

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(77) 593 final

Brussels, 17 November 1977

COMMISSION RECOMMENDATION TO THE COUNCIL

concerning supplementary directives for the negotiation
of fisheries agreements between the Community and certain
associated african States

COM(77) 593 final

Negotiation directives for fishery negotiations with West African States

I Introduction

1. The Community has fishing interests off West Africa. It is clearly desirable to maintain the operations of the Community fishing fleet traditionally active in these waters.
2. At its meeting of 27 June 1977 the Council authorized the Commission to open negotiations with Guinea-Bissau, Senegal, Mauritania, and the Cape Verde Islands, to be conducted according to the directives already agreed for negotiations with those countries to whom the Community does not offer reciprocity of fishing rights.
3. The Commission has, in February, July and August 1977, conducted exploratory talks in the countries concerned, in order to assess the prospects for a successful negotiation and the possible forms of compensation which the Community might have to offer in exchange for fishing rights. The Commission Services have also examined the terms and conditions of existing bilateral agreements in collaboration with the national administrations concerned, with a view to safeguarding rights accorded to any Member State under such agreements in any future Community agreement. The Commission is now in a position to propose more precise negotiation directives which take into account the complexity of the various Community and third country interests involved.
4. The Commission would also recall that the Council, through its President, sent letters to the Governments of Guinea-Bissau, Senegal, and Mauritania on 7 October 1977, noting the contacts already made on this matter, as well as the urgency of a solution for the problems of Community fishermen, and expressing the conviction that the spirit of cooperation resulting from the Lomé Convention would animate future fisheries negotiations (See Annex 1).

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II Present fisheries situation in the states concerned

a) Mauritania

5. Under an agreement between France and Mauritania signed on 15 February 1973, France has been granted licences for 12 vessels totalling 2,500 GRT to fish lobsters, in return for

- fees of \$80 per GRT
- 5 scholarships
- 3 Mauritians aboard each vessel.

This agreement expires on 30 April 1979.

6. As far as Italy is concerned, its fleet fished in Mauritanian waters from 1960 to 1972. An agreement in 1969 allowed for 45 vessels of a tonnage of 40,000 GRT. The compensation took the form of employment of 3 to 5 nationals per vessel, and a licence fee of \$15 per GRT. The agreement was not renewed in 1972, following the request from the Mauritanian side for payment of a fee of \$120 per GRT. This explains why that part of the Italian fleet which was not scrapped looked for fishing possibilities further south.

7. For the year 1978 the Government of Mauritania has established conservation limits for fishing within its 30-mile territorial waters, restricting the total tonnage of vessels fishing demersal species to 40,000 GRT and those fishing pelagic species to 120,000 GRT. It seems commitments have already been made by Mauritania to other partners to such an extent that it is unlikely that the Community will be able to obtain significant fishing rights for demersal species in 1978. (Mauritania had, at the end of August, signed agreements with nine other countries : USSR, Japan, Roumania, South Korea, Spain, Morocco, Libya, Greece, Egypt).

8. Mauritania attaches the following conditions to the granting of licences :

- (i) obligatory local landings of 800 kgs. of fish per authorized GRT;
- (ii) employment of 5 Mauritians per vessel;
- (iii) fees of - \$200 per GRT for demersal species
\$160 per GRT for pelagic species.

Other forms of compensation may replace fees, but the value of such compensation must be comparable to the value of fees.

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b) Senegal

9. The Government of Senegal which has recently extended its fisheries jurisdiction to 200 miles has to date only concluded two fisheries agreements with non-member countries (Poland, Spain). Two Member States of the Community, France and Italy, have concluded fisheries agreements with Senegal but the agreement with Italy was suspended in 1976. Senegal, unlike Mauritania, has so far postponed negotiations with other parties pending negotiations with the Community.

10. Under the Franco-Senegalese agreement of 16 September 1974, French vessels landing their catches in Senegal receive identical treatment to local vessels (that is, payment of a fee of 1.000 F CFA per ton for tuna and sardines). In return for aid in the form of a loan of 30 million FF, vessels which do not land locally pay double the normal fee, which is still relatively low. This agreement covers the activity of 60 French vessels, totalling 25.000 GRT approximately.

11. As for Italy, the agreement of 17 January 1975, which expired on 17 January 1977, permitted fishing by 20 and later by 28 vessels of a total of 16.000 and later 19.000 GRT with the employment of 5 Senegalese per vessel. The application of this agreement was suspended by Senegal following differences over the financial and technical assistance elements of compensation.

12. It appears that conditions for further access to Senegalese waters by Community vessels might consist of four elements :
 - (i) an obligation to land part of catches in Senegal - the extent of this obligation will determine Senegalese demands under other headings;
 - (ii) loans for fisheries development;
 - (iii) subsidies for scientific research and training;
 - (iv) employment of Senegalese aboard each vessel.

o) Guinea-Bissau

13. While Guinea-Bissau has concluded fisheries agreements with a number of non-EEC countries, including the USSR, and Portugal, fishing in the 200-mile zone of Guinea-Bissau by Community vessels is limited to French vessels operating under the terms of a bilateral agreement valid until 19 January 1979. Guinea-Bissau is shortly to adopt a fisheries law which will govern its policy concerning foreign fishing; the exact terms of this law are not yet known.
14. The current French agreement with Guinea-Bissau covers the same vessels as the agreement with Senegal mentioned above, plus another 20 vessels which fish for shrimp. The terms of this agreement are according to the Guinea-Bissau authorities extremely favourable, and would not under any circumstances be extended to other Member States under a Community agreement (i.e. fees of 150 FF per GRT at an annual rate, plus assistance in scientific research and the local use of a freezer trawler.)
15. Italian vessels used to fish in Guinea-Bissau waters on the basis of an informal authorization, pending an agreement. During 1976, this involved 24 vessels of a total of 13,000 tons. In 1977, after exclusion from Senegalese waters, 45 vessels totalling 38,000 GRT began to operate in this area. In the absence of an agreement, and having refused to pay licence fees of \$200-250 per GRT on a private basis, the same vessels were excluded from these waters on 25 May 1977.
16. In contrast to Senegal and Mauritania, Guinea-Bissau has not in the past insisted on local landings of catches by foreign vessels. The main form of compensation for fishing rights requested by the Guinea-Bissau authorities has been the payment of high fees (between \$200 - \$300 per GRT per annum according to Guinea-Bissau sources; vessels fishing for fish as opposed to shrimp would pay at the lower end of this scale.) During the exploratory conversations the authorities of Guinea-Bissau did, however, stress the importance of the development of local processing industries.

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d) Cape Verde Islands

17. Cape Verde's fisheries jurisdiction extends at present to 100 miles, but will be extended to 200 miles. As in the case of Guinea-Bissau, the governing principles of Cape Verde's fisheries policy are shortly to be laid down in fisheries law, before which time no agreements will be concluded. While no agreement has so far been concluded between a Member State and the Cape Verde Islands concerning fishing in these waters, the Community may be interested in fishing tuna in the future.

III Summary of Community objectives for negotiation

18. For the immediate future, the principal objectives of the Community in its negotiations with countries of West Africa are :
- a) the maintenance of fishing rights presently existing pursuant to bilateral agreements concluded by Member States, and of other traditional Community fishing which has suffered a dramatic reduction over the past year;
 - b) acquisition of limited additional access rights for fishing vessels which have not formerly operated in this area, thereby improving the overall fishery possibilities for Community vessels.

In terms of vessel capacity employed, the overall Community target would be of the order of magnitude of 80.000 tons (GRT) over the whole region, comprising about 150 vessels in all (ranging from 300 tons to a maximum of 3.500 tons per vessel).

IV Approach to the negotiations

19. The Community's overall approach must be considered within the general context of relations between the Community and the ACP countries. It was with this in view that the letters referred to in I.3. were recently sent to the three African countries concerned.

The Lomé Convention deals with fisheries in a Joint Declaration (See Annex 2), which reflects the legal situation which existed when the Convention was concluded. The Community, which has inherited the competence of Member States in fishery matters, may wish to build upon the expressed willingness of the ACP countries to negotiate fishery agreements, as well as their undertaking not to discriminate between Member States or against them. It should be noted, however, that schemes for the development of fisheries and related industries to which the Community already contributes under the Convention do not constitute direct compensation in exchange for future fishing rights.

20. This approach must be determined by reference to the principles generally accepted by the Third Conference on the Law of the Sea, in particular to those applicable to the developing countries;⁽¹⁾ this guideline stems from decisions adopted by the Council, inter alia in its resolutions and decisions of 27 July 1976 and 3 November 1976.

21. The Community approach therefore necessitates :

- the search for a medium-term solution which would be without prejudice to the future context of overall relations between the Community and the ACP States;
- the acceptance of the principle of financial compensation which is in realistic proportion to the interests at stake and intended to encourage the development of fisheries in the partner countries and part of which must be paid by the Community.

(1)

Article 62 of the Informal Composite Negotiating Text refers, inter alia, to the "payment of fees and other forms of remuneration, which in the case of developing coastal states, may consist of adequate compensation in the field of financing, equipment and technology relating to the fishing industry". (Art. 62. 4 (a)).

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22. In the light of the preceding remarks, therefore, the Commission recommends that the negotiations be centred upon the formulation of an agreement with each of the African States concerned, and that the provisions of these agreements take into account the international fishery obligations which the different partners may have; a particular case here consists of the provisions relating to the major migratory fish, and the conservation and fishing of which must be developed in the context of the appropriate international fisheries organisation. In this respect, in this specific case in particular, the Community must endeavour to negotiate terms of access to the fishing zone of each of the coastal partner States so that, subject to certain monitoring conditions, it may make catches in line with those authorized in accordance with the recommendations adopted for tunny fishing under the appropriate international convention. The lifespan of these agreements should be limited to two or three years so that, at the end of the initial period, a general review can be made and any developments in the facts or legal aspects of the situation can be taken into account.
23. The Community should propose to each of its partners a single procedure for financial compensation, with two separate parts, namely :
- (a) a system of licences, for which the fishermen themselves would pay and the cost of which would be determined according to the characteristics of the type of fishing authorized. The following three variables should be used to determine the fee :
 - (i) the nature of the fishing and its market value, which may vary greatly according to the species concerned;
 - (ii) the fishing period in each national zone. It would be advisable, in this respect, to make provision for the issue of licences valid for three, six or nine months, in addition to annual licences;
 - (iii) the proportion of landings in the partner country.
 - (b) other forms of compensation, which would mean a financial outlay for the Community and would be designed to promote the development of fisheries in the African countries. Such compensation could cover the following, inter alia;

- port facilities
- infrastructure for processing the products landed;
- cooperation in scientific and technical research;
- monitoring equipment;
- the training of crews.

This compensation must also take into account the treatment accorded by the partners to third countries. Having regard to paragraph 19 above, the treatment accorded to the Community should not, under equal conditions, be less favourable than that accorded to third countries.

24. A balance must be struck between the two parts of the financial compensation in such a way as to achieve equal treatment for all Community fishermen, regardless of the fishing zones in which they are operating.

V Financial implications

25. The Commission is not in a position at this stage to indicate what is likely to be the level of the compensation to be negotiated with the countries concerned. Although, on the basis of the exploratory conversations already held and the joint examination conducted with the Member States most affected by this matter, it is possible to suggest reasonable limits which should not be exceeded, this point must be kept for the actual negotiations.
26. The compensation granted in addition to fees will constitute Community public expenditure to be entered as such in the General Budget of the Communities. The Commission will not be able to indicate the budgetary consequences of these agreements until an advanced stage is reached in the negotiations.

27. For the reasons given above, therefore, the Commission recommends to the Council that it

- confirms its authorization to the Commission to open negotiations for the conclusion of fisheries agreements with Mauritania, Senegal, Guinea-Bissau, and the Cape Verde Islands;
- further authorizes the Commission to conduct these negotiations in accordance with the directives laid down in part IV of the present communication.

Copie à : S.E. Monsieur l'Ambassadeur OULD ABDALLAH

CONSEIL
DES
COMMUNAUTES EUROPEENNES

Bruxelles, le 7 OCT. 1977

Le président

S.E. Maître Moktar OULD DADDAH
Président de la République islamique
de Mauritanie
NOUAKCHOTT
(Mauritanie)

15958

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Monsieur le Président,

A l'occasion de sa session du 20 septembre 1977, le Conseil des Communautés européennes - en faisant le point sur l'ensemble des aspects externes de la politique commune en matière de pêche - s'est penché en particulier sur les perspectives qui se présentent dans ce domaine en ce qui concerne les relations entre la Communauté et votre pays.

Le Conseil a pris note, à cette occasion, de la volonté de votre gouvernement d'entrer en négociation en vue de la conclusion d'un accord de pêche avec la Communauté.

Dans ce contexte, le Conseil s'est déclaré convaincu que ces négociations seront animées de l'esprit de coopération résultant de la Convention de Lomé, qui symbolise notre volonté commune d'intensifier des relations amicales entre les Etats d'Afrique, des Caraïbes et du Pacifique et la Communauté.

Par ailleurs, le Conseil a souligné l'importance, vu l'existence de problèmes urgents qui se posent aux pêcheurs communautaires, d'arriver à un arrangement, dans les plus brefs délais, en attendant l'entrée en vigueur d'un accord.

Veuillez agréer, Monsieur le Président, l'assurance de ma haute considération.

H. SIMONET

"La lettre adressée à M. le Président de la République islamique de Mauritanie est jointe"

Copie à : S.E. Monsieur l'Ambassadeur Seydina Oumar SY

CONSEIL

DES

Bruxelles, le 7 OCT. 1977

COMMUNAUTES EUROPEENNES

LE PRESIDENT

Son Excellence
Monsieur ABDOU DIOUF

15960

Premier Ministre du Gouvernement
du Sénégal

15961

Building Administratif - Primature

DAKAR

(Sénégal)

Monsieur le Premier Ministre,

A l'occasion de sa session du 20 septembre 1977, le Conseil des Communautés européennes - en faisant le point sur l'ensemble des aspects externes de la politique commune en matière de pêche - s'est penché en particulier sur les perspectives qui se présentent dans ce domaine en ce qui concerne les relations entre la Communauté et votre pays.

Le Conseil a pris note, à cette occasion, des informations recueillies par la Commission sur les possibilités de trouver une solution aux problèmes immédiats auxquels ont à faire face certains pêcheurs communautaires qui souhaitent continuer à exercer leur activité dans les eaux de pêche de la Guinée-Bissau, du Sénégal, ainsi qu'aux problèmes se posant à plus long terme.

Dans ce contexte, le Conseil s'est déclaré convaincu que dans l'esprit de coopération résultant de la Convention de Lomé, lequel symbolise notre volonté commune d'intensifier les relations amicales entre les Etats d'Afrique, des Caraïbes et du Pacifique et la Communauté, votre gouvernement voudra bien participer d'une manière positive à la recherche de solutions satisfaisantes aux problèmes urgents évoqués ci-dessus.

Veillez agréer, Monsieur le Premier Ministre,
l'assurance de ma haute considération.

H. SIMONET

"La lettre adressée à Monsieur le Premier Ministre de la République du Sénégal est jointe"

Copie à : S.E. Monsieur l'Ambassadeur Luis de OLIVEIRA SANCA

CONSEIL
DES
COMMUNAUTES EUROPEENNES

Bruxelles, le 7 OCT. 1977

LE PRESIDENT

15962

Son Excellence
Monsieur Luis CARRAL
Président de la
République de Guinée-Bissau
Palais de la Présidence
BISSAU

15963

Monsieur le Président,

A l'occasion de sa session du 20 septembre 1977, le Conseil des Communautés européennes - en faisant le point sur l'ensemble des aspects externes de la politique commune en matière de pêche - s'est penché en particulier sur les perspectives qui se présentent dans ce domaine en ce qui concerne les relations entre la Communauté et votre pays.

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Veuillez agréer, Monsieur le Président, l'assurance de ma haute considération.

H. SIMONET

"La lettre adressée à M. le Président de la République de Guinée-Bissau est jointe"

Joint Declaration on fishing activities

1. The Community declares that it is willing to encourage, within the framework of industrial, financial and technical co-operation activities in the ACP States which so desire, the development of their fishery and related industries.

2. The ACP States declare their willingness to negotiate with any Member State bilateral agreements likely to guarantee satisfactory conditions in the fishery activities in the sea waters within their jurisdiction. In the conclusion of such agreements the ACP States shall not, under equal conditions, discriminate between or against Member States of the Community.

