

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

MDF/W/33

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Special Distribution

Working Party on Trade in Certain
Natural Resource Products:
Fish and Fisheries Products

BILATERAL FISHERIES AGREEMENTS

Note by the Secretariat

1. During the meeting of the Working Party on 20 and 21 September 1984, some members reiterated their views that the recent proliferation of bilateral fishery agreements should be regarded as a major issue affecting patterns of fish production, commercialization and trade.
2. It was noted that the number of these agreements has substantially increased since 1977, mostly resulting from the almost generalized introduction by coastal states of Exclusive Economic Zones broadly based (although not necessarily legally) on Part V of the United Nations Convention on the Law of the Sea (UNCLOS III).
3. It was further noted that these agreements could take various forms and be aimed at different objectives. A first general distinction could be made between:
 - (a) Fisheries agreements which are but a component of cooperation in much wider fields; and
 - (b) Agreements restricted to fisheries matters which can be further classified into (i) those providing a framework for medium-term cooperation in fisheries and (ii) self-contained agreements.
4. Many of existing bilateral fisheries agreements are framework agreements. They are so-called because they establish the general conditions governing fisheries relations between contracting parties. Detailed arrangements are usually left to subordinate agreements negotiated every year. These agreements are normally valid for several years and often have an automatic renewal clause.
5. Most of other bilateral fisheries agreements are more specifically related to the conditions and regulations of the disposition within EEZs of fish resources which are surplus to the harvesting capability of coastal states. These types of agreements include: (i) reciprocal agreements, providing for access by each contracting party's fishing vessels to the other party's fishery zone; (ii) "access to resources - access to markets" agreements, allowing one party's fishermen access to the fishery resources of the other party in exchange for commercial

benefit, such as erga omnes trade concessions; (iii) financial compensation agreements, where fishing rights are paid for by a financial compensation which may be used for the development of the fishing industry; (iv) surplus agreements, under which one party's vessels have access to the other party's surplus stocks against the payment of fees; and, finally (v) agreements combining some of the elements contained in the agreements listed above.

6. As in the course of the Working Party's discussion on this matter it had clearly appeared that the vast majority of existing fishery agreements is basically aimed at improving the fishing industry of developing countries, it was considered that the present note should focus only on those agreements contracted between developed countries which would contain, inter alia, an element of access to resource in exchange for tariff concessions or other trade privileges.

7. On the basis of its own inquiry and the information obtained or made available to it, the secretariat has identified some bilateral fisheries agreements which have or may have the requirements for their inclusion in the present note. These are: a number of agreements contracted between the United States and the following developed or eastern trading countries: the Democratic Republic of Germany, Bulgaria, the USSR, Poland, Romania, Spain, Japan and the EEC; an agreement between Canada and the EEC; an agreement between Canada and Portugal; an agreement between Norway and Portugal; an agreement between Norway and Spain; an agreement between Australia and Japan.

8. However, the secretariat has been able to obtain the texts of only two of the above mentioned agreements, notably an agreement of fisheries between the EEC and Canada and an agreement between the EEC and the United States concerning fisheries off coasts of the United States, whose relevant features are outlined below.

A. EEC - Canada

(a) Agreement on fisheries between the European Economic Community and the Government of Canada (Source: Council Decision of 29 December 1981 (81/1053/EEC) / OJ No L 379/53).

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Article VIII:

1. The two parties shall encourage economic and commercial cooperation in the field of fisheries.

2. To this end, the two parties shall, in particular, utilize the possibilities offered by the 1976 Framework Agreement for commercial and economic cooperation between Canada and the European Communities in the fisheries sector with a view to improving in a reciprocal manner the conditions and terms of their fisheries relations.

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(b) Agreement in the form of an exchange of letters between the European Economic Community and the Government of Canada concerning their fisheries relations (Source: Council Decision of 29 December 1981 (81/1054/EEC) / OJ No L 379/58).

- Letter from the Government of Canada (acknowledged by the Commission of the EEC):

Sir,

With reference to the Agreement on fisheries between the European Economic Community and the Government of Canada signed on this date, in particular, to Article VIII, I have the honour to confirm that the Government of Canada will provide to vessels flying the flag of Member States of the Community the opportunity to fish according to the laws and regulations of Canada the allocations listed in Annex I to this letter.

The maintenance of these allocations shall be contingent upon the fulfilment by the Community of its obligations with regard to commercial cooperation set out below.

If the benefits from this undertaking are nullified or impaired by direct or indirect action by Canada, the two parties shall consult promptly with a view to removing such nullification or impairments.

I have the honour in addition to confirm my understanding that the Community will open tariff quotas for the importation of fisheries products as specified in Annex II to this letter during the period 1 January 1982 to 31 December 1987.

The maintenance of these tariff quotas shall be contingent upon the fulfilment by Canada of its obligations concerning fishing allocations set out above.

This exchange of letters is without prejudice to the rights and obligations of Canada and the Community under the General Agreement on Tariffs and Trade.

Annex I

Annual quotas to be allocated to the Community by Canada
for the period 1 January to 31 December 1982

<u>Species</u>	<u>Zone</u>	<u>Quantity</u>
Cod	2J3KL	8 000 tonnes
Cod	2 GH	6 500 tonnes
Squid	3 and 4	7 000 tonnes

1 January 1983 to 31 December 1987

Cod	2J3KL	9 500 tonnes
Cod	2GH	6 500 tonnes
Squid	3 and 4	7 000 tonnes

Annex IITariff quotas to be opened by the European Community 1982 to 1987

(Tonnes)

Item	Rate ^{a/}	1982	1983	1984	1985	1986	1987
03.01 B I h) 2 Cod, frozen, round ^{1/})	3.7% ^{2/}	5,000	5,000	6,000	6,000	6,000	6,000
03.01 B I f) 2 Redfish, frozen, round ^{1/})							
03.01 B II b) 1 Cod fillets, frozen ^{1/}	4% ^{2/}	7,000	8,000	8,000	9,000	9,000	9,000
	6% ^{2/}	9,000	10,000	11,000	12,000	13,000	15,000
03.02 A I b) Cod, whole, salted	0%	<u>3/</u>	<u>3/</u>	<u>3/</u>	4,000	5,000	6,000
03.02 A II a) Cod fillets, salted	0%	<u>3/</u>	<u>3/</u>	<u>3/</u>	2,500	3,500	4,000
ex 16.04 C II "Herring-flaps", prepared or preserved in vinegar, in packings of a net capacity of 10 kg or more	10%	3,000	4,000	4,500	6,000	6,500	7,000

^{1/} Of the species *gadus morrhua*, North Atlantic cod; imports into the Community will be permitted only when accompanied by a certificate of origin.

^{2/} The suspension shall apply to fish intended to undergo any operation unless they are intended to undergo exclusively one or more of the following treatment:

- cleaning, gutting, heading, tailing
- cutting (excluding filleting or cutting of frozen blocks)
- sorting
- labelling
- packing
- iceing
- freezing
- deep freezing
- thawing, separation

The suspension shall not apply to products intended to undergo one treatment which qualifies for the grant of the benefit of suspension but which is carried out at retail or catering level.

The suspension of customs duties shall apply only to fish intended for human consumption. Checks on their use for this special purpose shall be carried out pursuant to the relevant Community provisions.

^{3/} Without quantitative limits.

^{a/} (Note by the Secretariat) The following are MFN rates applicable otherwise:

- 03.01 B I h) 2: 13.1%
- 03.01 B I f) 2: 8%
- 03.01 B II b) 1: 8%, 15%
- 03.02 A I b): 13% exempted within an annual tariff quota of 25,000 t.
- 03.02 A II a): 20%
- ex 16.04 C II: 20%

(c) Agreement in the form of an exchange of letters between the European Economic Community and the Government of Canada concerning their fisheries relations (Source: Council Decision of 20 December 1983 (83/652/EEC) / OJ No L 371/34).

- Letter from the Government of Canada (acknowledged by the Commission of the EEC):

Sir,

With reference to the Agreement in the form of an exchange of letters between the Government of Canada and the European Economic Community concerning their fisheries relations, signed on 30 December 1981, hereinafter referred to as "the Agreement", I have the honour to confirm that the undertakings contained therein shall continue in effect subject to the understandings set forth in the following paragraphs with regard to the application of the Agreement.

In order to enable the mutually satisfactory implementation of the Agreement, the two parties agree as follows:

III. The administration of Canadian regulations governing fishing by the Community vessels in Canadian waters in fishing zones referred to in Annex I to the Agreement shall be in conformity with the contents of the aide-mémoire dated 1 January 1984, addressed by the Mission of Canada to the European Communities to the Commission of the European Communities.

IV. The tariff quotas for cod fillets frozen of the species *Gadus morhua*, North Atlantic cod, opened under Common Customs Tariff subheading 03.01 B II b) 1, referred to in Annex II to the Agreement are as follows:

	(Tonnes)			
Rate	1984	1985	1986	1987
4%	19,000	21,000	22,000	24,000

V. The administration of certain tariff quotas referred to in Annex II to the Agreement shall be in conformity with the contents of the aide-mémoire dated 1 January 1984, addressed by the Commission of the European Communities to the Mission of Canada to the European Communities.

VI. Within 45 days of the completion of each quarter, the Community shall provide to the Canadian Government quarterly data on the utilization of tariff quotas by product for each major market in the Community specified in good time by Canada.

B. United States - EEC

- Agreement between the Government of the United States of America and the European Economic Community concerning fisheries off the coasts of the United States (Source: Council Regulation (EEC) No 2876/84 of 21 September 1984 / OJ No 272/1).

Article I:

The purpose of this Agreement is to promote effective conservation, rational management and the achievement of optimum yield in the fisheries of mutual interest off the coasts of the United States, to facilitate the rapid and full development of the United States fishing industry and to establish a common understanding of the principles and procedures under which fishing may be conducted by nationals and vessels of the Member States of the Community for the living resources over which the United States has sovereign rights to explore, exploit, conserve and manage.

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Article IV:

In determining the portion of the surplus that may be made available to the Community, and to other countries, the Government of the United States will decide on the basis of the factors identified in the Magnuson Fishery Conservation and Management Act, as amended, that is:

- (i) whether, and to what extent, such nation imposes tariff barriers or non-tariff barriers on the importation, or otherwise restricts the market access, of United States fish or fishery products;
- (ii) whether, and to what extent, such nation is cooperating with the United States in the advancement of existing and new opportunities for fisheries trade, particularly through the purchase of fish or fishery products from United States processors or from United States fishermen;
- (iii) whether, and to what extent, such nation and the fishing fleets of such nation have cooperated with the United States fishing regulations;
- (iv) whether, and to what extent, such nation requires the fish harvested from the fishery conservation zone for its domestic consumption;
- (v) whether, and to what extent, such nation otherwise contributes to, or fosters the growth of, a sound and economic United States fishing industry, including minimizing gear conflicts with fishing operations of United States fishermen, and transferring harvesting or processing technology which will benefit the United States fishing industry;

- (vi) whether, and to what extent, the fishing vessels of such nation have traditionally engaged in fishing in such fishery;
- (vii) whether, and to what extent, such nation is cooperating with the United States in, and making substantial contributions to, fishery research and the identification of fishery resources; and
- (viii) such other matters as the Secretary of State, in cooperation with the Secretary, deems appropriate.

Article V:

The Community shall cooperate with and assist the United States in the development of the United States fishing industry and the increase of United States fishery exports by taking such measures as facilitating the importation and sale of United States fishery products, providing information concerning technical and administrative requirements for access of United States fishery products into the Community, providing economic data, sharing expertise, facilitating the transfer of harvesting or processing technology to the United States fishing industry, facilitating appropriate joint venture and other arrangements, informing its industry of trade and joint venture opportunities with the United States, and taking other actions as may be appropriate.

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Article XVI:

Should the Government of the United States indicate to the Community that nationals and vessels of the United States wish to engage in fishing in the Community's fishing zone the Community shall, in accordance with the provisions of the common fisheries policy, allow such fishing on terms not more restrictive than those established in accordance with this Agreement.

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Agreed minutes:

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2. The representatives of the two parties noted that the Agreement is a framework Agreement containing no specific fisheries arrangements and, with particular reference to Articles IV, V and XVI, no concrete commitments by either party. Instead, the Agreement establishes the terms and conditions under which allocations can be made if surpluses exist, and it illustrates the kinds of assistance that may be sought in exchange for allocations.

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