

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 7 December 1995

on the conclusion of an Agreement in the form of an exchange of letters concerning the provisional application of the Agreement on cooperation in the sea fisheries sector between the European Community and the Kingdom of Morocco initialled in Brussels on 13 November 1995

(95/540/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to the Act of Accession of Spain and Portugal, and in particular Article 155 (2) (b) thereof,

Having regard to the Agreement on relations in the sea fisheries sector between the European Economic Community and the Kingdom of Morocco ⁽¹⁾, signed in Brussels on 15 May 1992, and in particular Article 15 (3) thereof,

Having regard to Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture ⁽²⁾, and in particular Article 8 (4) thereof,

Having regard to the proposal from the Commission,

Whereas the Community and the Kingdom of Morocco have conducted negotiations, as provided for in Article 15 (3) of the 1992 Agreement on relations in the sea fisheries sector between the European Community and the Kingdom of Morocco;

Whereas, in the wake of the negotiations, the Community and the Kingdom of Morocco have initialled a new Agreement on relations between them in the sea fisheries sector ⁽³⁾ which provides fishing opportunities for Community fishermen in waters over which Morocco has sovereignty or jurisdiction;

Whereas, pursuant to Article 155 (2) (b) of the Act of Accession of Spain and Portugal, the Council is required to determine the appropriate procedures to take into consideration all or part of the interests of Ceuta and Melilla when it adopts decisions, case by case, particularly with a view to the conclusion of fisheries agreements with third countries; whereas the said procedures need to be determined in this particular case;

Whereas, in order to manage them efficiently, the fishing opportunities available to the Community in Morocco's fishing zone should be divided between the Member States, in accordance with Article 8 of Regulation (EEC) No 3760/92;

Whereas the fishing activities covered by this Decision are subject to the relevant control measures provided for in Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy ⁽⁴⁾;

⁽¹⁾ OJ No L 407, 31. 12. 1992, p. 1.

⁽²⁾ OJ No L 389, 31. 12. 1992, p. 1.

⁽³⁾ See p. 7 of this Official Journal.

⁽⁴⁾ OJ No L 261, 20. 10. 1993, p. 1.

Whereas, to ensure application of the Agreement, it is necessary for the Member States to ensure that shipowners comply with their obligations and provide the Commission with all relevant information;

Whereas, in accordance with Council Regulation (EC) No 3317/94 of 22 December 1994 laying down general provisions concerning the authorization of fishing in the waters of a third country under a fisheries agreement⁽¹⁾ and with the arrangements agreed in the Agreement on cooperation in the sea fisheries sector between the European Community and the Kingdom of Morocco, the flag Member State and the Commission have to ensure that applications for fishing licences comply with those arrangements and the Community rules applicable;

Whereas, to prevent the continued interruption of Community vessels' fishing activities, the two parties have also initialled an exchange of letters providing for the provisional application of the Agreement from 1 December 1995 and whereas, therefore, it is imperative that this exchange of letters be concluded as soon as possible, pending conclusion of the Agreement on the basis of Articles 43 and 228 (3), second subparagraph, of the Treaty,

HAS DECIDED AS FOLLOWS:

Article 1

The Agreement in the form of an exchange of letters concerning the provisional application of the Agreement on cooperation in the sea fisheries sector between the European Community and the Kingdom of Morocco, hereinafter to as 'the Agreement', is hereby approved on behalf of the Community.

The text of the Agreement in the form of an exchange of letters is attached to this Decision.

Article 2

In order to take into consideration the interests of Ceuta and Melilla, the Agreement and, to the extent required for its application, the provisions of the common fisheries policy relating to the conservation and management of fisheries resources shall also apply to vessels flying the flag of Spain which are recorded on a permanent basis in the registers of the competent authorities at local level (*registros de base*) in Ceuta and Melilla, under the conditions defined in note 6 of Annex I to Council Regulation (EEC) No 1135/88 of 7 March 1988 concerning the definition of the concept of originating

products and methods of administrative cooperation in trade between the customs territory of the Community, Ceuta and Melilla and the Canary Islands⁽²⁾.

Article 3

The fishing opportunities arising from the provisional application of the Agreement shall be divided according to the table in the Annex.

Where, in a fishing category, a Member State draws up licence applications for less than its allocated tonnage, the Commission shall offer shipowners from the other Member States the opportunity to submit applications.

Given that fishing licences for the category tuna boats are annual, unused fishing opportunities will be divided up when applications are made for licences for the first quarter of each calendar year.

Article 4

1. The Member States shall:

- (a) check that the data given on the licence application forms provided for in Appendix I to Annex I to the Agreement match those in the Community register of fishing vessels established by Commission Regulation (EC) No 109/94 concerning the fishing vessel register of the Community⁽³⁾ and report to the Delegation of the Commission of the European Communities to Morocco, hereinafter referred to as 'the Delegation', any changes in those data at the time of subsequent applications;

They shall likewise verify the accuracy of the other data necessary for the drawing-up of licences;

- (b) submit licence applications to the Delegation two working days before the deadline laid down in point B. 1. 1 of Annex I to the Agreement.

As soon as they have been issued by the Moroccan authorities, licences will be transmitted to the Member States' representations in Rabat;

- (c) provide the Delegation each month with a list of vessels whose licences have been suspended with, by port, the date on which a licence was handed over and the date on which it was restored;

⁽¹⁾ OJ No L 350, 31. 12. 1994, p. 13.

⁽²⁾ OJ No L 114, 2. 5. 1988, p. 1. Regulation as amended by Regulation (EEC) No 3902/89 (OJ No L 375, 23. 12. 1989, p. 5).

⁽³⁾ OJ No L 19, 22. 1. 1994, p. 5.

(d) transmit to the Commission before 30 June 1996 the summaries of the inspection reports referred to in point 2 of Chapter IV of Annex II to the Agreement. The summaries shall describe the inspections carried out, the results obtained and the action taken;

(e) transmit to the Delegation each month a copy of the scientific observers' reports provided for in point 3 (v) of Chapter V of Annex II to the Agreement;

notify the Commission before 30 June 1996 of any infringements revealed by the information contained in these reports and the action taken;

enter the scientific data contained in these reports in an electronic database. The Commission shall have access to these databases;

(f) transmit to the Delegation and at the same time to Morocco's competent authorities a copy of the notice of the inspection missions planned under point 4 of Chapter VI of Annex II to the Agreement and, where relevant, a copy of the notification that an observer will be taking part;

transmit to the Delegation a copy of the Community observer's reports referred to in point 3 of Chapter VI of Annex II to the Agreement concerning the reciprocal observation of shore controls;

(g) adopt the provisions needed to take appropriate action and initiate administrative proceedings, as provided for in point 4 of Chapter V of Annex II to the Agreement.

Article 5

The President of the Council is hereby authorized to designate the persons empowered to sign the Agreement in the form of an exchange of letters in order to bind the Community.

Done at Brussels, 7 December 1995

For the Council

The President

J. SOLANA

ANNEX

Provisional allocation of fishing possibilities between Member States

Fishing Categories	Member State	Tonnage available			
		from 1. 12. 1995 to 30. 11. 1996	from 1. 12. 1996 to 30. 11. 1997	from 1. 12. 1997 to 30. 11. 1998	from 1. 12. 1998 to 30. 11. 1999
Cephalopods	Spain	30 212	26 892	23 572	19 920
Shrimp Trawlers	Spain	11 200	10 000	9 000	8 200
Longliners	Spain	7 412	7 070	6 591	6 044
	Portugal	3 938	3 760	3 511	3 226
Seiners — North	Spain	1 300	1 300	1 300	1 300
Seiners — South	Spain	4 800	4 800	4 800	4 800
Small-scale	Spain	1 550	1 550	1 550	1 550
Black hake trawlers	Spain	3 000	3 000	3 000	3 000
Pelagic trawlers	France	1 300	1 300	1 300	1 300
Tuna vessels	Spain	17 vessels	17 vessels	17 vessels	17 vessels
	France	10 vessels	10 vessels	10 vessels	10 vessels
Sponge	Greece	5 vessels	5 vessels	5 vessels	5 vessels