

COMMISSION OF THE EUROPEAN COMMUNITIES

SEC(93) 1551 final

Brussels, 14 October 1993

REPORT FROM THE COMMISSION

ON THE COMMUNITY ARRANGEMENTS FOR THE IMPORTATION OF FISHERY PRODUCTS

INTRODUCTION

At its meeting on 24 and 25 June 1993, the Council discussed the situation on the market for fishery products and came to the following conclusion:

"Finally, it considered that the current situation required the effectiveness of existing market management and safeguard mechanisms to be analysed. This analysis should cover both fishery problems and the problems of the processing industry. To this end, it asked the Commission to submit by 15 October a comprehensive report accompanied by appropriate proposals to ensure in trade with third countries, while honouring international commitments, strict compliance with the fundamental objectives of the common fisheries policy, in accordance with Article 39 of the Treaty, including the principle of Community preference and the competitiveness of the processing industry."

This report is in answer to the Council's request.

*

* *

*

On 29 June, the Commission asked the Member States to provide a list of points requiring priority treatment and to give their views on the idea of unbinding certain presentations of products which had been put forward at the Council of fisheries ministers on 24 June.

The concerns and suggestions of the Member States may be summarized as follows:

1. Several Member States went beyond the fall in demand to stress the structural nature of the crisis on the market (over-fished stocks, illegal fishing, over-capacity in the fishing fleet) and changes affecting the fishing industry in the Community (growth of trade on a world scale, growing imports of frozen white fish replacing species traditionally caught in Community waters, lower air freight costs, competition between foodstuffs).
2. A number of Member States wondered what the economic impact of Regulations (EEC) Nos 420/93 (minimum prices) and 695/93 (measures applicable to direct landings from third countries) had been in terms of consumption, the cost of supply to the processing industry and the restoration of market balance.
3. Two opposing views emerged on the subject of Community preference. Some wished to strengthen its application, principally by reconsidering certain international agreements between the Community and non-member countries or through stronger protective measures (higher minimum import prices, reform of Regulation (EEC) No 3191/82 and the method of calculating reference prices, partial rethinking of a policy of self-sufficiency regarded as too generous, permanent arrangements for direct landings) while others favoured continuation of the existing supply policy with no measures being adopted which would risk blocking Community imports.

One Member State suggested both a reduction in customs duties on raw materials and higher reference prices for semi-finished and finished products in order to ensure fair conditions of competition between the processing industry in the Community and industries elsewhere.

4. A large majority of the Member States:
- were opposed to any move to unbind CCT duties on fresh products;
 - supported campaigns to promote the consumption of fishery products.
5. Two Member States stressed the seriousness of the situation in the sardine sector (production and processing).
6. In connection with stronger internal market management measures, one Member State suggested ensuring fairer competition within the Community by extending the rules governing producers' organizations to the most sensitive products and reassessing the amount of carryover aid.

Another Member State suggested translating thoughts on quality policy into action and harmonizing sales descriptions at Community level.

*

* *

*

The Commission working paper on the State of the Market in Fishery Products,* considered by the Council on 24 June, contained a number of points in response. Reference should be made to that document, to which this report may be considered complementary.

That Commission working paper noted that the arrangements for the importation of fishery products were the result of the tariff policy pursued by the Community with its international partners over a period of more than thirty years (principle of consolidation). That consolidation of the CCT for fishery products limited the Community's scope for manoeuvre in adopting market management mechanisms, whether internally or externally.

The market organization mechanisms, which form part of a market economy system, are intended to stabilize markets in a situation of international competition without guaranteeing prices which will ensure a profit for the sector. That choice was made by the Community when the common fisheries policy was inaugurated.

When expressed through the consolidated CCT, application of the principle of Community preference in the fisheries sector has a more limited impact than that of the CAP (no import levies, no quantitative restrictions, no prices unrelated to those on world markets).

* SEC(93) 948 of 17 June 1993.

The Commission had explained how the principle of Community preference applies to the market organization in its 1991 report to the Council and the European Parliament on the common fisheries policy (SEC(91) 2288 final of 4 December 1991).

In that report (para. 2.3.4.2.) it stressed that the main component of this element of the market organization is the Common Customs Tariff but also noted that "International trade is moving towards the dismantling of tariff protection, in the fishery sector and outside. This needs to be considered in the discussions of the future development of international competition conditions in which the Community fleets will be working."

This principle is also subject to other constraints imposed by the exceptions to the CCT, in particular existing preferential arrangements.

This report therefore considers the tariff situation as it reflects the state of Community preference.

It also looks at the trade mechanisms designed to implement this principle in the circumstances of a market in crisis.

Finally, it describes certain health protection and customs measures which help to maintain a balance between Community production and imports from non-member countries.

*

*

*

*

A. TARIFFS

1. The bound tariff

A statistical analysis of tariff headings gives an idea, albeit a simplified one, of the tariff situation of fisheries products. This analysis takes no account of the trade flows for each heading.

Chapter	Definition	Number of headings	< 15%	≥ 15%
3	Fresh, frozen, salted or smoked products	283	124	159
5	Waste unsuitable for consumption	2	2	0
16	Processed products	36	4	32
19	Edible pasta containing fish	1	0	1
23	Flours	1	1	0
Total		323	131	192

This table demonstrates that the bulk of tariff headings in the fisheries sector are subject to duties of 15% or more. This is particularly true of Chapter 16, processed products (prepared or preserved), where most tariffs lie between 20% and 25%.

The Council of fisheries ministers on 24 June considered the partial unbinding of tariffs, particularly those on fresh products, which are particularly sensitive on the Community market. No formal request was subsequently made. In any case, the Commission does not consider that action on this idea would be appropriate at present.

Any unbinding in GATT entails difficult and lengthy procedures. Binding gives non-member countries rights and unbinding requires compensation.

Quite apart from legal and technical considerations, since unbinding does not affect existing preferential arrangements it is not certain that its impact on the fisheries sector would be helpful. As the EFTA countries already account for 25% of imports of fish into the Community and imports from these countries, particularly of fresh products, which are the most sensitive on the Community market, will increase with the conclusion of the EEA, it is clear that the unbinding of these products in GATT will have only a limited effect.

Except in cases of manifest fraud,* no action can be taken on preferential agreements with the ACP countries (Lomé Convention) and the generalized system of preferences for developing countries.

* GSP 94: because of frauds by certain ASEAN countries, the Commission intends to suspend the benefits of tariff reductions on tinned tuna in 1994 (CCT: 25% - GSP 93: 18%; CN code 1604 14 90).

So that the Council can assess the impact of exceptions to the Common Customs Tariff, whether made as a result of the Community's international commitments or as a result of independent decisions, each concession by the Community must be evaluated. These include many whose scope goes well beyond the common fisheries policy and which are concerned with the more general objectives of Community policy, such as general commercial policy or development aid, but which also cover fishery products to a certain extent. Details of these exceptions are annexed.

2. Tariff exceptions

Tariff reductions for fish and fishery products will generally appear as:

- tariff quotas, equal to limited quantities at a reduced duty rate, or
- tariff suspensions, equal to unlimited quantities at a reduced duty rate (partial suspension) or exempt from duty (total suspension).

Such reductions can be and have been granted under three different legal frameworks:

- GATT concessions
- other conventional concessions
- autonomous reductions.

Annexed to the report is a table showing all the Community's tariff schemes for fish and fishery products with details of their characteristics and estimated value. Reference is also made to TARIC (Integrated tariff of the European Communities), published in Official Journal No C 143 A of 24 May 1993. The estimate of duty receipts is primarily based on 1991 COMEXT - import figures, and calculated on a maximalistic basis (Annex 1).

In 1991 the Community imported 3 582 122 tonnes of fishery products with a total value of ECU 7.55 billion. Of this total 62% was imported partially or totally exempt from CCT duties. This means that 2 220 916 tonnes of fishery products (worth ECU 4.68 billion) benefited from reductions in customs duties under GATT, as conventional or autonomous concessions.

1. GATT concessions

The GATT tariff concessions stem from the Community's legal undertakings in the framework of the General Agreement on Tariffs and Trade, often as a consequence of the successive enlargements of the Community. The legal basis is Article 113 of the Treaty establishing the European Economic Community.

The GATT concessions are all tariff quotas.
The EC is obliged to open these quotas annually.

2. Other conventional concessions

2.1 Lomé IV Convention

The Lomé IV Convention entered into force 1990. The participants are the Community and the more than 70 ACP countries (African, Caribbean, Pacific).

The Community grants the ACP countries a total tariff suspension for all fishery products. Also covered by the total suspension are the OCTs (Overseas Countries and Territories). Although the tariffication is the same for the ACP countries and the least-developed GSP countries (and many countries fall into both categories), the provisions in the Lomé Convention are more beneficial, due to a more liberal set of rules of origin (including Community/ACP/OCT cumulation).

2.2 Traditional bilateral agreements

The "bilateral" tariff concessions have their legal basis partly in Article 113 of the Treaty and partly in the individual trade agreements between the Community and the partner countries in question. The Community has concluded a number of such agreements, where fish and fishery products are among the goods for which the it grants tariff concessions to the partner country or countries.

2.2.1 Norway

The concessions stem from the Agreement between the Community and Norway, signed on 14 May 1973, and a subsequent Exchange of Letters concerning agriculture and fisheries, signed on 14 July 1986.

The preferences granted to Norway are subject to respect for the reference prices.

The tariff reductions centre mainly on salted and dried cod products and frozen fillets of salt-water fish.

2.2.2 Sweden

The concessions stem from the agreement between the Community and Sweden, signed on 22 July 1972, and a subsequent Exchange of Letters concerning agriculture and fisheries, signed on 15 September 1986.

The preferences granted to Sweden are subject to respect for the reference prices.

2.2.3 Iceland

The concessions stem from Article 1 of Protocol No 6 of the Agreement between the Community and Iceland, signed on 22 July 1972.

Article 2 of that Protocol links the granting of tariff concessions and a satisfactory solution to unspecified problems concerning the Icelandic management of fishing rights.

Up to now Article 2 has not been implemented. The Community has not received any counterparts for its granting of concessions.

The preferences granted to Iceland are subject to respect for reference prices, and they are all in the form of partial or total tariff suspensions.

2.2.4 Switzerland

The concessions stem from the agreement between the Community and Switzerland, signed on 22 July 1972, and a subsequent Exchange of Letters concerning agriculture and fisheries, signed on 14 July 1986.

The Community has granted total duty suspension for certain unspecified freshwater fish, fresh or frozen. Marginal importance.

2.2.5 The Faroe Islands

The concessions stem from the agreement between the Community and Denmark/the Faroe Islands, signed on 2 December 1991.

The preferences granted to the Faroe Islands are subject to respect for the reference prices.

The main principle is that nearly all fishery products of commercial interest to the Faroe Islands can enter the Community duty free subject to certain annual quantitative limitations on the most sensitive products. These limitations might take the form of:

- tariff quotas (most sensitive products)
- tariff ceilings (duty exemption for a specific quantity - when the import ceiling has been reached, the Community might reinstate the normal duty rate. This reinstatement is, however, not automatic but will be applied only in severe market situations)
- statistical survey (duty-free import of unlimited quantities with a possibility for the Community to apply the normal duty in cases of market disturbances).

This import regime has only been in force from 1 January 1992. No duties were reinstated for the products covered by the tariff ceilings. The quotas for trout and salmon were exhausted and the quota for shrimps might have been fully used as well, if Faroese administrative problems had not occurred.

2.2.6 Greenland

A fisheries agreement between the Community and Denmark/Greenland was concluded in 1985. The present Protocol fixing the conditions under which the Community vessels may operate in the Greenland waters as well as the counterparts granted by the Community expires on 31 December 1994.

Under the 1985 Protocol all fishery products of Greenland origin may be exported free of duty to the Community provided that the Community has satisfactory access to Greenland waters.

Preferential imports from Greenland are not conditional on strict respect for the reference price.

2.2.7 ex CSFR

Following the Europe Agreement between the Community and the CSFR (the Interim agreement was signed on 16 December 1992), the Community has unilaterally granted a limited number of total tariff suspensions of marginal economic importance.

The Europe Agreement provides for discussions to take place on possible future reciprocal tariff concessions.

2.2.8 Romania

Following the Interim agreement between the Community and Romania, signed on 1 February 1993, the two parties have granted each other a number of reciprocal tariff reductions.

The tariff suspensions granted by the Community fall in two categories:

- rollover of concessions similar to the GSP system (when the Interim Agreement entered into force, Romania was automatically excluded from the GSP preferences)
- some products for which the consolidated Community duty rate was reduced by 10%.

The present value of these concessions is considered marginal.

2.2.9 Turkey

Under the Association Agreement between the Community and Turkey all fishery products of Turkish origin can enter the Community free of duty.

A customs union between the Community and Turkey will enter into force from 1 January 1995. Turkey will from then apply the CCT vis-à-vis third countries, as well as the origin rules already practised by the Community. As a result, an increased quantity of products manufactured in Turkey, especially canned products, will enter the Community market.

2.2.10 Maghreb

Under the Cooperation Agreements between the Community and the Maghreb countries (Morocco, Algeria, Tunisia), all fishery products from these countries can enter the Community free of duty with the exception of prepared and preserved sardines (canned sardines), for which the following import schemes exist:

- Tunisia: annual tariff quota (100 tonnes at 0%)
- Morocco : tariff suspension at 8% during 1993, gradually being reduced to 5% for the period from 1 January 1994 to 30 April 1996 (provision annexed to the Community/Morocco fisheries agreement, but essentially based on the Cooperation Agreement).

2.2.11 Egypt

The Community has granted partial tariff suspensions to Egypt (from 20% to 10%) for prepared/preserved shrimps of marginal economic importance.

3. Autonomous reductions

The autonomous tariff reductions can mainly be divided into two categories:

- reductions based on the Community's GSP system (Generalized System of Preferences)
- reductions stemming from actual market needs.

3.1 GSP

The legal basis is Article 113 of the Treaty establishing the European Economic Community. The GSP system is renewed annually and covers trade in certain products with the developing countries. The system is autonomous and one-sided: the Community grants tariff reductions to these countries without receiving any similar counterparts.

3.1.1 Traditional GSP

In the traditional (or conventional) GSP scheme, tariff reductions (partial tariff suspensions) are granted for a limited number of fishery products, most notably :

- trout
- halibut
- dogfish
- livers and roes in all presentations, and
- all crustaceans and molluscs with the exception of Crangon shrimps, Norway lobster and *Illex* spp.
- all prepared/preserved products with the exception of tuna, anchovies, sardines and Crangon shrimps.

The duty reductions vary from product to product, but it can safely be said that the GSP duty rates are around 33% - 50% of the conventional duty rates.

Russia and the other former Soviet republics do not benefit from the fishery part of the traditional GSP scheme. Any future tariff reductions to these countries might be negotiated in the framework of a fishery agreement or on a reciprocal basis.

3.1.2 GSP (least-developed countries)

All imports of fishery products from the least-developed countries might enter the Community free of duty. The economic importance of this concession is, however, rather limited, partly because the majority of the least-developed countries already benefit from the Lomé Convention and partly because these countries have very limited commercial fishing activities.

3.1.3 "GSP Drogue" (related to the fight against drugs)

Four of the five Andean Pact countries (Columbia, Ecuador, Peru and Bolivia) are treated exactly like the least-developed countries : all imports are exempt from duties.

This special arrangement is a temporary one - it will end in the autumn 1994, if not prolonged politically. The trade concessions have been granted as economic and political assistance to these countries in an attempt to develop their economies away from the drug-related sectors. This scheme unfortunately has negative effects on the Community's other trading partners in the region.

3.1.4 GSP (Central America)

A system similar to the "GSP Drogue" has been introduced for the Central American countries: total suspension of duties for all fishery products.

Again, this GSP scheme has been introduced for reasons which have nothing specific to do with the fisheries sector (promoting the harmonious development and diversification of their economies). The scheme will be stopped in autumn 1994, if not prolonged politically.

Panama does not benefit from the special preferences in the fisheries sector.

3.2 Market orientated tariff concessions

3.2.1 Tuna

In order to secure sufficient raw material for the Community production of canned tuna, a total tariff suspension for tuna and Euthynnus has been instituted.

Following the decision of the Council of 19 October 1992, the Commission will, before 30 June 1994, present a report on the market situation for tuna, together with appropriate proposals.

3.3.2 Other autonomous reductions

The Community might decide to grant autonomous tariff reductions (tariff quotas or suspensions) as a result of supply deficit situations. The legal basis here is Article 28 of the Treaty establishing the European Economic Community.

Such autonomous reductions can briefly be characterized by:

- limited and temporary nature
- granted on an *erga omnes* basis
- specific end-use.

The *erga omnes* principle simply means that the tariff schemes are opened for all possible suppliers, irrespective of nationality, subject to any fixed limitations of quantity.

The specific end-use clause should guarantee that the imported products do not go directly for human consumption but are instead destined for one or more acts of processing (either for the production of very specific goods or generally as raw material to the processing sector). In this way the

principle of Community preference is safeguarded. As the market conditions (and thereby the supply situation) change from one fishing season to another, the scope (product range, quantities, duty reductions) of the tariff concessions are not identical year after year. Nevertheless, a certain "generalization" has been introduced in the Community's autonomous tariff policy:

- the products are meant for the Community processing industry (see above)
- a certain number of the same products benefit nearly each year from the tariff concessions, due to insufficient Community production, namely
 - . whitefish (cod, coalfish, halibut, (haddock)), whole, fresh/frozen
 - . frozen fillets of hake and Alaska pollack
 - . shrimps (*pandalus borealis*) and eels
 - . salted/dried products of cod and coalfish
- the concessions are normally granted from
 - . 1 January for hake and Alaska pollack fillets (no Community production)
 - . 1 April for the other products, mainly in order to protect Community fishermen and consequently safeguard the principle of Community preference
- autonomous preferential imports are subject to respect for the reference prices
- the reduced tariffs are chosen to weigh more lightly on primary raw materials (whole fish) than on semi-processed products. The level of the duty reductions must obviously respect the Community's international engagements.

It has been suggested that some of these international undertakings (primarily the tariff preferences granted to certain EFTA States) have brought the tariff level for semi-processed products (fillets) below the tariff level for whole fish (raw material for the Community fillet production). The autonomous tariff policy does, to certain degree, rectify the situation.

The autonomous quotas and suspensions (the latter only used for products with no or limited Community production) are published in Regulations Nos 3412/92, 3413/92 and 1272/93. One of these suspensions - dogfish, fresh/frozen at 6% - is in reality replacing a Community obligation vis-à-vis GATT to open an annual quota (5 000 tonnes at 6%).

4. Tariff policy in the near future

4.1 EEA

In the framework of the EEA (European Economic Area) the Parties involved - the Community and the EFTA countries with the exception of Switzerland - have agreed on numerous reciprocal tariff concessions for fishery products.

On the part of the Community, the fishery products have been divided into three groups:

- sensitive products (salmon, herring, mackerel, shrimps, Norway lobster, coquilles St Jacques) for which no tariff concessions are granted

- total duty suspension for cod, haddock, saithe and halibut (whole fresh/frozen and fresh fillets), all salted/dried cod products with the exception of salted and dried cod, "other" fillets in salted/dried presentations or coated, and caviar substitutes
- partial and gradual tariff suspension for all other products.

The partial suspension was planned to start on 1 January 1993 with a 14% reduction in the basic duty to be followed by four further reductions of 14% each during the following four years. After this initial five-year period, the Community's basic duty on the majority of the fishery products vis-à-vis its EEA partners would have been reduced to only 30% of its present level.

The entry into force of the EEA has, however, been delayed as a result of the Swiss referendum in December 1992. Several of the Community's Member States have not yet ratified the Agreement and the earliest date for its entry into force is now considered to be 1 December 1993.

A number of elements in the EEA should be underlined:

- the EFTA countries are not taking over the *acquis communautaire* but will instead adjust their national legislation to the principles of the *acquis communautaire* in order to eliminate any distortion of competition;
- preferential imports under the EEA will not be subject to strict respect for reference prices - in reality the principle of Community preference will be extended to an (albeit partly limited) "EEA - preference";
- the existing preferential agreements between the Community and the individual EFTA countries will continue if and when these offer the EFTA countries more favourable conditions than the EEA;
- the EEA agreement includes a review and development clause;
- the principle of cumulation forms part of the EEA rules of origin;
- nearly all the products for which the Community offers total tariff suspension are those which normally would benefit from the annual autonomous tariff concessions.

It is difficult to put exact figures on the tariff concessions granted by the Community, but previous estimates showed a duty value of around ECU 48 million.

4.2 Autonomous concessions

Following the entry into force of the EEA, the need for future autonomous reductions will be greatly reduced due to the EEA product coverage.

However, the Community processing industry may still need certain limited tariff reductions as certain raw material will not be supplied by any of the EEA partners (or not supplied in sufficient quantities). The future of the autonomous concessions must obviously be examined in the light of the availability of substitute products (as an example: will tariff suspensions for Alaska pollack be needed if the supply of traditional whitefish has greatly increased?).

4.3 Argentina

A fisheries agreement with Argentina has been negotiated and the Council will adopt that agreement towards the end of 1993.

Annexed to this agreement are a number of tariff suspensions to be granted by the Community on an erga omnes basis :

- hake (hubsi), frozen whole and fillets - 5%
- hake fillets, coated - 10%
- anchovies, salted - 5%
- different regional whitefish species - 5%

Frozen fillets of hake are already included in an autonomous suspension (hake fillets (*Merluccius* spp with a few exceptions) at 10%). Imports of frozen hubsi fillets will therefore, after Council adoption, take place under another (but more favourable) preferential scheme. It is difficult to estimate the value of these tariff concessions, partly because a considerable number of the tariff reductions concern species presently unknown, or little known, to Community processors and consumers. The tariff suspensions will obviously mainly benefit products coming from the Argentine fishery sector (due to product selection/coverage).

4.4 Uruguay Round

The Uruguay Round has been relaunched following the outcome of the G7 meeting in Japan this summer. Basic agreement was reached on models for tariff reductions which include fishery products. This agreement takes into account the principle of sensitive products.

At the time this report was prepared, the outcome of the Uruguay Round as regards the fishery sector could not be predicted.

B. SAFEGUARD MEASURES

1. HORIZONTAL MEASURES

Fishery products are subject to the general Community rules on imports of goods into its territory. Under these rules, the horizontal mechanisms for harmonizing the conditions of competition with respect to imported products also apply to fishery products.

Hence, in December 1989 Community salmon farmers brought an anti-dumping complaint before the Commission with regard to Norwegian practices.

After the inquiry, the Commission found a dumping margin of 11.3% to the detriment of Community producers.

However, with the exception of one salmon-producing Member State, all the other Member States rejected the levying of an 11.3% anti-dumping duty proposed by the Commission, whereupon the Commission terminated its inquiry*.

The Commission takes the view that the levying of an anti-dumping duty is one of the most effective ways of protecting the market against unfair trade.

* OJ No L 69, 16.3.1991, p. 32 and OJ No L 75, 21.3.1991, p. 64.

2. MEASURES UNDER THE MARKET ORGANIZATION

As a result of the binding within GATT of the Common Customs Tariff for fishery products, the general import arrangements for these products are subject to the principle of liberalization. This principle prohibits all quantitative restrictions on imports and measures having an equivalent effect, with the exception of measures adopted within the framework of safeguard mechanisms which comply with the specific GATT rules provided for this purpose. The market organization provides for two mechanisms of this type:

- reference prices (Articles 22 and 23 of Regulation (EEC) No 3795/92)
- emergency measures (Article 24 of Regulation (EEC) No 3795/92)

1. Reference prices

In normal conditions, the system of reference prices for the products concerned is a form of permanent surveillance of the import market for these products, particularly with regard to prices. The system was explicitly notified to the GATT when the market organization for fishery products was set up and complies with the consolidation requirements in so far as:

- it imposes no a priori minimum import prices,
- the reference prices are derived from the intervention prices, which are themselves fixed in such a way that the concessions granted by binding are not brought into question.

The system is designed to serve as a safeguard mechanism (targeting prices only) when two circumstances coincide:

- the free-at-frontier price of a given product imported from a third country is lower than the reference price,
- large quantities of the product are being imported.

The purpose of the measures which can be taken in such circumstances is to subject imports to a minimum price by imposing compliance with the reference price, by levying a countervailing charge on such imports or by abolishing an autonomous suspension of customs duties previously in force.

However, such measures may be adopted only if they comply with the conditions laid down in Article XI of the GATT, because they are considered to be measures having an effect equivalent to a quantitative restriction. Article XI lays down the principle of eliminating such restrictions between the Contracting Parties and authorizes them only in the specific exceptional circumstances detailed in paragraph 2(c):

Restrictions are permitted if they are "necessary to the enforcement of governmental measures which operate to restrict the quantities of the like domestic product permitted to be marketed or produced ... or to remove a temporary surplus of the like domestic product...".

Article XI also stipulates that such restrictions must not have the effect of reducing "the total of imports relative to the total of domestic production as compared with the proportion which might reasonably be expected to rule between the two in the absence of restrictions".

Therefore, to comply with the conditions laid down in Article XI, the mechanisms provided for under the system of reference prices can be applied if there is an increase in the volume of imports of a given product when there are measures in force to restrict the domestic supply of that product.

In practice, this requirement means that the crisis situation must result in substantial increases in withdrawals from the Community market.

In addition, it should be noted that GATT panels have interpreted Article XI(2)(c) very strictly; to date no Contracting Party has successfully invoked this clause in its defence. The Community would therefore be ill-advised to place too many hopes in the possibility of recourse to this Article.

2. Emergency measures

Article 24 of Regulation (EEC) No 3759/92 provides that appropriate measures may be applied in trade with third countries if the market in the products referred to in Article 1 experiences or is threatened with serious disturbances which may endanger the objectives of Article 39 of the Treaty and which are caused by imports or exports.

At first sight, this Article appears to have a wide scope for application as regards both the minimum conditions for triggering emergency measures ("threat of disturbances which may endanger...") and the measures which can be taken ("appropriate measures").

In practice, implementation of Article 24 is much more delicate and complex because it falls directly within the scope of Article XIX of GATT.

Article XIX authorizes recourse by a contracting party to an emergency measure in circumstances similar to those defined in Article 24 of Regulation (EEC) No 3759/92 (import of a product in such increased quantities and under such conditions as to cause or threaten serious injury to domestic producers of like products ...) but specifies that the increase in imports must be attributable to the effect of the obligations incurred by the Contracting Party in question under the Agreement.

In addition, a Contracting Party may suspend its obligation in whole or in part in the above-mentioned circumstances only once it has engaged in consultation with the other Contracting Parties concerned (consultation prior to or immediately after the taking of emergency measures) after which, if no agreement is reached, the affected Contracting Parties are free to suspend the application of concessions or equivalent obligations in trade with the Contracting Party which took the emergency measures.

Any decision to implement Article 24 of Regulation (EEC) No 3759/92 must therefore be based on an analysis from three angles:

- economic: precise identification of the nature, causes, extent and consequences of the market disturbance;
- legal: the conclusions of the economic analysis must demonstrate compliance with the conditions laid down in Article 24 of Regulation (EEC) No 3759/92 and in Article XIX of the GATT;
- political: the expected effect of an emergency measure must be weighed against the concessions to be granted to other Contracting Parties or the risk of retaliatory measures if no agreement is reached.

If a Member State intending to take steps to implement Article 24(1) of Regulation (EEC) No 3759/92 requests further details of possible measures and wishes to know which instruments can be used to defend the market from serious disturbance, the Commission would point out that Regulation (EEC) No 288/82* already meets these objectives. There is therefore no need to add to the existing Community legal instruments.

Lastly, many agreements concluded by the Community with third countries (EFTA, the Faroes, etc.) contain special provisions in the event of a crisis on the Community market. The effect of these provisions is generally to restrict the margin of autonomy in the Community's decision-making process, in that the agreements provide for consultation procedures prior to any autonomous decision being taken by the Community.

3. EFFECTS OF THE MARKET ORGANIZATION MEASURES ON THE COMMUNITY MARKET

Regulations (EEC) No 420/93 and 695/93 were adopted within the framework of the regulatory mechanism described at point B.2. They have not resulted in any appreciable increases in auction prices but, by permitting the elimination from the market of quantities of products imported at abnormally low prices, have helped stabilize prices on the Community market. These mechanisms are able to meet short-term market crises but are not designed to counter a structural crisis, which in any case does not affect the fisheries sector alone.

Moreover, since these mechanisms are by nature exceptional and temporary, their real impact on the volume of imports and on consumption levels cannot be measured. With regard to consumption, it is generally accepted that low demand is largely the result of the economic stagnation being experienced by the Community. In this context, the attractiveness of the selling price of fish is an essential component in stimulating consumption.

The recent market crisis has cast a spotlight on two current trends.

* OJ No L 35, 9.2.1982, p. 1.

First of all, new structural factors have emerged to contribute to a drop in the price of fish. Among these are the increasing competition from developing countries wishing to exploit their own resources (this competition has been facilitated by the drop in transport costs), the reformed CAP which is designed to reduce farm prices on the Community market, competition from aquaculture products for which a number of third countries have low-cost labour and production conditions which are often more favourable than those in the Community, and the growing influence of large-scale distribution in the marketing of fishery products, which implies that certain distribution channels for fishery products are becoming more developed. Producer organizations must re-examine their role in these different changes.

Secondly, the drop in first-level sale prices has not been reflected in retail prices and has not therefore contributed to stimulating consumption, which could have helped the market to recover.

It is possible to call into question the organization of sales, and particularly the control exerted by producers over the price formation process downstream from production. The existing legal instruments, particularly the market organization rules, which result from applying the general principles enshrined in the Treaty of Rome with regard to the organization of competition, match the objectives which have been set. However, within this legal framework, the organization of marketing channels is the prerogative of private initiative; it is therefore not the Community's place to intervene in this area, except in the case of cartels or abuse of a dominant position.

4. Market organization and supply measures

It should be noted that the principle of security of supplies referred to in the Treaty concerns products of Community origin and not market supply by imported products.*

This principle does not mean that the Community may not also seek to ensure that its consumers and processors are able to benefit from competitive supply conditions.

The viability of the production sector depends on the competitiveness of the Community processing industry which is the main outlet for the raw material fished. Since Community supply is inadequate to meet market needs, it is essential to ensure further supplies to the processing sector through imports under competitive conditions.

This means that management of the market organization for fishery products must take account of the specific needs of the processing sector by providing regular supplies whose price, quality and the choice offered support international competition and offer the consumer the products required.

It is first of all the conditions of supply of the raw material and then the conditions for processing that raw material into finished products which determine the competitiveness of the Community processing industry and hence its access to both the domestic and the world markets.

* See 1991 Report on the common fisheries policy, SEC(91) 2288 final of 4 December 1991, p. 36.

In the tuna sector, where the interdependence of production and processing has hitherto always been regarded as an essential feature, the principle of market supply at a zero rate of duty has been incorporated into the market organization regulation (Council Regulation (EEC) No 3759/92 of 17 December 1992).

(a) Supply

The consequences of the over-exploitation of certain fishing grounds, and particularly of certain demersal species, by Community vessels include a reduction in the number of species and smaller quantities available to the processing sector, causing increased prices.

Since it was unable to procure the quantities of raw material it required to meet demand for processed products, the industry had to look outside the Community for regular supplies and is now heavily dependent on them.

Besides "traditional" supplies (Community production and imports), aquaculture now accounts for a growing proportion of supplies to the processing industry, particularly of certain species such as salmonids. Nor should it be forgotten that Community operators involved in joint ventures set up with the aid of Community finance are required to give priority to supplying the Community market.

These are the factors which currently exert considerable influence on access to raw materials.

(b) Processing

The competitiveness of this sector depends not only on securing supplies on terms as close as possible to those on the international market but also on its own intrinsic competitiveness.

A major element of relevance here is the high cost of labour in Europe as compared with certain developing countries.

The fact that investments in processing industries, particularly in Africa and south-east Asia, have often been made in proximity to fish stocks clearly illustrates this problem.

The fishing industry is highly international in nature, capital is mobile and the technology required is comparatively easily accessible to developing countries.

These factors have encouraged the migration of whole segments of the world processing industry.

For some blue fish, this relocation process has resulted in a gradual decline in the hitherto dominant position of the Community industry on its home market and increased competition on export markets.

The aim of Community rules should be to facilitate commercial trade which will supply processing factories on commercially profitable terms, that is with the lowest possible customs duties on raw materials and due attention to production constraints arising from the extractive sector.

As noted in the 1991 report (para. 8.2.2.4, p. 80), it is not enough to reduce tariffs on raw materials. This policy should be accompanied by structural measures to modernize the sector and so improve its performance.

The policy adopted for the fisheries processing industry should not be based solely on the objectives of the common fisheries policy as set out in Article 39 of the Treaty but should also follow the general approach to industrial policy advocated by the Commission. In a system of open and competitive markets, that approach seeks to encourage initiative and the development of firms, particularly small firms, in the Community.

C. MONITORING AND CONTROLS

In line with the principle of subsidiarity, Member States are responsible for monitoring application of the Community rules, in particular with regard to provenance, marketing standards, reference prices and health matters.

1. Community health rules and arrangements for trade in fishery products

Health is one of the main factors in the terms and conditions governing the importation of fishery products. The health arrangements are based on the principle of non-discrimination in accordance with international undertakings given by the Community, so health cannot be used as a measure of equivalent effect to an import restriction. Equally, the arrangements must be seen to be applied fully if they are not to constitute reverse discrimination. This implies adequate monitoring resources both at Community and at Member State level.

A brief summary of Community legislation in the field is given in Annex 2; it will help to underline its significance.

A detailed description of this vast area of legislation would be out of place in this report. The reader is reminded of the following:

- the general principle of equivalent treatment for the production and placing on the market of Community products and imported products;
- Directives 91/492/EEC and 91/493/EEC lay down a series of obligations for the production and placing on the market of live bivalve molluscs and fishery products;
- the above Directives also lay down the procedures to be followed for assessing whether the hygiene conditions under which production is carried out in a non-Community country can be considered as equivalent or not.

A Commission Decision adopted after the Standing Veterinary Committee has delivered its opinion sets the specific conditions for imports into the Community from each country; this is based on the report of a mission of experts from the Commission and the Member States. The conditions must include:

- health certification for products exported to the Community;
- a list of approved establishments and factory vessels in accordance with the requirements laid down in the Directives and forwarded to the Commission by the recognized competent authority;
- marking of packagings, in particular with the approval number given to the production establishment or factory vessel from which the products originate.

This system therefore implies the recognition of the competent authority in the third country and delegation to that authority of the power to approve the establishments and factory vessels on the basis of requirements equivalent to those set out in the Directive. Where recognition of a competent authority proves impossible Directive 91/493/EEC provides for the possibility of direct approval of an establishment or factory vessel from the third country by Commission inspectors. Such a possibility does not exist in Directive 91/492/EEC for live bivalve molluscs.

Recognition of a competent authority can be called into question if routine inspections by Commission experts indicate that the guarantees are no longer being provided or if controls of imported products show that they do not comply with established health standards.

Given the large number of countries importing fishery products into the Community there needs to be a sufficiently long period for the Commission to adopt decisions fixing the specific importation conditions for each third country. For this reason Directives 91/492/EEC and 91/493/EEC specify that pending the fixing of specific importation conditions Member States must ensure that conditions are applied which are at least equivalent to those governing the production and placing on the market of Community products. In other words, this provision obliges Member States to require third countries to provide the required health guarantees, provide a list of establishments approved for exports to the Community and produce an official health certificate. To avoid duplication of health certificates from one Member State to the next the Commission has prepared a single model for a provisional health certificate (Decision 93/185/EEC*) on the basis of Article 16 of Directive 91/493/EEC which enables transitional measures to be adopted for a period expiring on 31 December 1994. The certificate, which includes identification of the exporter country's competent authority and the approval number of the production establishment, has been compulsory for all fishery product imports since 1 July 1993.

* OJ No L 79, 1.4.1993, p. 80.

To date (August 1993) only four third countries have been inspected and are the subject of a specific decision concerning the import of fishery products: Argentina, Chile, Canada and the Faroe Islands, and only one, Morocco, has been subject to the same process in respect of live bivalve molluscs. Until the European Economic Area agreement enters into force, countries such as Norway and Iceland which export large quantities of fishery products to the Community have to be treated as third countries. However, the agreement is due to enter into force very soon so the Commission has agreed not to send inspection missions to those countries.

In conclusion, Community health legislation can be regarded as adequate for the following purposes:

- (1) ensuring that fishery and aquaculture products imported from third countries are of a health quality equivalent to that of Community products;
- (2) ensuring that the level of controls in third countries and therefore expenditure on them is equivalent to those of Community countries;
- (3) ensuring that production conditions in third countries, linked to structural and operating conditions, are equivalent to those in Community countries, thus restricting distortion of competition;
- (4) ensuring compliance with the provisions of the legislation, both on-the-spot in third countries' production establishments and at the point of entry of the products into the Community.

However, given that the EEC is the largest importer in the world of fishery products, ECU 7.2 billion in 1992 from over 120 third countries, the proper application of the legislation entails a considerable effort both for Member States, whose competent authorities have to inspect such quantities of imports, and for the Commission, whose Veterinary and Phytosanitary Inspection Office has to check production, inspection and health control conditions in a very large number of non-Community countries.

At present, the lack of funds available to this newly created Office means that the Commission cannot yet fulfil its responsibilities in this field.

2. Fraud in the fishery products sector

Over the past few years a large number of irregularities involving fishery product imports, mainly under the various preferential arrangements (ACP, certain EFTA countries, GSPs, etc.), have been looked into by Member States with coordination by DG XXI, which has in some cases organised Community investigations in the countries concerned.

It is clear that, quite apart from the impact on Community resources, these frauds and irregularities also disturb the market and distort the statistics needed to manage the market properly.

It can be seen from the list of cases in the period 1990-93 and from the annual reports on combating fraud for 1991 and 1992 that these were mainly problems associated with applying preferential tariff arrangements, but there were also false descriptions of products (for the purpose either of obtaining a financial advantage or of avoiding a quota), undervaluing of products or price manipulations (minimum and reference prices) and public health problems (cf. Annex 3).

With two exceptions, the irregularities concerning preferential arrangements involved the use of raw materials imported from countries other than the country benefiting from the preference (or exceeding the combined totals allowed from the ACP countries, the overseas departments and territories, etc.) and/or non-compliance with the rules relating to ownership or crewing of vessels, or again (ACP) the use of third-country vessels chartered without prior consent. In the case of certain GSP countries there was also (intentional) confusion between territorial waters (12 miles) and the exclusive economic zone (200 miles) of the country in question. While the factors enabling a conclusion to be drawn on the status of products (origin of imported raw materials, location of vessels and catch zones) may be known or available to the country issuing the EUR.1 certificate or Form A, this is not the case for the customs authorities in the Member States, who have virtually no opportunity to check this at the time of import.

Another fraud mechanism concerning preferential arrangements but also the avoidance of quotas is the false description of products, for example canned tuna/bonito. This problem should be solved from 1 July 1993 with the introduction of health certificates containing the scientific designation of the fish species, a particularly useful item of information given that identification by customs officials is often only possible by means of scientific analysis and even this kind of analysis cannot always distinguish certain species (canned tuna/bonito).

Customs officers encounter quite significant problems when checking measures based on prices, particularly the system for converting reference prices into minimum import prices, it being relatively easy for an operator to evade the minimum-price rules by reporting fictitious or even real commissions which have the effect of increasing the invoiced price so that it is higher than the minimum price to be complied with. However, such a situation cannot be counted as fraud if such commissions are actually paid.

A fictitious commission cannot be revealed until after a thorough audit of the accounts of the importing companies, and because of the legal system in several Member States such an audit involves special authorisation and/or formal application to the judiciary.

Apart from these difficulties, the conditions under which the rules are applied may vary from one Member State to another and so may give rise to distortions of trade.

CONCLUSIONS: What are the possible solutions?

The Commission working paper on the situation on the market in fishery products put forward a number possible solutions, some of which are currently being implemented.

1. With regard to imports in the form of direct landings, the Commission has transmitted to the Council a proposal for a Regulation* to provide the Community with a permanent legal instrument intended to even up competition conditions between the Community fleet and direct landings by third-country vessels.
2. With regard to reporting under the common market organization, the Commission has just improved the existing rules** to simplify for Member States the content of information indispensable for market monitoring purposes.

To improve this tool Member States must collaborate with the Commission's departments so as to make more use of the latest communications media, thereby speeding up the transmission of market data.

In the opinion of the Commission the reporting required by the common market organisation rules is broadly adequate, provided the rules are fully complied with, to ensure proper monitoring of the market; it therefore seems unnecessary to introduce new means of monitoring such as an economic observatory.

3. With regard to improving the reference price system, more particularly the risk of fraud as a result of artificial price increases on imported products designed to evade the relevant rules, the Commission intends to present a proposal to amend Regulation (EEC) No 3191/82.

With regard to the extension requested by certain Member States to the list of products to be subject to the reference price system, the Commission is to study these requests; this study is made more difficult by the absence of separated tariff headings for several products.

4. Economic measures

Besides the provisions proposed and adopted by the Commission under the common market organisation, the Commission has envisaged acting to cushion the consequences of the crisis by introducing:

a **compensatory allowance for price declines**: Member States have not shown much interest in this measure.

a **Community-wide campaign to promote fish**: this would take the form of several generic promotion campaigns created for different groups of species.

* COM(93) 343 final of 20 July 1993.

** Regulation (EEC) No 2210/93 of 26 July 1993, OJ No L 197, 6.8.1993, p. 8.

5. Structural measures

The Commission believes that although the drastic fall in prices has been accentuated by a number of cyclical factors it is nevertheless the result of fundamental structural problems.

The fact that it has affected both demersal and pelagic species has stimulated a wider analysis of the reasons for the crisis.

There is no doubt that general economic problems in the European Community and its opening to the outside have stopped Community fishermen from offsetting lost income resulting from smaller fish stocks by increasing prices, whereas such prices regularly rose in previous years.

It appears, therefore, that the crisis really is structural and that the entire industry is facing a competitiveness problem the gravity of which varies from one Member State to the next.

The Commission believes that the reasons for this are mainly the over-exploitation of fish stocks resulting from excess fleet capacity and the costs faced by fishing businesses and processors.

Structural measures have been and continue to be introduced to adjust the size of the fleet to catch capacities and thus help gradually to eliminate excess fishing capacity.

This approach, the strengthening of which was approved by Council and Parliament when the 1991 Report was being discussed, is being implemented within the framework of the Structural Funds.

To support this a new financial instrument, the financial instrument for fisheries guidance (FIFG), is to be set up; its funds will ensure that the objectives of the multiannual guidance programmes are achieved and help to speed up the achievement of equilibrium between fleet and fish stocks.

It will also help with modernisation of the fleet, the aquaculture sector and the fishery product processing and marketing sectors. The high cost of labour in the Community will have to be offset by increased productivity if competition from third countries is to be confronted successfully.

Another task of the FIFG will be to help develop industrial strategies stressing innovation and the quality of Community fishery products and publicising those aspects to the consumer.

Restructuring the fisheries sector will not be possible without socio-economic problems.

With that in mind, the Commission intends to help the sector by introducing accompanying measures of various forms:

- in areas dependent on fishing as identified in Objectives 1, 2 and 5(b) of the reform of the Structural Funds (ERDF and ESF), socio-economic measures to assist businesses and workers to retrain and diversify activities;
- under Objective 4 (ESF), measures to help workers adjust to industrial change and with a view to anticipating the effects of restructuring the sector and promoting the transformation of production systems;
- lastly, under a Community initiative, measures particularly aimed at the Community fishing industry and coastal regions.

ANNEX

EXCEPTIONS TO THE CCT

PARTNER	PRODUCT	QUANTITY	REDUCED DUTY RATE	CCT	PERIOD	ESTIMATED VALUE (MAX. APPROACH) - 000 ECU	SPECIAL REMARKS
1. GATT CONCESSIONS							
GATT	Herring, fresh/frozen	34.000 T	0 %	15 %	16/6 - 14/2	1.995	Normally 100% utilized during August
GATT	Cod, dried, salted or in brine	25.000 T	0 %	13 %	1/1 - 31/12	14.293	Normally 100 % utilized during March
GATT	Silverhake, fresh/frozen	2.000 T	8 %	15 %	1/1 - 31/12	260	Quota normally under-utilized
GATT	Cod, frozen fillets	10.000 T	8 %	15 %	1/1 - 31/12	2.651	Quota underutilized, due to more beneficial bilateral tariff arrangements
GATT	Hake, frozen fillets ("standard")	5.000 T	10 %	15 %	1/7 - 31/12	438	Normally 100 % utilized - main supplier is Argentina

96

2. OTHER CONVENTIONAL CONCESSIONS

2.1. LOME IV

ACP COUNTRIES	All products	no limits	0 %	-	1/1 - 31/12	117.550	Origin rules : cumulation between EC, ACP and OCT is possible
---------------	--------------	-----------	-----	---	-------------	---------	---

2.2. TRADITIONAL BILATERAL AGREEMENTS

Norway	Cod, dried, unsalted	3.900 T	0 %	13 %	1/1 - 31/12	7.158	Normally 100 % utilized, raw material must be Norwegian
Norway	Cod, fillets, dried, salted or in brine	3.000 T	0 %	20 %	1/1 - 31/12	3.385	Normally not fully utilized, raw material must be Norwegian
Norway	Certain prepared/preserved products	400 T	10 %	20 %	1/1 - 31/12	74	1604 - Products, normally not fully utilized
Norway	Cod, dried and salted	13.250 T	0 %	13 %	1/4 - 31/12	9.291	Normally 100 % utilized, raw material must be Norwegian
Norway	Cod, salted but not dried	10.000 T	0 %	13 %	1/4 - 31/12	5.095	Normally 100 % utilized, raw material must be Norwegian

Norway	1) Frozen fillets of saltwaterfish	no limits	3 %	12%- 15 %	1/1 - 31/12) ((16.759) ()	Tariff suspensions, of which n° 1 is far the most important
	2) Fillets coated with breadcrumbs	no limits	3 %	15 %	1/1 - 31/12		
	3) Crabs, prepared/preserved	no limits	7,5 %	16 %	1/1 - 31/12		
Sweden	Cod/haddock/coalfish, fresh	3.500 T	0 %	12%- 15 %	1/1 - 31/12	800	Normally 100 % utilized - mainly cod
Sweden	Cod fillets, fresh	1.500 T	0 %	18 %	1/1 - 31/12	1.065	Normally well utilized
Sweden	Caviar substitutes	60 T	0 %	30 %	1/1 - 31/12	145	Normally 100 % utilized
Sweden	Herring, fresh	20.000 T	0 %	15 %	15/8 - 14/2	782	Normally 75 % - 90 % utilized - could be even more utilized, if opening date was earlier (the quota concerns herring in the period 16/6 - 14/2)

Sweden	1) Herring, prepared/preserved 2) Sardinella and sprat, prepared/preserved 3) Shrimps, prepared/preserved	250 T 200 T 120 T	0 % 0 % 7,5 %	20 % 20 % 20 %	1/1 - 31/12 1/1 - 31/12 1/1 - 31/12) ()) 543 () ()	All three quotas are normally 100 % utilized
Sweden	Certain freshwaterfish, fresh or frozen	no limits	0 %	8 %	1/1 - 31/12	211	Tariff suspension for freshwaterfish, not specifically identified in the CN

Iceland	Cod/haddock/ coalfish, fresh/frozen	no limits	3,7 %	12%- 15%	1/1 - 31/12		<p>Tariff suspensions - the raw material must be of Icelandic origin</p> <p>Due to the sheer number of suspensions, an individual break-down has not been made, but it can be mentioned that the value is estimated to (IN 000 Ecu) :</p> <ul style="list-style-type: none"> . 8100 - cod/haddock/coalfish . 3600 - redfish . 42000 - frozen fillets . 13000 - prepared shrimps
Iceland	Redfish, fresh/frozen	no limits	2 %	8%- 15%	1/1 - 31/12		
Iceland	Livers/roes, fresh/frozen/ salted	no limits	0 %	10 %	1/1 - 31/12		
Iceland	Frozen fillets of saltwaterfish	no limits	0 %	15 %	1/1 - 31/12		
Iceland	Pandalus Borealis	no limits	0 %	12 %	1/1 - 31/12		
Iceland	Fillets, coated	no limits	0 %	15%- 20%	1/1 31/12		
Iceland	prepared spats and certain whitefish	no limits	10 %	20 %	1/1 - 31/12		
Iceland	Caviar substitutes	no limits	0 %	30 %	1/1 - 31/12		

Iceland	Prepared/preserved crustaceans and molluscs	no limits	0 %	14%-20%	1/1 - 31/12		
						TOTAL : 72.919	
Switzerland	Certain freshwaterfish, fresh/frozen	no limits	0 %	8 %	1/1 - 31/12	85	Tariff suspension for freshwaterfish, not specifically identified in the CN
Faroe Island	Nearly all products of commercial importance to the Faroe Islands	no limits	0 %	-	1/1 - 31/12	32.409	Respect of the reference price is conditional, raw material must be of Faroese origin. The tariff regime vis-à-vis the Faroe Islands is based on a total tariff suspension with the exception of . trout/salmon, fresh/frozen/ prepared .prepared herring/mackerel/shrimps and Norway lobster for which quotas are instituted

21

32

Greenland	All fishery products	no limits	0 %	-	1/1 - 31/12	36.932	Respect of the reference price is <u>not</u> conditional
EX - CSFR	"Other" freshwaterfish, live	no limits	0 %	8 %	1/1 - 31/12) () 120 () (
EX - CSFR	Livers and roes, fresh	no limits	0 %	10 %	1/1 - 31/12		
Rumania	29 different products	no limit	-	-	1/1 - 31/12	29	Parital tariff suspensions for products belonging to chapters 03 16 and 23. The reductions are either equal to the GSP scheme or equal to a 10 % decrease of the consolidated rates.
Turkey	All fishery products	no limits	0 %	-	1/1 - 31/12	6.219	Raw material must be of Turkish origin

Maghreb	All fishery products	no limits	0 %	-	1/1 - 31/12	43.214	Two exceptions from the total suspension : . Morocco : canned sardines are reduced to 8% in 1993 . Tunisia : canned sardines are limited to a quota (100 T at 0 %)
Egypt	Prepared/preserved shrimps	no limits	10 %	20 %	1/1 - 31/12	2	
Argentina	Hake (Hubsi), frozen whole and frozen fillets	no limits	5 %	15 %	?	-	The fisheries agreement between the EC and Argentina is not yet adopted by the Council
Argentina	Hake fillets, coated	no limits	10 %	15 %	?	-	
Argentina	Anchovies, salted	no limits	5 %	10 %	?	-	
Argentina	Various regional whitefish, whole and fillets	no limits	5 %	15 %	?	-	
3. Autonomous reductions							

33

34

All GSP countries	Various products in 03, 1604 and 1605	no limits	33 % - 50 % reduction of consolidated rate	-	1/1 - 31/12	129.500	Origin rule : cumulation between EC and GSP countries not possible
Least Developed GSP countries	All products	no limits	0 %	-	1/1 - 31/12	p.m.	The value is impossible to estimate. The major part is already included in the value for the ACP countries
GSP 'Drogue' 1 (Columbia, Ecuador, Peru, Bolivia)	All products	no limits	0 %	-	1/1 - 31/12	44.113	Present system will be terminated in the autumn 1994
GSP 'Drogue' 2 (all Central American countries except Panama)	All products	no limits	0 %	-	1/1 - 31/12	11.213	Present system will be terminated in the autumn 1994

ERGA OMNES	Tuna	no limits	0 %	22 %	1/1 - 31/12	12.598	For the processing of 1604 products. The value (12.598) has already been reduced for imports under ACP/GSP'Droque'/ Maghreb
ERGA OMNES	Eel	5.000 T	0 %	3 %	1/7 - 30/6	909	Normally 100 % utilized. Destined for processing
ERGA OMNES	Cod, fresh/frozen	30.000 T	6 %	12%-15%	1/4 - 31/12	-	R. 3412/92 The quota for cod was nearly fully utilized end of July.
ERGA OMNES	Pandalus Borealis	5.000 T	6 %	12 %	1/4 - 31/12	-	
ERGA OMNES	Alaska pollack, fresh/frozen	2.000 T	8 %	15 %	1/4 - 31/12	-	
ERGA OMNES	Hake, fresh/frozen	4.000 T	8 %	15 %	1/4 - 31/12	-	
ERGA OMNES	Surimi	2.500 T	6 %	15 %	1/4 - 31/12	-	

35

28

ERGA OMNES	Cod, fresh/frozen	27.500 T	3,7 %	12%- 15%	1/7 - 31/12	-	R. 1272/93 The 1. tranche of the cod quota was fully used end of July.
ERGA OMNES	Coalfish, fresh/frozen	17.500 T	3,7 %	15 %	1/7 - 31/12	-	
ERGA OMNES	Cod, wetsalted	60.000 T	4 %	13 %	31/5 - 31/12	-	
ERGA OMNES	Cod, dried, not salted	500 T	7 %	13 %	31/5 - 31/12	-	
ERGA OMNES	Cod fillets, salted	3.000 T	8 %	16 %	31/5 - 31/12	-	
ERGA OMNES	Coalfish fillets, salted	2.000 T	10 %	16 %	31/5 - 31/12	-	
ERGA OMNES	Greenland halibut, fresh/frozen	3.900 T	4 %	8 %	31/5 - 31/12	-	

ERGA OMNES	Frozen filets of - hake - Alaska pollack and 13 specialised products	no limits	10 % 5 % 0-6 %	15 % 15 %	1/1 - 31/12	-	R. 3413/92
						<u>56.067</u>	All products covered by R.3412/92, R.3413/92 and R.1272/93 : - destined for processing - respect of ref. price

37-

The basic legislation

The conditions for the production and placing on the market of fishery and aquaculture products are subject to the provisions of specific, "vertical", Directives and general, "horizontal", Directives.

I. The specific Directives cover aspects dealing with public health (consumer protection) and animal health (livestock protection).

(1) Public health:

- Council Directive 91/492/EEC of 15 July 1991 laying down the health conditions for the production and the placing on the market of live bivalve molluscs.¹
- Council Directive 91/493/EEC of 22 July 1991 laying down the health conditions for the production and the placing on the market of fishery products.²
- Council Directive 92/48/EEC of 16 June 1992 laying down the minimum hygiene rules applicable to fishery products caught on board certain vessels in accordance with Article 3(1) of Directive 91/493/EEC.³

(2) Animal health:

- Council Directive 91/67/EEC of 28 January 1991 concerning the animal health conditions governing the placing on the market of aquaculture animals and products.⁴
- Council Directive 93/53/EEC of 24 June 1993 introducing minimum Community measures for the control of certain fish diseases.⁵

II. General Directives lay down the principles for the organisation of veterinary controls for both products and live animals in intra-Community trade or on import into the Community from third countries.

(1) Public health:

- Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market.⁶

1 OJ No L 268, 24.9.1991, p. 1.
 2 OJ No L 268, 24.9.1991, p. 15.
 3 OJ No L 187, 7.7.1992, p. 41.
 4 OJ No L 46, 19.2.1991, p. 1.
 5 OJ No L 175, 19.7.1993, p. 23.
 6 OJ No L 395, 30.12.1989, p. 13.

- Council Directive 90/675/EEC of 10 December 1990 laying down the principles governing the organization of veterinary checks on products entering the Community from third countries.⁷

(2) Animal health:

- Council Directive 90/425/EEC of 26 June 1990 concerning veterinary and zootechnical checks applicable in intra-Community trade in certain live animals and products with a view to the completion of the internal market.⁸
- Council Directive 91/496/EEC of 15 July 1991 laying down the principles governing the organization of veterinary checks on animals entering the Community from third countries and amending Directives 89/662/EEC, 90/425/EEC and 90/675/EEC.⁹

7 OJ No L 373, 31.12.1990, p. 1.

8 OJ No L 224, 18.8.1990, p. 29.

9 OJ No L 268, 24.9.1991, p. 56.

LIST OF MUTUAL-ASSISTANCE CASES INVOLVING FISHERY PRODUCTS

- 04/88 False EUR.1's from the Gambia and Sierra Leone for crustaceans and fish of various provenance (Japan, Korea, China, etc.) imported via Las Palmas under cover of false declarations of direct transport (preferential origin: ACP; own resources at stake: ECU 2 million); recovery situation partially known, including ECU 88 500 (cf. 1991 Annual Report, p. 20).
- 02/90 Prawns/cod from Greenland (preferential origin: overseas countries and territories; own resources at stake and recovered: ECU 750 000) (cf. 1991 Annual Report, p. 20); prawns from the Faroe Islands (preferential origin: autonomous scheme; own resources at stake: ECU 10.5 million) (cf. 1991 Annual Report, p. 22); recovery in progress.
- 04/90 Frozen fish fillets from Poland (reference price - tariff quotas - special destination: own resources DM 608 000 = + ECU 300 000).
- 07/90 Canned tuna from Côte d'Ivoire (preferential origin ACP; own resources ECU 17 million) (cf. 1991 Annual Report, p. 23); recovery in progress.
- 28/90 Canned 'bonito' from Thailand (false description of products in order to obtain GSP treatment; own resources ECU 10 million) (cf. 1991 Annual Report, p. 23).
- 32/90 Canned tuna from Fiji/Solomon Islands (preferential origin ACP; own resources ECU 2 million) (cf. 1991 Annual Report, p. 23); recovery of ECU 700 000 (Solomon Islands) and ECU 300 000 (Fiji; after partial charging to unused exemptions).
- 33/90 Canned tuna from Mauritius (preferential origin ACP; own resources ECU 6 million, without account being taken of an exemption) (cf. 1992 Annual Report, p. 17).
- 14/91 Skinned prawns from Iceland (preferential origin: bilateral agreement; own resources ECU 3.5 million) (cf. 1992 Annual Report, p. 15) recovery in progress.
- 15/91 Herring fillets from Norway (undervalued; own resources DKR 70 180 = + ECU 10 000).
- 59/91 Canned tuna from Ecuador, Colombia (preferential origin GSP; own resources to be determined but probably + ECU 6 million for each country).
- 64/91 Canned 'bonito' from the Philippines, Indonesia (false description of product in order to obtain GSP treatment; own resources ECU 4-5 million for the Philippines - 2 500 irregular form A's - less for Indonesia - 600 irregular form A's).
- 10/92 Canned tuna from the Seychelles (preferential origin ACP; own resources ECU 1.5 million) (cf. 1992 Annual Report, p. 15).

- 12/92 Frozen mackerel fillets from Norway/USA (origin: not clear; own resources HFL 12 292 + 3 920 = 16 212 = + ECU 8 000).
- 21/92 Cod from Norway (false description of species + preferential origin bilateral agreement) (own resources ECU 1.3 million) (cf. 1992 Annual Report, p. 12).
- 50/92 Canned tuna from Thailand refused by USA for health reasons (possibility of rerouting from the EC - but no consignment of this type was reported by Member States).
- 81/92 Sardines from Morocco (false declaration of species - tariff quotas, own resources ECU 3 935).
- 30/93 Prawns and lobsters from Madagascar (preferential origin ACP, own resources to be determined).
- 65/93 False EUR.1's, Liberia, octopus, squid, etc (preferential origin ACP, own resources to be determined).
- 78/93 Avoidance of quotas applicable in 1993 to canned tuna (false description of products).
- 85/93 Frozen hake from Argentina (reference price; no own resources at stake because import was refused).