budgets had been authorized to draw up an opinion.

The committee had appointed Mr Crampton rapporteur at its meeting of 23 and 24 April 1996.

At its meeting of 28 and 29 May 1996 it decided, pursuant to Rule 45(2), to include in its report the following motion for a resolution which had been referred to it:

- B4-0126/96 by Mr Fernández-Albor on new ways of facilitating access by Community fishing fleets to third countries' fishery resources, referred on 18 April 1996 to the Committee on Fisheries as the committee responsible and the Committee on External Economic Relations and the Committee on Development and Cooperation for their opinions.

At its meeting of 25 and 26 November 1996, the Committee decided to include in its report the Commission Communication on Fisheries Agreements - Current Situation and Perspectives, referred on 15 November 1996.

It considered the draft report at its meetings of 28 and 29 May 1996, 18 and 19 December 1996, 25 and 26 February 1997, 11 March 1997, 19 and 20 March 1997 and 16 and 17 April 1997.

At the last meeting it adopted the motion for a resolution unanimously.

The following took part in the vote: Fraga Estévez, chairman; Macartney, vice-chairman; Crampton, rapporteur; Apolinário, Cunha, Dührkop Dührkop, Fabra Vallés (for Bébéar pursuant to Rule 138(2)), Gallagher, Girão Pereira (for d'Aboville), Imaz San Miguel (for Burtone), Jöns (for Kindermann), Kofoed, Langenhagen, McCartin (for Provan), McMahon (for Adam), Medina Ortega, Musumeci, Nicholson (for Souchet), Novo, Pérez Royo (for Baldarelli), Pery, Roubatis, Varela Suanzes-Carpegna.

The opinions of the Committee on Budgets, the Committee on External Economic Relations and the Committee on Development and Cooperation are attached.

The report was tabled on 22 April 1997.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

A
MOTION FOR A RESOLUTION

Resolution on International Fisheries Agreements

The European Parliament,

- having regard to Rule 148 of its Rules of Procedure,
- having regard to the Commission Communication Fisheries Agreements, Current Situation and Perspectives (COM(96)488 - C4-0590/96),
- having regard to the fishing possibilities in international areas provided for the EU through the North-West Atlantic Fisheries Organization (NAFO), the North-East Atlantic Fisheries Commission (NEAFC), the North Atlantic Salmon Conservation Organization, and the International Baltic Sea Fishery Commission (IBSFC),
- having regard to the Commission Memorandum on The Consequences of the non-conclusion of fisheries agreements by the Community (5 June 1996),
- having regard to its resolution of 13 March 1996 on the intergovernmental conference and, in particular, paragraph 17 thereof¹,
- having regard to the resolution on fisheries in the context of ACP-EEC cooperation, adopted by the ACP-EEC Joint Assembly on 1 April 1993 in Gaborone²,
- having regard to Article 228 of the EC Treaty and, in particular, paragraph 3 thereof,
- having regard to the motion for a resolution, tabled by Mr Fernández Albor, pursuant to Rule 45(2) of the Rules of Procedure, on new ways of facilitating access by Community fishing fleets to third countries' fishery resources (B4-0126/96),
- having regard to the Code of Conduct signed by Parliament and the Commission on 31 March 1995³, and in particular to the points 1 and 3.10 thereof,
- having regard to the joint declaration to improve the information provided to the budgetary authority concerning fisheries agreements, signed by Parliament, the Commission and the Council on 12 December 1996⁴,
- having regard to the report of the Committee on Fisheries and the opinions of the Committee on Budgets, the Committee on External Economic Relations and the Committee on Development and Cooperation (A4-0149/97),

¹ OJ C 96, 1.4.1996, p. 84.

² OJ C 234, 30.8.1993, p. 42.

³ OJ C 89, 10.4.1995, p. 69.

⁴ Minutes of the sitting of 12.12. 1996 (PE 254.450)

- A. whereas international agreements are a fundamental and increasingly important factor in maintaining the fishing activity of the Community fleet, which must be pursued in a rational and responsible manner, taking into account its effects on the marine ecosystem,
- B. whereas the common fisheries policy must also help achieve the European Union's present main objective, i.e. maintaining existing jobs both at sea and in the processing industries which are mainly located in peripheral regions highly dependent on fisheries activity,
- C. whereas it is important to determine at international level which living marine resources are under excessive pressure and in which areas, so that these species can be given greater protection in the context of fisheries activities,
- D. whereas many of the world's living marine resources are under excessive pressure and to a considerable extent are being overexploited or depleted, whereas rising demand for fisheries products is all but certain to lead to further sharpening of the competition for these resources over the coming years and whereas this situation poses a number of challenges that need to be dealt with by all relevant parties,
- E. whereas a substantial number of the EU's international fisheries agreements are with ACP countries and whereas, although they relate to trade, these agreements have beneficial effects as regards development (employment, food supplies, etc.) and it is therefore necessary to coordinate Community fisheries and development policies,
- F. whereas the Community is a major player on the global fishing scene and there can be no question of escaping from the responsibilities emanating from this role,
- G. whereas Article 62 of UNCLOS, stipulates that coastal states are responsible for determining catch capacity within their EEZ and whereas, when a state does not have the capacity to exploit the total allowable catch, it is required to grant access to other states to the surpluses by means of fisheries agreements or other arrangements,
- H. whereas the Community has signed the United Nations Convention on the Law of the Sea and the Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks and is a party to the FAO Code of Conduct for Responsible Fisheries,
- I. whereas the distribution of fish stocks frequently includes the EEZs of two or more states, a regional approach needs to be followed in the exploitation of these stocks,
- J. whereas the ACP states recognize in Article 64 of the Lomé Convention that there is a role for Community Member States' fishing fleets, operating lawfully in waters under ACP jurisdiction, in the economic development of ACP fishery potential, and declare their willingness to negotiate with the Community fishery agreements aimed at guaranteeing mutually satisfactory conditions for fishing activities of vessels flying the flag of Member States of the Community,
- K. whereas, furthermore, Article 64 of the Lomé Convention also stipulates that, after the conclusion or implementation of such agreements, the ACP states shall not discriminate against the Community or among the Member States,

- L. whereas Article 68 of the Lomé Convention stipulates that the compensation agreed by the Community under fisheries agreements should correspond to the scale and value of the fishing opportunities provided in the exclusive economic zones of the ACP states concerned,
- M. whereas article 130v of the EC Treaty commits the Community to take account of its development cooperation objectives "in the policies that it implements which are likely to affect developing countries", and that it is inconceivable to reject demands for coherence between different Community policies,
- N. whereas Article 130b of the Treaty on European Union stipulates that the formulation and implementation of the Community's policies and actions shall take into account the objectives set out in Article 130a as regards reducing the backwardness of the least favoured regions and strengthening the economic and social cohesion of the Community as a whole,
- O. whereas article J.1 of the Treaty on European Union states that the Common Foreign and Security Policy should promote international cooperation and whereas the Lisbon European Council of June 1992 affirmed the importance of political and economic stability in regions of the world,
- P. whereas contributing to the development of local economies is not a fundamental objective of current fisheries agreements with developing countries, a task which is catered for by other Community financial mechanisms within the framework of development policy,
- Q. whereas development policy for its part should focus mainly on aspects of overall development, which means that the important role played by fisheries policy in the sectoral development of many third countries must be recognized,
- R. whereas in the Exclusive Economic Zones (EEZs) of countries in which large-scale fishing is carried out without adequate monitoring and control provisions, the greatest danger is that certain stock levels will be reduced to non-sustainable levels,
- S. whereas it is vital for countries with which the EU has fisheries agreements to demand that both the Union and third countries take steps to conserve resources in their exclusive economic zones,
- T. whereas, with regard to EU fleets, in addition to the control measures laid down on an ad hoc basis in the fisheries agreements, Member States are required to comply with the provisions of Regulation 2847/93 establishing a system of controls for the common fisheries policy which apply to vessels flying the Community flag operating in waters under the sovereignty and jurisdiction of third countries,
- U. whereas the Community budget allocates ECU 280 million solely to the funding of fishing rights, which is equivalent to 0.31% of the Community budget and 29.99% of total Community resources for the fisheries sector,
- V. whereas the Community fleet has been significantly reduced in the past decade,
- W. whereas the item in the common fisheries policy budget earmarked for international fisheries agreements fell from ECU 278.5 m in 1996 to ECU 273.3 m in 1997 and whereas

there has been no increase in the allocation for 1998; whereas, similarly, although the Community budget is growing, the common fisheries policy budget has remained virtually unchanged, with the result that its financial weight within the Community budget is declining,

- X. whereas the European Union imports a large quantity of fishery products from third countries to supply its markets and whereas the catches made by the Community fleets are much lower than EU consumption,
- Y. whereas, although they are an important aspect of the common policy and should be fully funded from the Community budget, on average one third of the total cost of agreements concerning 'access to resources in exchange for financial compensation' is met by shipowners, something which does not occur under other agreements, such as those with Greenland or Norway, where no costs have to be borne by shipowners,
- Z. whereas cooperation in developing the fisheries sector of third countries is not incompatible with Community fisheries activity in the waters of those countries, since the Community fleet is only allowed to fish established surplus stocks and, on the contrary, Community fisheries activities give a clear boost to sectors and infrastructures related to fisheries in these countries, with the result that, as these countries increasingly develop their fisheries sectors, the opportunities for the Community fleet to fish surplus stocks decrease, as the case of Morocco clearly shows,
- ZA. whereas fishing activities in third states' EEZs are a vital option for solving the problem of Community supply and will also help alleviate the over-capacity of the Community fishing fleet in Community waters,
- ZB. whereas, however, over-exploitation in the EEZs of third countries is due to some extent to the activities of non-Community fleets; whereas more and better information should be provided about their fishing effort and the steps taken to supervise the types of fishing which they carry out; whereas these matters should accordingly be discussed in such international bodies as might be called upon to act, in order to intensify multilateral contacts with all the parties concerned,
- ZC. whereas access to fish stocks in third countries' waters can only be obtained for limited periods and the possibility of renewing agreements on access will always remain heavily dependent on political, economic and biological developments,
- ZD. whereas, despite the difficulties involved in the conclusion and renewal of agreements with third countries, such agreements are of fundamental economic importance in maintaining employment in the outermost fishing regions of the European Union covered by Objective 1, where no employment alternatives to fishing are available,
- ZE. whereas these supplies are of vital importance for the European processing industry, which is increasingly dependent on raw material from this source, since production from Community waters is insufficient,
- ZF. whereas international fisheries agreements are drawn up in negotiations between officials of the Union and the third countries without any preliminary discussion with Parliament of the objectives and aims of these agreements,

- ZG. whereas Parliament is always consulted too late, under time pressure and without the necessary information for assessing an agreement and whereas a proper regime for follow-up of the agreements would improve transparency and democracy and also promote sound management and efficiency,
- ZH. whereas there are various types of international fishery agreements to which the EU is currently a party and whereas this variety is a product both of the different needs of the Community fleets and industries and the different economic, social and political characteristics of the third countries concerned, as well as the biological diversity of their waters, the varying degrees of development of the countries, the difference in their interests as regards the compensation the EU may offer and, in some cases, their ability properly to absorb and manage the compensation which is invariably a part of some of these agreements,
- ZI. whereas it is in the best interest of the EU to promote fair and mutually beneficial fisheries agreements,
- ZJ. whereas international and multilateral agreements are an important component of the common fisheries policy,
1. Points to the socio-economic importance of the fisheries sector in the EU and insists, therefore, that the ability of Community fishermen to obtain access to stocks must be maintained, strengthened, and diversified, since this is essential in order to help remedy the trade deficit and protect direct and indirect employment in fisheries and the related industries;
 2. Affirms that the EU must balance its own immediate interests and the future survival of its fleet while acknowledging that long-term sustainability is essential, both for the EU and third country coastal states,
 3. Supports the Community's fishing fleet and demands that it maintain its activity and employment both at sea and ashore, and stresses that international fisheries agreements are vital for that purpose;
 4. Welcomes the Commission Communication 'Fisheries Agreements, Current Situation and Perspectives' as a positive beginning to reviewing its approach and urges the Commission to formulate proposals for the Community's fisheries agreements,
 5. Emphasizes, however, that fisheries agreements must fully conform to the Community's international obligations and overarching objectives and reflect the enlightened self-interest of the Community as a whole;
 6. Believes that the influence of the EU as a major player on the global fishing scene can be put to positive use to influence the development of world fisheries;
 7. Urges the Commission to initiate talks with other nations with large distant-water fleets to ensure that all nations negotiating fisheries agreements with developing countries respect obligations committed to in multilateral agreements;

8. Believes that the Community should set examples of sound principles and good practices which would serve to promote the Community's international standing and become valuable assets in the pursuit of rational use of the world's living marine resources, as well as in conflict prevention;
9. Asks the Commission and the Member States to bear in mind their undertaking, as parties to the FAO Code of Conduct for responsible fisheries, to collaborate with all other relevant actors in the fulfilment and implementation of the objectives and principles contained in that Code,
10. Believes that while access to third countries' EEZs remains difficult, access arrangements could be extended in the short term by negotiating second- and so-called third-generation types of agreements and calls on the Commission to explore the options for these types of agreements to replace the financial compensation agreements, when such a replacement is possible;
11. Believes that, given the scale of competing circumstances and without prejudice to the EU's undertaking to cooperate in the development of third countries, it is necessary to maintain a wide range of agreements to enable the genuine potential of both parties to be fruitfully and progressively exploited;
12. Points out that it is the coastal states which have full responsibility for determining catch capacity in their waters, and that as a result the Community fleet only has access to surplus resources in all cases;
13. Stresses in this connection that most ACP countries with which the Community has fisheries agreements do not have industrial fleets, with the result that the Community fleet catches perishable resources which would otherwise remain unfished, be caught illegally by other fleets or, at best, ceded to countries whose fisheries legislation as regards the control, management and conservation of resources may fall well short of the standards that the Community's regulations require of its fishermen and whose commitment to assisting development may be non-existent, which would not benefit the ACP or other developing countries in the slightest;
14. Underlines that as the Community reduces the over-capacity in its fishing fleet, in the areas where it still has not done so, it must simultaneously further strengthen its regional aid to especially affected regions and direct its measures to the promotion of lasting conditions for economic well-being;
15. Considers also that the social and economic interests of vessel owners and fishermen should be properly safeguarded in the event of unforeseen infringements of existing agreements;

PRINCIPLES

16. Calls on the Commission to draw up a proposal for a regulation providing a framework for the Community's international fisheries agreements, laying down the principles of:
 - (i) sustainable use of the living marine resources and the prevention of depletion of target and non-target species and damage to the marine habitat,

- (ii) ensuring access to resources for the Community fleet,
 - (iii) cooperation between all relevant actors on, inter alia, stock assessment; scientific research; conservation measures; monitoring and control; cohabitation between industrial and artisanal fisheries; creation and functioning of regional measures;
 - (iv) full coherence between the fisheries agreements and Union policy in other sectors, not least as regards the impact on employment in areas dependent on fisheries;
17. Notes Article 130r of the EC Treaty, Article 7.5 of the FAO Code of Conduct for Responsible Fisheries and Article 6 of the UN Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks and calls on the Commission to take account of these principles when negotiating international fisheries agreements;
 18. Calls on the Commission to take note of the effects of international fisheries agreements on compliance with Articles 130a and 130b of the Treaty on European Union;
 19. Believes that greater importance should be placed on technical aspects of conservation in agreements with third countries and calls on the Commission to take account of them in negotiating all fisheries agreements and to advocate their explicit recognition;
 20. Calls on the Commission to pursue a policy of regular information, monitoring and control with regard to agreements with third countries and to take steps to improve them by providing the possibility, where circumstances so permit, for extending to other agreements the procedures laid down for countries such as Morocco and Mauritania;
 21. Points out that, although Community development policy is on the way to achieving its objectives, the Community should ensure, when negotiating fisheries agreements, that it complies strictly with the principles laid down in the Treaties, the UNCLOS declaration, the FAO Code of Conduct for Responsible Fisheries, and, where appropriate, in the Lomé Convention and the UN Agreement on Straddling Fish Stocks and Highly Migratory Fish Stocks;
 22. Stresses that, although the main objectives of Community policy on fisheries agreements concern supplying raw materials to the Community industry by means of trade agreements, some aspects of these agreements help to promote development, while fisheries agreements are the EU's main way of contributing to the development of fisheries sectors in third countries;
 23. Calls on the Commission to develop an integrated strategy in the Community's relations with developing countries in the fisheries field;

GUIDELINES

24. Calls on the Commission to draw up a set of guidelines to enable a uniform procedure when evaluating the implementation of expiring protocols on fishing opportunities or preparing for negotiations on new protocols or agreements. The guidelines should include:

- (i) acquisition of the fullest possible information on the status of stocks before an agreement is signed and, as far as possible, a regular evaluation of stock levels while the agreement is in force,
 - (ii) evaluation of resources for scientific research, monitoring and control and training available in the third country and assessment of its needs for assistance,
 - (iii) consultation of representatives of local fishing communities and consideration of their legitimate interests,
 - (iv) coordination with other Community activities influencing the fishing industry in the area concerned;
 - (v) a cost-benefit analysis of the agreement including not just financial, but all criteria,
 - (vi) inclusion, where relevant, of provisions which are designed to ensure that local landing of fishery products does not undermine the functioning of local fish markets but contributes in a positive way to local economic development,
 - (vii) a mechanism for the third country to report back to the EU the results on the research, education and training programmes funded by the Community,
 - (viii) attainment of profitability for the Community fleet, as far as possible, and provision of sufficient supplies of the appropriate quality for the Community market which is in deficit,
25. Draws attention to the importance of the correct implementation of the joint statement by the three institutions, Parliament, Council and Commission, on improving the provision of information to the budgetary authority on fisheries agreements, signed on 12 December 1996 and attached to the EP resolution of the same date on the second reading of the 1997 budget();
26. Reaffirms that in that statement the three institutions recognize the criteria set out by Parliament on entering, where necessary, the appropriations relating to international fisheries agreements (B7-800) in the reserve (B0-40), and that the agreement makes it possible to avoid systematic recourse by the Council and the Commission to the practice of provisionally implementing fisheries agreements and their financial protocols;
27. Confirms its criteria for defining the concept of 'important budgetary implications' within the meaning of Article 228(3), second paragraph of the Treaty in the expectation that the outcome of the IGC will ensure that Parliament will in future be consulted on all fisheries agreements and their financial protocols under the assent procedure;
28. Insists that Article B7-800 of the budget must also cover non-compulsory expenditure by virtue of the margin of discretion left to the Commission on the management of such expenditure and of the financial character of certain of the protocols annexed to fisheries agreements;
29. Points out that it will be for the Budgetary Authority to decide under the annual budget procedure and in accordance with the financial perspectives in force (98/99) on the

⁽⁵⁾Minutes of the sitting of 12 December 1996 (PE 254.450).

budgetary allocation for international fisheries agreements. Points out that, consequently, any multiannual financial statement can constitute no more than an estimate of expenditure and that no payment or commitment can be entered into on the basis thereof;

ROLE OF PARLIAMENT

30. Requests the Commission to supply Parliament's Committee on Fisheries, as a matter of routine, in a timely manner, with reports on the degree of implementation and functioning of the various agreements so as to respect the Commission's accountability to Parliament and guarantee a high quality for the basis of Parliament's opinions;
31. Calls for international fisheries agreements to be concluded under Parliament's assent procedure;
32. Urges the Commission to consult Parliament on the negotiating mandate which the Council gives to the Commission;
33. Instructs its President to forward this resolution to the Council and Commission, the Co-Presidents of the ACP-EU Joint Assembly, the governments of all the states with which the EU has concluded fisheries agreements, the parliaments and governments of Member States and national fisheries organizations of the Member States.

B **EXPLANATORY STATEMENT**

THE GLOBAL CONTEXT

The global outlook for world fisheries is not positive. Stocks are being depleted⁵ while fishing capacity is increasing⁶. This is coupled with a rising demand for fish in both developed and developing countries. The United Nation's Food and Agriculture Organization (FAO) forecasts that at constant prices, world demand for fish for human consumption will in the year 2010 have increased to 110-120 million tonnes, while supply will be only 70-110 million tonnes⁷. The EU is therefore in a competition for this dwindling resource. The effects of this increasing competition are rising prices on the world markets, a rise in tensions and the increasing risk of conflicts.

This situation has stimulated regulatory efforts at the international level. The international legal framework for fisheries was strengthened by the entry into force of the UN Convention of the Law of the Sea (UNCLOS) in 1994. An agreement on straddling stocks⁸, as well as a Code of Conduct for Responsible Fisheries⁹, were adopted in 1995. Regional organisations have been created to try and regulate the management and conservation of marine resources in the high seas outside the control of coastal states.

Bearing these factors in mind, the EU needs to balance its own immediate interests and the future survival of its fleet while, at the same time, acknowledging that sustainability is in everyone's long term interests. Finally the EU must take into consideration the legitimate interests of other coastal states.

EU AGREEMENTS

Community fisheries agreements with third countries can be divided into the following broad categories:

- a) Reciprocal agreements involving exchanges of fishing rights (eg. Norway, Faroes);

⁵ In 1993, at the 20th session of the FAO Committee on Fisheries, it was reported that 69 percent of the world's marine stocks were fully to heavily exploited, overexploited, depleted or slowly recovering.

⁶ FAO: *The State of World Fisheries and Aquaculture, 1995*, Rome.

⁷ *Safeguarding Future Fish Supplies: Key Policy Issues and Measures*. Document prepared by the Fisheries Department of the FAO for the International Conference on Sustainable Contribution of Fisheries to Food Security in Japan on December 4-9, 1995.

⁸ *Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea (UNCLOS) relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks*, adopted by the UN Conference on Straddling Fish Stocks, August 1995.

⁹ *Code of conduct for responsible fisheries*, adopted by the Conference of FAO at its 28th session, November 1995.

- b) Access to surplus stocks with fleet owner paying fees (Canada);
- c) Access in exchange for compensation and market access (Greenland);
- d) Access to surplus fish stocks in third country waters in return for financial compensation (most often signed with developing countries);
- e) Second generation agreements involving access to waters based on creation of joint enterprises and ventures (Argentina).

There are now 26 fisheries agreements and negotiating mandates have been issued for a number of others¹⁰.

THE IMPORTANCE OF FISHERIES AGREEMENTS TO THE EU

There is no doubt that EU fisheries agreements with third countries are today a significant part of the Common Fisheries Policy.

The general extension of coastal states' fishing zones to 200 miles during the 1970s led to 95% of fish stocks and 35% of ocean being under the jurisdiction of coastal states. Traditional fishing grounds were lost and gave rise to the need for Community agreements with third countries to ensure the continued survival of the Community's distant water fleets, to maintain the Community's share of world catches and to ensure the continuity of fish supply to EU markets. Many of these agreements are based on historical rights and new bilateral agreements are negotiated at a community level when new member states join the EU.

Furthermore, fishing resources in EU waters are currently being overexploited, with an estimated need for a 40% reduction in fish mortality. The pressure needs to be taken off stocks. Apart from the risk to the sustainability of stocks and the economic security of the industry, politically a solution is required to prevent tensions rising between the fishing fleets of the Member States as they compete for the available resources. One of the methods used to alleviate these pressures is to secure new opportunities outside EU waters.

The cost of the international agreements is increasing and now amounts to nearly 300 million ecu annually. That is somewhat less than 30% of the budget for the Common Fisheries Policy (CFP). The agreements provide fishing opportunities for some 1,300 vessels.

Only 45% of fish consumed in the EU is fished in EU waters; the remainder comes from international waters, is imported or comes from agreements with third countries. According to Commission figures, the benefits to the consumer are not great considering their cost, with only around 20% of fish consumed emanating from agreements. If the present trend of increasing imports continues, due to factors including the increase in concessions under trade agreements, then this figure will fall even more.

Fisheries agreements also help to ensure that fish supplies reach EU markets. Eventually, developments in the developing countries could, however, well mean that imports replace fish from agreements.

¹⁰ For an outline and scope of each agreement, see the European Commission document produced for the European Parliament Fisheries Agreements Seminar in Quimper in May 1996.

Socio-economic factors are a major aspect that are taken into account when considering agreements. According to Commission estimates, 20,000 workers on vessels (8,000 - 10,000 of these in Moroccan waters) and a further 20,000 workers in the transformation sector depend on the continuation of agreements. Politically this is a significant number when it is considered that many of these jobs fall in fisheries dependent areas of the Union.

Agreements are advantageous to the EU as it seeks to reduce the number of vessels registered in EU waters and thus reduce the EU fleet capacity. As joint enterprises are entered into, the EU vessel is removed from the EU register.

THE IMPORTANCE OF FISHERIES AGREEMENTS TO THIRD COUNTRY

The benefits to the third country depend of course on the country concerned. Developed countries with established modern fishing industries of their own can gain greatly from reciprocal access agreements. Negotiations take place between two equal parties with similar aims. They usually have adequate resources, a comprehensive fisheries management programme, knowledge of large scale fishing to enable them to work out and negotiate an agreement that is advantageous to them.

Countries with reciprocal agreements often have the same aims as for EU states, ensuring the supply of fish to their markets throughout the year etc. Other major fish producing countries need agreements to ensure access to the EU markets.

Under the second generation type of agreement, such as has been concluded with Argentina and are under discussion with a number of other countries, the third country sees the further development of the fisheries sector as the major advantage of such an agreement. This can be achieved through modernisation of the fleet through the use of EU vessels; an increase in employment; an increase in revenues to fishing regions and a transfer of technology.

Under the financial compensation agreements often concluded with developing countries, the main benefit to the third country is undoubtedly financial gain, which it is free to use in whatever way it chooses.

The agreements may contain other provisions for funding for scientific programmes; study awards; local landing provisions; employment of local crew and minor monitoring provisions such as reporting specifications, mesh size regulations and the carrying of scientific observers. But compensation for fishing rights is by far the largest proportion of the money. This of course is no negligible resource for a number of countries who need to increase their foreign currency revenue.

It must also be remembered that very often fisheries agreements are considered as one of a package of agreements concluded with the European Union. Links with other existing or conceivable agreements in areas other than fisheries may influence the negotiations of fisheries agreements and the third countries' willingness to accept proposals made by the EC.

CONCERNS FOR THE EU

Considering that the cost of agreements to the EU is rising and its market share is falling, the status quo cannot be maintained and policy needs to be reviewed with a degree of urgency.

While some agreements can be seen as more or less permanent (e.g. Norway) and mutually beneficial in the long term, others should be looked on as temporary. The EU will soon have to accept that the increase in the number of agreements and continuation of certain others are not going to last. Morocco has already stated its desire to end agreements and develop its own fishing resources and Mauritania has hinted the same. How many other countries will soon begin to wish exploiting their own resources? The EU cannot continue indefinitely to sign agreements with new countries.

In the case where fisheries agreements are designed to reduce pressure on stocks in EU waters, this must be viewed as a short term solution to the structural overcapacity crisis that needs solving. The overcapacity of the EU cannot be exported indefinitely; it has, at some point, to be tackled in Europe. This factor is also potentially politically detrimental to the EU as it is leading to suggestions that the EU is not only exporting its physical problems but it is also exporting examples of bad fisheries management.

This does not mean that there should be no fisheries agreements, but it must be stressed that consideration should be given to whether the EU is spending its resources in the most valuable way to ensure the future of a sustainable industry, both in the EU and worldwide. Could the money spent on an agreement be better used to help those areas dependent on fishing to restructure and prepare for a future when more and more processed fish is imported from third countries that have developed their own industries. Put another way, although the Commission may be under pressure from Member States to find short terms solutions for the overcapacity, it needs nevertheless to very carefully consider and clarify the aims and objectives and weigh the pros and cons of an agreement before approaching a third country with a negotiating proposal.

CONCERNS FOR DEVELOPING COUNTRIES

Many developing countries do not fish the whole stock in their Economic Exclusion Zone (EEZ). Under the UNCLOS, all parties have an obligation to allow access to the surplus of the allowable catch. Fourteen fisheries agreements have been concluded with ACP states and negotiating mandates have been given for a number of others. But developing countries have particular problems when it comes to fisheries agreements and vigilance is needed to ensure that the third country is not pressured, through its obligation under the UNCLOS by the EU, into an agreement which may not be best suited to both its immediate and long term requirements.

Management of waters

UNCLOS obliges coastal states to ascertain their levels of surplus stocks and manage sea resources within its EEZ. It is a difficult exercise for the EU itself to accurately assess its own stocks. For developing countries, denied the sophisticated technology available to the North, it is, of course, even harder.

In view of this, criticisms have been levelled at the Commission for negotiating for the highest possible catch possibilities, rather than erring on the side of caution. This has given rise to the claim that the Commission is acting in the short term in order to maximise short term catches to the detriment of its own and the third country's future fishing possibilities in those waters.

Monitoring and control of agreement provisions

Agreements the EU have signed with Northern countries such as Norway often have strict monitoring and control provisions, with severe penalties for non-compliance.

The most significant missing factor from the agreements with less developed states is a serious provision for monitoring and control. Discussions with government representatives during the preparation of this report reveal a number of cases where it is clear that the governments believe that the agreement provisions are being disregarded in a significant number of cases. This mainly concerns the level of catches, illegal gear etc. but there are many reports of disregard for the employment of local crews, landing of catches and the taking on of observers.

The third country often does not have the resources to develop the sophisticated level of monitoring required to deal with the scope of the agreement provisions.

At the present time their most effective means to deal with this problem is, during negotiations for the following agreement, to demand a reduction in the catch possibilities, while increasing the financial compensation required. With the already high costs of agreements, such a situation is not possible to sustain.

The Commission response that involving itself in monitoring would be interference in the internal affairs of a sovereign state may seem on the surface true. It does not, however, take into account those cases where the third country does request financial and/or structural assistance from the EU in the formulation of monitoring and control policies. The Commission attitude gives the impression that it is avoiding its responsibilities in order to maximise catches, though it is difficult to see what the Commission would possibly have to benefit from adopting this strategy.

The local economy, development policy and food supplies

One EU policy should not run counter to another and certain fisheries agreements do have aspects that are undermining development policy. EU development cooperation policy includes aspects such as the sustainable and economic development of developing countries, the integration of developing countries into the global economy and the promotion of good governance.

Article 130v of the EC Treaty commits the EU to take account of the objective of development cooperation policy "in the policies that it implements which are likely to affect developing countries".

Large scale fishing with inadequate monitoring and control provisions are in some countries reducing stock levels to non sustainable levels. Where there is a artisanal fishing industry, this stock reduction threatens the livelihood of these local workers. It further deprives the local population of a vital food source at a time when the pressure on food supplies in the South is growing.

Where a government is looking to the long term to build the local fishing industry, reduced stock levels may diminish the incentive to invest in the development of the fishing sector as the sustainability of the stock into the future is not certain.

The Commission says that these agreements are not detrimental to development cooperation policy as only the surplus stock is fished, but the uncertainty surrounding this assertion has already been pointed out above.

With regard to good governance, while funding under development policy is subject to reporting, no such requirement is requested for financial compensation transfers for fisheries agreements and this is a gap in the supposed transparency in the use of EU funds.

Common Foreign and Security Policy and Coherence

When giving consideration to coherence between the CFP and other EU policies, it would be rare to look at the CFSP. However, the CFSP is the EU's foreign relations flagship, and other policies should not be pursued if they conflict with the aims and objectives of CFSP. Among the aims of the CFSP, as defined in Article J.1 of the Treaty on European Union, are the preservation of peace and international security and the promotion of international cooperation. The Lisbon Declaration of the European Council in 1992 expanded on this. It declared that one of the factors determining priorities for the CFSP is an important interest in the political and economic stability of a region or country. Such areas include North and West Africa, the Mediterranean, the Baltic Sea region and North America.

Another CFSP policy priority is accorded to regional stability using economic means. The Lisbon Declaration states that "promoting regional political stability and contributing to the creation of cooperation and/or economic frameworks that encourage regional cooperation ..." are global aims of the CFSP. It further lists "economic aspects of security .." as a possible area for future joint actions.

It is clear that fisheries agreements with the coastal states of West Africa, which in the short term exchange large foreign currency payments for access to fish stocks, while doing little to develop the indigenous fishing industry do not contribute to development of the local or regional economy. This undermining of the basis of economies of this region could contribute to economic instability, thereby undermining regional stability and enhancing the likelihood of resource conflicts and migration. The CFSP, as well as EU development policies, are aimed precisely at preventing such instability.

Trade or development agreements

The Commission maintains that fisheries agreements are purely mutually beneficial trade agreements with a third country. This may certainly be clear in the case of purely reciprocal agreements. But it is difficult to accept that fisheries agreements based on financial compensation payments can be classed as solely trade agreements. It is the EU that pays for the vast majority of access costs, with the shipowners paying a small percentage in the form of licence. This constitutes a subsidy to the long distance fishing fleet.

The Court of Auditors found in their 1993 report that they were unable to state in most of the cases studied that the value of the catches to the EU was greater than the cost of the agreement.

With regard to second generation agreements, the Commission acknowledges that a development aspect is an important part of the package.

CONCERNS OF OTHER THIRD COUNTRIES

Apart from financial compensation agreements with developing countries, other agreements need to be considered too, in particular the second generation type of agreement. The first agreement of this type was signed with Argentina and is being held up as a model for future types of agreements. These agreements aim to integrate more closely the fisheries sectors of the Community and the third countries concerned.

There are, however, some dangers with second generation agreements that need to be raised. Their success depends in large part on the framework in which an agreement is operating. The third country needs a solid national fisheries management policy in order to benefit to the full from an agreement with the EU. Many countries are aware of this and see it as a vital prerequisite before committing themselves to signing an agreement.

Sound policy and planning is needed to avoid excessive reliance on foreign investment and expertise leading to foreign domination of the fishing sector, rather than using the agreements as a means for technology transfers conducive to development of the local industry.

THE ROLE OF THE EUROPEAN PARLIAMENT

International fisheries agreements are drawn up without any discussion with the European Parliament of the objectives and aims of these agreements. This should be a vital part of the process of preparing an agreement.

Parliament is consulted after the crucial decisions have been made, after the agreement has been initialed and often after the first payment has been transferred, pursuant to the conclusion of a supplementary agreement between the parties on provisional application of the basic agreement. This relegates the Parliament's role to one of "rubber stamping". The EP has pointed this out in many resolutions and called for this unacceptable situation to be remedied. This lack of democratic accountability, particularly in an area where a large part of the CFP budget is concerned, is to be regretted and should be remedied immediately.

The European Parliament should be consulted on the negotiating mandate which the Council gives to the Commission. The EP could then scrutinize the objectives and aims of the proposed agreements.

Concerning the procedure for Parliament scrutiny of the completed agreement, the assent procedure should be applied to all fisheries agreements.

The European Parliament should receive annual reports on the impact of fisheries agreements on resources and the fishing industry of the third country and on the use to which the financial compensation and grants have been put.

THE WAY FORWARD

The Community urgently needs to formulate a long term strategy to respond to the problems and challenges it faces in the area of fisheries agreements. Its current responses are short sighted and respond principally to the short and medium term needs of its own distant water fishing fleet, its processing industries and markets. Before approaching a third country with a proposal, serious consideration must be given to the aims and objectives of an agreement and if, in the long term, another approach may not be better.

With regard to developing countries, Commissioner Bonino recently stated that she shares "the position of those who say the first generation accords simply wiped out fish, as has happened in Senegal and Guinea, because there is generally no control".

The Commission has acknowledged that there are problems with the financial compensation type of agreements and changes need to be made. The Commission should therefore also acknowledge that fisheries agreements with developing countries are and should be considered more than trade agreements.

The ACP states have outlined the direction in which they would like agreements to develop, in the resolution on fisheries in the context of ACP-EEC cooperation (adopted 7/10/1993).

The EU has to accept that development of local fishing industries would mean that the surplus fished by the EU now would be reduced in the long term, as the local industry developed. This may be difficult for the EU to accept as it would mean their own fishing possibilities would suffer. But this is the only viable strategy if agreements are to have positive benefits for the third country. Agreements with developing countries cannot and should not be seen as a long term situation. This flow of food from the South to the North must be reduced.

To achieve this, financing for development aspects of a fisheries agreement should be well targeted. Training and research should have the aim of assisting the country to develop its own national policy for fisheries development if a country seeks to do so. This is in line with Article 5.2 of the FAO Code of Conduct which calls for assistance for developing countries.

The EU should study the idea of developing joint financing of agreements through the parallel deployment of financial compensation and EU development assistance in order to do this.

Principles

The following principles are the minimum requirements to be applied to all fisheries agreements with third countries. They should be inscribed in a new basic regulation.

- Sustainability. Fisheries agreements may not cause or contribute to the depletion of stocks or cause damage to or destruction of ecosystems.
- Cooperation. Through its agreements the EU should contribute to the establishment of effective bilateral and multilateral cooperation in the fields of assessment of stocks, other scientific research and to the adoption of appropriate conservation measures.
- Coherence. Fisheries agreements must be fully coherent with other EU policies.

Guidelines

Fisheries agreements are not all identical and the specificities and requirements of each third country need to be taken into consideration. Nonetheless, it is possible to draw up a series of guidelines, which have to be seriously taken into consideration when negotiating an agreement.

- Stock assessment. All fisheries agreements must be based on an assessment of the stocks to be fished, carried out by scientists possessing the necessary competence and having access to the equipment required. When a third state concerned lacks resources for carrying out this task in a scientifically satisfactory way, the EU shall take full responsibility for the assessment. Meanwhile, it shall seek to establish cooperation with the third state concerned, with the aim of building up its scientific capacity. For the purpose of ensuring the quality of all assessments of stocks in connection with fisheries agreements, the Community shall set up a counselling and monitoring committee of scientists. Even with this knowledge the EU must adopt a precautionary approach when looking at TACs and the domestic fishing industry.

- Prevention of depletion. The EU should accept inclusion in agreements of provisions intended to prevent depletion of fish stocks from occurring during the period of validity of the agreement. Such provisions could inter alia concern biological rest periods.

- Monitoring and control. Effective provisions should be provided in each agreement to ensure that the provisions set out in the agreement are adhered to. The Community should provide assistance, when requested, to the third country to enable it to adequately monitor the agreement. This could include financial assistance, assistance with training of monitors etc. Regional cooperation for monitoring and control methods should be encouraged.

- Where applicable, the coastal artisanal fishing fleet should be protected by the inclusion of a minimum 12 mile exclusion zone in agreements.

- The importance of training, technical and scientific cooperation provisions should be recognised and be more carefully targeted to assure the development of the local industry.

- The use of financial compensation payments is subject to an independent audit in order to promote good governance in developing countries and to increase transparency.

- The third country should consult the local fishing sector about the consequences of a proposed agreement.

- DG XIV should formally consult DG VIII and DG1A before an agreement is signed.

- The EU should play an active and positive role in the regional management organisation and assist developing states to cooperate fully. Where one does not exist, the EU should be at the forefront to push for the creation of one.

The EU, as a major world fishing power, has a responsibility to fulfil all its obligations under International Conventions and the FAO Code of Conduct.

One point remains to be made before the concluding remarks. Physical measures are set out above, but a major positive change would be in the atmosphere in which agreements are negotiated and signed. The EU has a reputation of being a tough negotiator. This must be coupled with

carrying out negotiations in a spirit of cooperation to work together for the benefit of both parties. No party should dominate the other during negotiations. The benefit for the third country should not depend on how efficient it is at negotiating, its resources or stage of economic and political development.

CONCLUSION

It is a challenge for the EU to ensure that the EU fishing industry remains economically viable, while at the same time ensuring that agreements with third countries are not likely to become detrimental to that country and, in the case of ACP states, to assisting in the development of the fisheries sector.

If the European Commission considers fisheries agreements to be mutually beneficial contractual arrangements between the EU and third countries, the EU needs to develop the agreements to make them this in practice.

It is in the best interest of the EU to promote fair and mutually beneficial fisheries agreements. From an EU point of view, the third country would be a more willing partner in the discussions if it did not feel it had to protect itself and could gain both financially and in other ways from an agreement. If an agreement provided financial compensation, sustain stocks through effective assessment, monitoring and control, fund research projects or develop a national fishing industry, then the tensions that surround some agreements to date may well be avoided. The state would then welcome the EU to fish in its waters for a reasonable amount of compensation for a longer period of time. During this period the EU would have some time to consider how to come to terms with the issue of overcapacity in the EU fleet, how to increase fish stocks in its own waters and how to manage its distant water fleet in a globally sustainable manner.

5 March 1996

B4-0126/96

MOTION FOR A RESOLUTION

pursuant to Rule 45 of the Rules of Procedure

by Mr Fernández Albor

on new ways of facilitating access by Community fishing fleets to third countries' fishery resources

The European Parliament,

- A. whereas it is becoming increasingly difficult to renew fishery agreements with countries with whom the EU has traditionally concluded such agreements,
- B. whereas innovative solutions must be found to enable thousands of Community fishermen, who have no other means of subsistence, to pursue their livelihood,
- C. whereas there is thus a need to seek innovative solutions to facilitate access by Community fishermen to the fish resources of third countries,
- D. whereas the Commission should help to find possible negotiating partners in third countries so that Community fishermen may have access to these countries' fish resources, outside the existing fishery agreements,
 - 1. Calls for new measures to be taken to facilitate access by Community fishermen to the fish resources of third countries, outside the existing fishery agreements;
 - 2. Calls for serious thought to be given, in 'second generation' agreements, to facilitating closer cooperation with third country negotiating partners;
 - 3. Recommends that the various Community bodies concerned assess the cost of this initiative in terms of staff and budget.

12 March 1997

OPINION

(Rule 147)

for the Committee on Fisheries

International Fisheries Agreements:

Rapporteur: Mr Crampton

Committee on Budgets

Draftswoman: Mrs Karin Jöns

PROCEDURE

At its meeting of 26 February 1997 the Committee on Budgets appointed Mrs Karin Jöns as draftswoman.

It considered the draft opinion at its meetings of 19 and 20 March 1997.

At the last meeting it adopted the following conclusions unopposed with 1 abstention.

The following were present for the vote: Samland, chairman; Jöns, draftswoman; Cardona (for Di Prima), Colom I Naval, Dell'Alba, Desama (for Bösch), Elles, Fabra, Valles, Fabre-Aubrespy, Florio (for Giansily), Garriga Polledo, Haug, Imaz, San Miguel, McMartin, Mulder (for Brinkhorst), Müller, Pasty, Pronk (for Bardong), Seppänen, Tomlinson, Virrankoski, Waidelich, Wemheuer (for Ghilardotti) and Wynn.

THE MAIN PROBLEMS WITH BUDGETARY IMPACT IDENTIFIED SINCE 1994

The lack of transparency in budgetizing expenditure:

1. The Committee on Budgets has insisted upon the need to split the former Article B7-800. This insistence has been based upon the need to separate the expenditure linked to contributions to international organizations from that relating to the annual financial compensation paid by the EU for international fisheries agreements. In addition, the remarks presented in the 1994 budget concerning this article needed to be clarified. Some steps have been made by the Council and the Commission on this area, the Council having accepted to split this article as proposed by EP (97 budget). However, some improvement still remains necessary in what concerns the remarks of the new items (B7-8000 and B7-8001).
2. In Annexes I and II.A and B some elements referring to the agreements covered by Article B7-800 are presented along with the corresponding evolution of the financial allocation and its implementation.

Criteria for entering the amounts on the line B7-800 and in the reserve (B0-40):

3. The Commission tended to propose and the Council to accept that anticipated appropriations for new or renewable agreements and protocols were entered on the line even prior to the corresponding Regulation being adopted and negotiations closed. Only those amounts relating to the possible reinforcement of some agreements due to the implementation of joint actions (e.g. Argentina) were entered in the reserve (B0-40), along with the amounts referring to agreements and protocols where negotiations were due to commence in the following year.
4. Since the beginning of this parliamentary term, the Committee on Budgets has insisted on the fact that during the budget procedure the budgetary authority should only enter amounts in Article B7-800 which refer to agreements and protocols which were known to be in force at the beginning of the year (those where the corresponding Regulation had already been adopted).
5. In those cases where a Regulation is due to be adopted during the subsequent year (but has not yet been adopted at the moment of signing the budget), the amounts relating there to should be entered in the reserve (B0-40). This approach is in line with the EP's strategy on the "legal basis" and corresponds to the budgetary and financial principles of the Financial Regulation. It reflects a more rigorous criterion for budgetizing the expenditure for fisheries agreements, thereby avoiding the automatic creation of "artificial" safety nets should the Commission exceed its mandate when negotiating.

The practice of provisional implementation of an agreement or protocol :

6. During the consultation on the renewal of the Financial Protocol attached to the Senegal Agreement, the Committee on Budgets requested the Legal Affairs Committee to examine the possibility of lodging a complaint before the Court of Justice regarding this practice. The Committee on Legal Affairs advised the Committee on Budgets to continue with its strategy of systematic protest.

7. Since the beginning of this parliamentary term, the Committee on Budgets has initiated a practice of systematic protest against the Council's practice of routinely taking decisions (without consulting the EP) sanctioning provisional implementation of fisheries agreements and protocols. The Council has done this before the corresponding Regulation has been adopted, and sometimes before the Parliament has adopted its opinion.
8. The Committee on Budgets renewed its request to the Legal Affairs Committee during the consultation on the new Morocco Agreement (after having protested on four other consultations). Although, the Legal Affairs Committee did not take any specific decision on this request, it did take account of the opinion given by the Legal Service(), namely:

'... while the possibility of the provisional application of international agreements is accepted in international law, we must note that the EC Treaty has no provisions governing the internal Community procedure to be followed in that case. The issue of ascertaining how Parliament should be involved in the Council decision to apply an international agreement on a provisional basis therefore requires clarification, either by an interinstitutional agreement or, possibly, by way of jurisprudence'.
9. On the basis of this opinion, the Committee on Budgets decided to continue its systematic protest against this practice and tried to put an end to it by way of the "code of conduct" proposed during the negotiations on the 1997 budgetary procedure. Unfortunately, it was not possible to obtain a specific commitment from the Council and the Commission restricting the use of such a practice. However, as mentioned above (paragraphs n° 23 and 24) point 3 paragraph 2 of the code of conduct, can be seen as a first step in avoiding it.
10. After adopting its opinion on the Mauritania Agreement (PE 219.072), the Committee on Budgets decided to invite the Committee on Legal Affairs to analyse the possibility of instigating a court case in protest against the Council's decision (letters of 5th December 96 and of 5th February 1997). At the same time, it invited the Committee on Budgetary Control to analyse the possibility of requesting an opinion from the Court of Auditors with regard to the Commission's practice. The Committee on Legal Affairs examined this question in the framework of the problem referring to the legal basis, at its meeting of 19 December 1996. No decision was taken until now, the deadline for the court case being the 23th of February 1997.

The lack of information given to the EP (as one of the arms of the budgetary authority):

(), namely: Legal opinion of 21 February 1996 (SJ-032/96)

11. While protesting against this practice of provisional implementation, the Committee on Budgets also decided to exert pressure on the Council and the Commission to improve information on the preparation, negotiation and implementation of the agreements and protocols. This has been done by systematically adopting three amendments to each proposal for a regulation. These amendments have been taken into account by the Committee on Fisheries, the EP thereby adopting them for every legislative consultation. As a result of this pressure, the Commission made some attempts to improve EP information while preparing the 1997 preliminary draft budget and also presented periodic information during 1996, adapting its initial financial estimates. The recent reaction of the Commission on the renewal of the Protocols with Angola (rapport Cunha) and Guinea (rapport Macartney), refusing to accept any EP amendment, leave us to question about its goodwill in all these procedures.

The conflicts regarding the legal basis:

12. On three occasions during the past two and a half years, the EP has considered that it should have been consulted under the assent procedure with regard to the following agreements: Greenland, Morocco and Mauritania (the legal basis of the corresponding regulation being Article 228(3), subparagraph 2).
13. This approach was in line with the Committee on Budgets' opinion which was based on the consideration that the EP's involvement in the decision-making process should respect the principles of the democratic functioning of the institutions and utilize the legal provisions of the Treaty. Not granting the EP consultation under the assent procedure amounts to depriving Article 228(3), subparagraph 2, of its effectiveness, annulling the EP's power during its consultation.
14. Such an approach was based on the following arguments of a quantitative and financial nature, as well as on principles linked to the democratic functioning of the institutions:
 - * criterion based on analogous observance by the two institutions of the provisions of the 1975 interinstitutional agreement on cooperation between the three institutions (legislative consultation); there have been a number of conciliation procedures so far on proposals with a lower budgetary cost than those of the three agreements mentioned;
 - * criterion based on the multiannual nature of the expenditure concerned (the expenditure of these agreements being estimated on a multiannual basis);
 - * criterion based on the proportion of expenditure relating to expenditure of the same nature, entered on the budgetary line concerned.
15. Beside the fact that these agreements met the conditions imposed by the three above-mentioned criteria, in the case of the Mauritania Agreement there was also the requirement for two transfers between chapters reinforcing line B7-800 (see in this regard the Commission's justification of the proposals for transfer Nos 15/96 and 34C/96 and 34D/96); the fact that funds had to be and must be transferred to line B7-800 from other budgetary lines because of this agreement, only confirmed that it had significant budgetary implications.
16. From these three agreements, the Council only recognized the important financial implications on the agreement regarding Morocco, the EP having therefore been consulted under the assent procedure. Taking into account the Committee on Budgets' opinion on the Mauritania Agreement, the Committee on Fisheries has decided to raise the possibility of legal action against the Council's approach. The Committee on Legal Affairs is examining the possibility of such legal action whilst awaiting publication of the Regulation on the Mauritania Agreement.

Classification of expenditure:

17. During both the ad hoc and budgetary procedures (rapporteurs: Messrs. Wynn, Elles and Brinkhorst) and the legislative consultations undertaken on international fisheries agreements and protocols, since the beginning of this parliamentary term, the Committee on Budgets has stressed that the expenditure related to international fisheries agreements is also non-compulsory (nce).

18. As mentioned in the working document of 19 September 1995 on 'The place in the EU budget of fisheries agreements and protocols' (PE 214.542), this position was based on the declaration annexed to point 16 of the interinstitutional agreement of 29.10.93 and on the fact that():

'... Parliament considers that scheduled agreements or those in negotiation cannot generate compulsory expenditure (ce) under any circumstances'.

As mentioned in that same working document, the Committee on Budgets has clearly explained its position when adopting its opinion on the renewal of the Senegal protocol and according to which:

- the agreement and this protocol gave the Commission a margin of discretion in their management;
- the protocol concerned was annexed to an international agreement with a third country;
- this protocol defined the rules of implementation of the agreement with regard to financial transfers in favour of the recipient country (Senegal in this case);
- the financial transfers are extremely substantial and essentially include financial compensation, paid regardless of the actual results of fishing, of subsidies for scientific and accompanying programmes and of subsidies in favour of study grants'.

19. During the special triologue initiated in 1996 on the classification of expenditure, the rapporteur, Mr. Wynn, insisted upon also classifying the expenditure related to international fisheries agreements as non-compulsory. Mr. Brinkhorst, general rapporteur for the 1997 budget, therefore included Article B7-800 in the list on EP classification of expenditure which was attached to the 1997 resolution on the ad hoc procedure().

PROPOSALS FOR A SOLUTION AND THE IMPLEMENTATION OF THE "CODE OF CONDUCT"

20. The main problems identified above have been dealt with by the Committee on Budgets using the following principles:

- at the beginning of each year and in accordance with the updated elements, pre-definition of the strategy to be followed by the Committee on Budgets both at the legislative level (when adopting its opinions) and during the budgetary procedure;
- systematic contact with the other committees affected by these problems, in particular the Committees on Fisheries and Legal Affairs;
- improvement of communication with the Commission and the Council in order to reach a solution to the different budgetary problems identified.

21. The implementation of these principles permitted the Committee on Budgets and the EP to take a clear position on the following points:

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- (^b) PE 214.542, page 3
 - (^c) Annex I to the EP Resolution of 18.7.96 (PE 251.057)

- presentation of a proposal for an interinstitutional agreement on improving the provision of information to the budgetary authority on fisheries agreements covering the aspects linked to budgetary transparency and EP information. The joint declaration signed by the three institutions on 12 December 1996, attached to the EP resolution on the 1997 budget(), reflects the possible compromise in this area at that moment;
- the establishment of a systematic practice of protest against the provisional implementation of international fisheries agreements in view of a complaint against the Council in the Court;
- the insistence upon the EP's approach regarding classification of expenditure.

Implementation of a code of conduct:

23. As mentioned by the EP in paragraph 11 of its resolution on the second reading of the 1997 budget(), the "joint statement on improving the provision of information to the budget Authority on Fisheries Agreements" agreed by the three institutions reflects a first step in improving the information of the competent committees of the EP.
24. As mentioned also in the above EP resolution, the correct implementation of this joint statement by the Council and the Commission should also mean that provisional implementation of agreements should no longer be necessary (see paragraph 3 of the joint statement). Should the Council insist on such a practice, the Committees on Budgets, Fisheries and Legal Affairs should decide whether to propose to bring an action before the Court. Your rapporteur recalls the fact that the Committee on Budgets has requested the Committee on Legal Affairs (by letter of 5 December 1996) to examine the possibility of bringing such an action in respect of the practice followed with regard to the Mauritania Agreement. At the same time, the Committee on Budgetary Control was asked to examine the possibility of requesting an opinion from the Court of Auditors on the legality of the Commission practice.

In what concerns Classification of expenditure:

25. While awaiting the results of the triologue started in 1996 and taking to account the EP Resolution, on the guidelines for the 98 budget, EP should continue with its approach on classification of expenditure at both the legislative and budgetary procedure levels. Special attention should also be paid to the evolution of the IGC in this regard.

Legal basis of the regulation:

26. The Committee on Budgets will continue with the same approach on the definition of "important financial implications" (under Article 228(3), subparagraph 2) as clearly expressed in the Committee on Budgets' opinion on the Mauritania Agreement, while waiting for the possible adjustment, within the IGC, of the Treaty allowing the EP to be consulted on fisheries agreements and their financial Protocols under the assent procedure.

(), reflects the possible compromise in this area at that moment;) Paragraph 11 and Annex II of the EP resolution of 12.12.96 (PE 254.450)
 () the "joint statement on improving the provision of information to the budget Authority on Fisheries Agreements" agreed by the three institutions reflects a first step in improving the information of the competent committees of the EP.
) Minutes of 12.12.96 (PE 254.450)

27. CONCLUSIONS

Under the above remarks the committee on budgets requests the committee on Fisheries to add to the draft report the following conclusions:

After paragraph 16 insert the following new paragraphs:

Budgetary questions

- 16.(1) Draws attention to the importance of the correct implementation of the joint statement by the three institutions, European Parliament, Council and Commission, on improving the provision of information to the budgetary authority on fisheries agreements, signed on 12 December 1996 and attached to the EP resolution of the same date on the second reading of the 1997 budget();
- 16.(2) Reaffirms that in that statement the three institutions recognize the criteria set out by Parliament on entering, where necessary, the appropriations relating to international fisheries agreements (B7-800) in the reserve (B0-40), and that the agreement makes it possible to avoid systematic recourse by the Council and the Commission to the practice of provisionally implementing fisheries agreements and their financial protocols;
- 16.(3) Confirms its criteria for defining the concept of 'important budgetary implications' within the meaning of Article 228(3) second paragraph of the Treaty in the expectation that the outcome of the IGC will ensure that the European Parliament will in future be consulted on all fisheries agreements and their financial protocols under the assent procedure;
- 16.(4) Insists that Article B7-800 of the budget must also cover non-compulsory expenditure by virtue of the margin of discretion left to the Commission on the management of such expenditure and of the financial character of certain of the protocols annexed to fisheries agreements;
- 16.(5) Points out that it will be for the Budgetary Authority to decide under the annual budget procedure and in accordance with the financial perspectives in force (98/99) on the budgetary allocation for international fisheries agreements. Points out that, consequently, any multiannual financial statement can constitute no more than an estimate of expenditure and that no payment or commitment can be entered into on the basis thereof.

⁽⁵⁾Minutes of the sitting of 12.12.96 (PE 254.450)

Table I: International Fisheries Agreements - Evolution since 1994¹

ECU 000.000

COUNTRIES	DECISION-MAKING PROCEDURE						FINANCIAL ALLOCATION ²	
	Closure of Negotiations	EP informed by Commission	Decision on provisional implementation	Date of EP Resolution	1st payment by Commission	Council Regulation	Total Allocation	Implementation ³
Angola I 3/5/94 - 2/5/96	24/3/94	2/6/94	19/9/94	28/10/94	28/9/94	6/12/94 (JOL 324)	18.5	100%
Angola II 3/5/96 - 2/5/99	2/5/96	9/7/96	24/9/96	Session of 10/3/97	10/10/96	Currently pending	40.05	33%
Argentina 1/1/95 - 31/12/99	30/11/92	9/2/93	NO decision (?)	23/6/93	2/6/95	28/9/93 (JOL 318)	+/- 162.5 ⁴	75%
Cape Verde 6/9/94 - 5/9/97	23/6/94	16/9/94	10/11/94	17/3/95	5/12/94	29/6/95 (JOL 199)	1.5	95%
Comores 20/7/94 - 19/7/97	18/7/94	16/9/94	10/11/94	17/3/95	5/12/94	29/6/95 (JOL 180)	1.08	99%
Estonia 10 years (1996-2005)	17/6/96	19/7/96	NO decision	15/11/96	NO payment	2/12/96 (JOL 332)	Awaiting financial protocol; depends on annual consultations	0%

COUNTRIES	DECISION-MAKING PROCEDURE						FINANCIAL ALLOCATION ²	
	Closure of Negotiations	EP informed by Commission	Decision on provisional implementation	Date of EP Resolution	1st payment by Commission	Council Regulation	Total Allocation	Implementation ³
Greenland 1/1/95 - 31/12/2000	1/7/94	27/9/94	NO decision	18/11/94	26/1/95	19/12/94 (JOL 351)	37.7 x 5 = +/- 188.5 ⁵	+/- 40%
Guinea (Republic) I 1/1/94 - 31/12/95	24/2/94	21/4/94	17/6/94	20/1/95	24/6/94	NEVER published	2.7	100%
Guinea (Republic) II 1/1/96 - 31/12/97	6/12/95	21/3/96	10/6/96	Session of 10/3/97	31/7/96	Currently pending	4	90%
Guinea Bissau 16/6/95 - 15/6/97	7/6/95	20/9/95	30/11/95	15/12/95	8/12/95	21/3/96 (JOL 85)	12.7	99%
Guinea Equatorial 1/7/94 - 30/6/97	30/6/94	16/9/94	10/11/94	17/2/95	21/11/94	29/6/95 (JOL 180)	0.6606	121%
Ivory Coast 1/7/94 - 30/6/97	29/6/94	16/9/94	10/11/94	7/4/95	5/12/94	29/6/95 (JOL 180)	2.5	96%
Latvia (6 years) 1997-2001	24/4/96	22/7/96	NO decision	15/11/96	NO payment	2/12/96 (JOL 332)	Awaiting financial protocol; depends on annual consultations	0%
Lithuania (6 years) 1997-2001 (Protocol 3 years)	24/6/96	22/7/96	NO decision	15/11/96	NO payment	2/12/96 (JOL 332)	+/-3.176	0%

COUNTRIES	DECISION-MAKING PROCEDURE						FINANCIAL ALLOCATION ²	
	Closure of Negotiations	EP informed by Commission	Decision on provisional implementation	Date of EP Resolution	1st payment by Commission	Council Regulation	Total Allocation	Implementation ³
Madagascar 21/5/95 - 20/5/98	18/5/95	22/7/95	17/11/95	16/2/96	1/12/95	19/3/96 (JOL 75)	2.175	62%
Mauritania I 15/11/95 - 31/7/96	11/11/95	15/1/96	19/3/96	24/5/96	16/4/96	25/6/96 (JOL 163)	7.26	100%
Mauritania II 1996-2000	20/6/96	9/9/96	26/11/96	28/11/96	28/11/96	Currently pending	266.8	20%
Morocco 1995-1999	13/11/95	29/11/95	7/12/95	17/4/96	25/4/96	12/12/96 (JOL 30/97)	500	50%
Sao Tome e Principe 1/6/96 - 31/5/99	23/5/96	9/7/96	25/10/96	Session of 10/3/97	25/11/96	Currently pending	2.175	30%
Senegal I 2/10/94 - 1/10/96 ⁷	29/9/94	25/11/94	23/1/95	19/5/95	1/2/95	29/6/95 (JOL 193)	18	100%
Seychelles 18/1/96 - 17/1/99	18/1/96	2/4/96	10/6/96	25/10/96	27/6/96	12/12/96 (JOL 329)	9.9	65%
New Agreements: Negotiations to start or continue in 1997:	Antigua, Barbuda, Brazil, Chile, Colombia, Djibouti, Ecuador, Ghana, India, Kenya, Liberia, Maldives, Malta, Mexico, Namibia, Nigeria, Peru, Poland, Russia, Saint Lucia, Somalia, South Africa, Sri Lanka, Tunisia, Uruguay, Venezuela.							

COUNTRIES	DECISION-MAKING PROCEDURE						FINANCIAL ALLOCATION ²	
	Closure of Negotiations	EP informed by Commission	Decision on provisional implementation	Date of EP Resolution	1st payment by Commission	Council Regulation	Total Allocation	Implementation ³
Agreements initialled but not yet in force:	Gabon, Dominica, Sierra Leone, Tanzania (with a total amount of 4.618.333 écus).							
New Protocols: Negotiations to start or continue in 1997:	Cape Verde, Comores, Ivory Coast, Gambia, Guinea Bissau, Guinea Equatorial, Mauritius, Guinea Republic, Senegal.							

(1) Situation at the beginning of January 1997.

(2) According to the corresponding financial statement.

(3) Situation concerning payment appropriations as at 7/1/97.

(4) The total depends upon the evolution of joint ventures.

(5) An additional amount of 639.161 écus was paid in 1996 (Article 8 of Agreement).

(6) An additional amount of 143.150 écus was paid on 8/7/96.

(7) The difficulties experienced in negotiating with Senegal meant that negotiations could not be closed before the end of 1996 and are still ongoing. The Senegal I Agreement has been prolonged for one month and a supplementary payment of 750.000 écus will have to be made in 1997.

ANNEX II.A

TABLEAU II: UTILISATION DES CREDITS DE LA PARTIE B DE LA SECTION III (COMMISSION)
ENGAGEMENTS - ACCORDS INTERNATIONAUX DE PÊCHE (B7-800)

ECU 000.000

	ENGAGEMENTS ANTERIEURS Y COMPRIS LES DEGAGEMENTS ET REEVALUATIONS COMPTABILISES	CREDITS REPORTEES	CREDITS RECONSTITUES SUITE A DEGAGEMENTS ET REVERSEMENTS D'ACOMPTES ET RELATIFS A DES PARTICIPATIONS DE TIERS	CREDITS POUR ENGAGEMENTS INSCRITS AU BUDGET Y COMPRIS LES BRS	CREDITS POUR ENGAGEMENTS INSCRITS AU BUDGET Y COMPRIS BRS ET VIREMENTS	TOTAL DES CREDITS DISPONIBLES	ENGAGEMENTS COMPTABLES CONTRACTES DURANT L'EXERCICE PRECEDENT			TOTAL DES ENGAGEMENTS FORMALS EXISTANTS	CREDITS POUR ENGAGEMENTS NON UTILISES
							MONTANTS	% 7/6	% 7/(2+3+4)		
	-1	-2	-3	-4	-5	-6	-7			-8	-9
1994	10308			22100054000	2660000300	2660000300	258294	9710	11687	268601	77060300
1995	127505			22100059000	12600035000	1.2600e+10	111763	8870	5057	239268	1423735000
1996				24500035000							

Source: "Compte de gestion et bilan financier 1994 et 1995"

Pour 1996, l'information détaillée n'est pas disponible à cette date.

ANNEXE II.B

**UTILISATION DES CREDITS DE LA PARTIE B DE LA SECTION III (COMMISSION)
PAIEMENTS - ACCORDS INTERNATIONAUX DE PÊCHE (B7-800)**

ECU 000.000

	CREDITS POUR PAIEMENTS REPORTES DE DROIT ET NON AUTOMA- TIQUEMENT	CREDITS RECONSTITUES SUITE A REVERSEMENT S D'ACOMPTE S ET RELATIFS A DES PARTICIPAT IONS DE TIERS	CREDITS POUR PAIEMENTS INSCRITS AU BUDGET Y COMPRIS LES BRS	CREDITS POUR PAIEMENT S INSCRITS AU BUDGET Y COMPRIS BRS ET VIREMENT S	TOTAL DES CREDITS POUR PAIEMENTS DISPONIBLES	SUR ENGAGEMENTS ANTERIEURS	SUR ENGAGEMENTS	UTILISATION DES CREDITS POUR PAIEMENTS (TOTAL)			CREDITS POUR PAIEMENTS NON UTILISES
								MONTANTS	% 17/14	% 17/ (10+11 +12)	
	-10	-11	-12	-13	-14	-15	-16	-17			-18
1994			2.21e+10	2.21e+10	2.210e+10	2686	137899	140585	6361	6361	8.04e+09
1995			2.21e+10	2.21e+10	2.210e+10	80475	77622	158097	7154	7154	6.29e+09
1996			2.35e+10								

Source: "Compte de gestion et bilan financier 1994 et 1995

Pour 1996, l'information détaillée n'est pas disponible à cette date.

5 December 1996

OPINION

(Rule 147)

for the Committee on Fisheries

on new ways of facilitating access by Community fishing fleets to third countries' fishery resources (B4-0126/96)

Committee on External Economic Relations

Draftsman: Mr Honorio Novo

PROCEDURE

At its meeting of 25 July 1996 the Committee on External Economic Relations appointed Mr Novo as draftsman.

At its meetings of 31 October 1996, 19 November 1996 and 3 December 1996, it considered the draft opinion.

At the last meeting, it adopted the conclusions unanimously.

The following were present for the vote: De Clercq, chairman; Pex, vice-chairman; Novo, draftsman; Elchlepp, Ferrer, Habsburg-Lothringen, Ilaskivi, Kittelmann, E. Mann, Medina Ortega (for Imbeni), Miranda de Lage, Moniz, Posselt (for Moorhouse), Schwaiger, Smith, Valdivielso de Cué, van der Waal (for Rose) and Wiersma (for Falconer).

I. The importance of the fishing industry in the EU

The European Union's fishing effort is the fourth largest in the world; in 1992, almost 6.5 million tonnes of fish with a value of some ECU 7 billion were caught.

However, the social importance of the industry cannot be calculated in merely economic terms. At that time, when the EU still had only twelve members, the industry directly and indirectly employed some 2 million workers. Both from a social point of view and in terms of the traditions and cultures of many regions of the Union, the fishing industry's importance is enormous.

Furthermore, the EU has a growing trade deficit in the fisheries sector, and Community imports continue to rise spectacularly; in 1992 they totalled ECU 7615 million. There are two reasons for this growth in imports. Firstly, there is a growing consumer demand for fish linked to changing tastes and ideas about diet. Secondly, there has been a large-scale loss of traditional Community fleet fishing grounds in the waters of third countries, largely because 200 mile economic exclusion zones have become standard.

II. Bilateral agreements with third countries

These include: reciprocal agreements whereby fishing rights are granted to vessels from third countries in exchange for analogous rights for Community vessels (**access to stocks**); an agreement with the USA concerning the surplus from stocks not caught by American vessels (**access to so-called 'surplus' stocks**) which are shared between third countries on the basis of their traditional fishing activities; an agreement with Canada, which allows Community vessels to fish in that country's waters in exchange for reduced TAC customs duties for certain Canadian fishery product quotas (**access to resources/access to markets**). This agreement, although still formally in force, has not been applied since the end of 1987. Following numerous consultations between the Canadian authorities and the Commission, a new fisheries agreement was initialled on 21 December 1992.

The Community has also concluded agreements of a fourth type with certain developing countries, amongst them Morocco and Greenland, whereby in exchange for fishing opportunities, the Community grants these countries financial compensation, and contributes to fishing-industry-linked scientific programmes and provides study and training grants in the sector (**access to resources/financial compensation**). The Community has concluded a combination of the two preceding types (**access to resources/access to markets/financial compensation**) with Morocco and Greenland. Finally, the Community has recently concluded its first agreement with a Latin American country (Argentina), based on access to stocks within a framework of joint ventures and temporary associations in the fishing sector, involving Argentinian and Community shipowners.

III. Access to fish stocks, general considerations

The social and economic importance of the fishing industry in the EU, briefly referred to above, means that Community fishermen must retain and further develop their access to fish stocks in the waters of third countries and to those available in international waters. This is the only way to safeguard jobs in the fishing and associated industries, and to keep imports at an acceptable level while guaranteeing a reasonable degree of self-sufficiency. Various general ideas should be highlighted with regard to the agreements required to ensure access to stocks.

(a) The economic and social interests of the Community fishing industry must be permanently assured. This means tackling the possibility of regulatory provisions allowing rapid response to the occasionally very serious problems which result from major changes or even breakdowns which can occur during the period of application of bilateral agreements, whether of current bilateral agreements, future agreements or international agreements on access to resources. The existence of such provisions would enable funds to be released to deal with unexpected situations faced by shipowners and/or fishermen.

(b) The fishing opportunities available to the EU under bilateral agreements or in connection with decisions taken on access to stocks in international waters must be fully taken up. The situation in the industry justifies the Member States' making full use of the quotas which, under such decisions, have been assigned to them on an internal basis. For that reason, when this is not done, we need to explore the possibility of other interested Member States using these quotas; detailed arrangements need to be studied with a view to avoiding speculative behaviour and jeopardizing the ownership of the quotas in question.

(c) Both bilateral fisheries agreements with third countries and the decisions regulating access to stocks in international waters are subject to compulsory consultation of the EP; such consultations have proved deeply unsatisfactory. On most occasions, they have been purely tokenistic, with Parliament's opinion being requested after the negotiations had concluded, the agreements had been signed and they had been adopted by the Council in their final form. The EP's role in this field is a real one, and it should be respected and even strengthened by applying Article 228(3).

(d) The conservation of stocks is essential to any fishing activity. It is imperative that this concern be constantly borne in mind and reflected in measures protecting young fish, regulating fishing techniques and enforcing respect for possible bans by means of reciprocally acknowledged and verifiable controls and inspections, on the general principle that the most up-to-date technology will always be used.

IV. Possible enlargement of EU fishing areas

(a) **The EU can improve its position by negotiating within the framework of the major international fishing conventions to which it is party**, beginning with its fishing opportunities in international waters via the North West Atlantic Fisheries Organizations (NWFO), the North East Atlantic Fisheries Commission (NEFC), the organization for conservation of salmon in the North Atlantic and the International Baltic Fisheries Commission (IBSFC).

In this context, it is essential that the EU should have a weight of representation proportional to the interests which it is representing, both within the decision-making bodies and with regard to inspection or investigation bodies.

(b) Furthermore, **negotiations need to take place to renegotiate the current bilateral agreements in good time, and above all to establish fresh agreements opening up new areas to the EU fishing fleet.**

As a general, consistent principle, access to resources must be stepped up by establishing joint ventures in association with third countries, building on models such as the recent agreement with Argentina.

Secondly, agreements based on offering financial compensation, technical aid, training and the conservation of resources, taking full account of what has already been said above on this subject, need to be maintained and further developed.

Finally, negotiations on the basis of offering access to Community markets should continue. Here, current trade provisions must be fully respected, so as to prevent any possibility that fishery agreements might cause unfair competition which would affect other sensitive products from the EU or its Member States.

Within the context of negotiations with third countries, certain specific areas are of direct EU interest:

. **The Mediterranean**, where the Community fleet is responsible for almost two-thirds of catches (700 000 tonnes). In view of the problems linked to safeguarding the environment, a concerted approach on the part of all the Mediterranean and non-Mediterranean countries operating there is required to implement a genuine policy of rational use of resources. The EU's role could be decisive.

. **The Baltic**, where it is essential to encourage negotiations on fisheries with the countries of Eastern Europe and the Russian Federation, and where the EU has an active role to play, particularly by means of joint ventures between western companies and eastern undertakings. Here we should not forget the agreements signed between the EU and the three Baltic states in 1993.

. **Fishery negotiations with the EFTA countries within the framework of the EEA**, specifically agreements with Iceland and Norway, and which in the latter case particularly concern Portugal and Spain, with a view to achieving a more favourable balance between access to markets and access to stocks.

V. Although this issue does not fall directly within the framework of this opinion, reference must be made to the development of a new industry which undoubtedly has a great future: **aquaculture**, which involves both fresh water and sea fisheries. The EU should strive to develop its internal capacity in this sector, and to participate in the efforts of third countries in this field at both technical and financial levels.

VI. Conclusions

The Committee on External Economic Relations

1. Recalls the socio-economic importance of the fishing industry in the EU and therefore insists that Community fishermen's access to resources must be maintained, strengthened and diversified, since this is essential if the trade deficit is to be reduced and direct and indirect employment in fisheries and associated industries safeguarded;
2. Notes that it is increasingly difficult to renew fishery agreements with third countries, which are tending more and more to reserve their fishing grounds for their own fleets, in order both to keep the profits from these resources for themselves and to conserve stocks;
3. Believes that the problems of the Union's (over) large fisheries sector should not be off-loaded on to the local fishermen of the developing countries, and stresses therefore that the Union must continue with the reorganization of its own fishing fleet;
4. Stresses therefore the need to establish agreements on the basis of new approaches, namely by setting up joint ventures or temporary associations with third countries; stresses, furthermore, the need to renew or to establish agreements based on traditional approaches, namely financial compensation or access to Community markets, avoiding situations of unfair competition; believes therefore that these agreements should not prejudice small-scale local fisheries in the developing countries;
5. Believes, moreover, that it is essential that in all areas, a truly large-scale plan for conservation of resources be implemented, involving the monitoring of fry, the banning of predatory fishing techniques, respect for possible moratoria and the promotion of increasingly automated inspection which will allow fair and equitable verification acceptable to all parties;
6. Believes also that the social and economic interests of shipowners and fishermen should be appropriately protected against unforeseen breakdowns in established agreements;

7. Stresses once again that in concluding fisheries agreements with third countries and in decisions taken with regard to access to stocks in international waters, the principle that the EP should be consulted in good time must be strictly upheld, and that such consultation should take place under Article 228(3) of the TEU;
8. Stresses that it should be an EU priority to participate to fully and on a long-term basis in exploiting those international fishing grounds which remain accessible, which implies participating as actively as possible in all work concerning international fishing agreements and doing so in ways commensurate with the scale of the interests which the Union represents;
9. Points out that the Union has a responsibility at international level to promote the long term survival of international fisheries;
10. Recalls that cooperation on pollution, the marine environment and the development of seaboard states is inseparable from the exploitation of fisheries resources and that this type of relationship could be extended in areas where the EU traditionally plays an important role, such as the Mediterranean or within the framework of the upgrading of the Baltic area;
11. Stresses that the international fisheries policy of the EU must be consistent with the Union's policy on development cooperation;
12. Believes that the development of aquaculture could help to reduce the Union's fisheries shortfall significantly, but must not under any circumstances be seen as a substitute for appropriate use of international waters.

18 December 1996

OPINION

(Rule 147)

for the Committee on Fisheries

on international fisheries agreements (B4-0126/96) (report by Mr Crampton)

Committee on Development and Cooperation

Draftsman: Mr Bernard Kouchner

PROCEDURE

At its meeting of 24 July 1996, the Committee on Development and Cooperation appointed Mr Bernard Kouchner, draftsman.

It considered the draft opinion at its meeting of 20 November 1996.

At the meeting of 18 December 1996, it adopted the following conclusions unanimously.

The following took part in the vote: Kouchner, chairman and draftsman, Fassa, vice-chairman, Carlotti (for Pery), Correia (for Torres Couto), Corrie, Cunningham, Evans (Schmid), Fernández-Martín, Günther, Hory, Howitt (for Needle), Kinnock, Maij-Weggen, McGowan, Plumb, Pons Grau, Sandbaek, Telkämper and Vecchi.

INTRODUCTION

Since 1976, when the Member States transferred competence in the fisheries sector to the Community following the extension of the waters under its jurisdiction and the declaration of the exclusive economic zone, with the introduction of the new Law of the Sea regime, many fisheries agreements have been concluded between the Community and developing countries, mainly ACP coastal states. Agreements with developing countries mainly provide for financial compensation in return for access to fishing grounds in the Exclusive Economic Zones (EEZ) of those countries, sometimes in combination with trade arrangements. The financial compensation derived from fisheries agreements is a welcome addition to the financial resources of many countries in the Third World. Quite a few of their governments are of the opinion that they are free to spend these revenues on government priorities. Many a central government will reason that the exploitation of off-coast natural resources should benefit all its citizens.

Fisheries agreements are primarily a vehicle for securing access for EU fishermen to the fishing grounds lying under the jurisdiction of third countries. They were not initially intended to be vehicles for the development of the fisheries industry in ACP states, the relevant provisions of the Lomé Convention notwithstanding. However, if they are properly formulated, these agreements can work to the mutual benefit of the signatories and, at least in theory, can serve as an excellent cooperation instrument in order to:

- provide protein-rich food needed by the local populations,
- ensure the exploitation of a new source of wealth for some countries,
- provide employment and training opportunities,
- reduce dependence on imports,
- lead to both upstream and downstream industrialisation

Article 130v of the Treaty on European Union stipulates that the Community should take account of the objectives of cooperation policy (campaign against poverty, sustainable economic and social development of the developing countries and the smooth and gradual integration of these countries into the world economy) in the policies that it implements which are likely to affect developing countries. In this connection, consistency is important and the Union's development cooperation policy objectives must serve as a point of reference in negotiating and implementing fisheries agreements with developing countries.

At the same time, the introduction of new technologies and the development of large-scale industrial fishing since the Second World War have led to overexploitation of fish stocks. The growing awareness that global ecological and environmental interests coincide, together with the recognition of the need to conserve live marine resources, which are part of the collective heritage of the world's population, have made it necessary to ensure optimum and rational use of fishery resources. Fisheries agreements can also be used as an instrument for the sustainable management of marine resources.

Evolution of fisheries agreements with developing countries

Since the first bilateral fisheries agreement between the EC and an ACP state was concluded with Senegal in 1980 the number of these agreements has steadily increased, especially following the accession of Spain and Portugal in 1985. The total number of agreements between the EU and ACP countries in force is now 15.

First generation agreements. All these agreements are based on the essential elements of access to stocks in exchange for financial compensation, funding for scientific and technical programmes and training grants, and licence fees paid by the vessel owners. Financial compensation is paid without prejudice to the grants received by the ACP country as a Lomé partner. Compensation does not affect funding the country may receive through bilateral cooperation with individual Member States, either.

The primarily commercial orientation of EU-ACP fisheries agreements has been gradually modified over time in response to criticisms of the anti-developmental consequences (stock depletion, unaccountable financial transfers to ACP governments, limited impact in terms of promoting the integration of ACP economies in the world economy, minimal impact of bursaries programme on crew training, increasing conflicts emerging between EU and locally based fishing fleets). The Committee on Development has continually stressed the need to include a development component in fisheries agreements and some progress has been made as regards encouraging scientific and technological cooperation, training of workers in the fisheries sector and use of catches to supply local industry (agreements with Seychelles and Senegal). However, questions such as transfer of technology, capital investment incentives and joint undertakings have still not been included, nor have the marketing and construction of vessels, ex-post evaluation, regional aspects and participation in the monitoring of fishery activities. The most advanced agreements at present are those with Morocco and Mauritania (cooperation agreements on maritime fishing).

Second generation agreements. In part responding to these criticisms, the Commission presented in December 1990 a communication to the Council and Parliament recognising that financial compensation alone is not a sufficiently strong basis to guarantee long term access of EU fishermen to the waters of developing countries and emphasised the need to consider new association formulas with the objective of more lasting cooperation with the partners in developing countries. The aim of this type of agreement is to provide, in the substantive provisions, a framework of economic and legal security for joint enterprises; however, for this type of agreement the country concerned must have well-established fishery structures.

In December 1992 the EU signed its first 'second generation' fisheries agreement with Argentina which introduced a significant change in the basis on which access is granted to EU vessels and the financial arrangements for securing access. No longer is there a GRT limit on access; rather, it is up to a joint committee established under the agreement to determine the number of vessels to be allowed access to fish the agreed quota. No longer is financial compensation per se paid to the government; rather, drawing on EU fisheries sector structural funds, financial resources are made available to support Joint Ventures, Joint Enterprises and locally established EU enterprises.

Negotiating directives have been issued for the negotiation of second generation agreements with Namibia, Mozambique and South Africa.

Second generation agreements are heavily driven by the need to find fishing opportunities for surplus EU vessels, most of which are large freezer trawlers geared to distant water fishing, questions of conservation and integrated sectoral development are inadequately addressed. It is not clear therefore how such agreements will contribute to the long term integrated and sustainable development of the ACP fisheries sectors.

Towards third-generation agreements (association)

According to a study carried out by the Court of Auditors, the level of expenditure on fisheries agreements increased appreciably between 1987 and 1992, rising to more than 50% of total expenditure on the common fisheries policy. There were two main reasons for this:

- the accession of Spain and Portugal to the Union and the need to deploy their extensive fleets in the third-country waters to which they had enjoyed access for many decades, but on the basis of bilateral agreements;
- the growing awareness in ACP countries of the value of their fish stocks.

The Court of Auditors concluded that, from a strictly commercial point of view, the fisheries agreements negotiated during this period were less effective as a result of a structural problem of overcapitalization. However, the Commission believes that overcoming this problem by other means would involve substantial social costs via the structural funds. In consequence, at the present time fishery agreements have more to do with aspects of social and regional policy in the EU than with the objectives of EU development cooperation policy (in fact, finance from the structural fund was used to finance elements of the EU-Argentina fishery agreement).

In addition, the legal basis for the agreements financed from the Union budget does not require the ACP countries to use the financial compensation for development measures.

Consequently, the Committee on Development believes that, in order to introduce a more ambitious development component in these international agreements, it would be effective to use

cross-financing between the fisheries budget and the EDF, while including the development of indigenous fisheries in the national or regional indicative programmes.

Conclusions/Recommendations

The Committee on Development and Cooperation

1. Considers that if the EU is to achieve a greater coherency between its development cooperation policy and its fisheries agreements policy it will be necessary to subordinate fisheries agreements to the development objectives laid out in the Lomé Convention.
2. In order to secure a basis for the long-term access for EU fishermen to ACP waters, the EU has to explore various options for 'second' and 'third' generation fisheries agreements. If effective conservation and stock recovery measures are to be pursued, it is necessary to bring about adjustment of fishing capacity to the volume of authorized catches.
3. The Committee on Development and Cooperation's desire to introduce a more ambitious development component should result in third generation partnership agreements. In order to fund the development of such agreements, use should be made of cross-financing between the Union fisheries budget and the EDF.
4. Points out that fishing lends itself to a regional approach, many fish species being migratory, and neighbouring zones being affected by overfishing and stock depletion; calls, accordingly, on the Commission to negotiate, where possible, regional or subregional agreements with all the coastal states bordering a fishing zone.
5. Recognising the importance of proper management and fisheries protection to the conservation of fish stocks, an essential precondition for the long-term sustainable development of ACP fisheries sectors, affirms that there is an urgent need to review the monitoring and control provisions included in ACP-EU fishery agreements, on the basis of the capacity constraints facing coastal ACP states in this area.
6. Recognises the important contribution the fisheries sector can make to industrial development and more general economic and social development in ACP countries and considers that major rationalization measures are vital if progress is to be made towards securing equitable fisheries agreements which also contribute to investment in the fisheries sector. In this regard:
 - An assessment of the contribution of each fishery agreement to the general objectives of ACP-EU cooperation in the fisheries sector as laid down in Articles 58 to 68 of the Lomé Convention would be advisable;
 - The scientific research and training components of future arrangements should be reinforced, so as to contribute to improving knowledge of the situation of fish stocks in ACP countries. The linking of the research components of the agreements to the ACP-EU Fisheries Research Initiative, in particular, would be a step in the right direction;
 - In countries having a significant artisanal fishing sector, representatives of artisanal fishermen should be involved in discussions prior to the negotiation of future fishing agreements. At the same time, in cases where artisanal fishing is becoming more important, consideration should be given to the possibility of extending the zones reserved for local fishing.