

COMMISSION OF THE EUROPEAN COMMUNITIES

SEC(93) 882 final

Brussels, 14 June 1993

REPORT FROM THE COMMISSION TO THE COUNCIL

ON THE MEMORANDUM SUBMITTED BY IRELAND

ON FISHERIES SECTOR

A. BACKGROUND

A.1. The Fisheries Ministers, meeting in Brussels on 20 December 1992, asked the Commission to provide a written report in response to the memorandum submitted to them by Ireland at Luxembourg on 3 April 1992 (doc. 5765/92 Peche 104).

A.2. Immediate attention was given within the Commission to the Irish memorandum, which discusses matters particularly important to Ireland and was presented in the framework of discussion of the Commission's 1991 report on the common fisheries policy (CFP).¹

A.3. At the meeting on 3 April 1992 the Commission gave its first reactions in a spoken reply by Mr Marin.

A.4. Since then certain decisions have been taken at Community level:

- adoption by the Council on 20 December 1992 of the new basic CFP Regulation replacing R. (EEC) No 170/83; this, while confirming the existing legislative framework as regards access to waters and resources and their allocation among Member States (relative stability), consolidates the CFP by its more multidisciplinary, comprehensive and integrated approach.
- adoption by the Commission on 21 December 1992 of the multiannual guidance programmes (MGPs) for the period 1993/1996; these take account of the conclusions of the Council's policy discussion of 9 November 1992.

¹ Doc. SEC (91) 228 final.

B. CONTENT OF IRISH MEMORANDUM

B.1. The memorandum identifies four facts that in Ireland's opinion disadvantage it by creating imbalances the primary impact of which is to prevent development of the national fisheries sector:

I. The overall share of fish stocks allocated to Ireland (quotas) is far from being fair and reasonable.

II. The protection of coastal zones and inshore fishermen is inadequate.

III. The proposals to reduce the capacity of the Irish fleet, as set out in the proposals covering the entire Community fleet in the fishing fleet MGPs for 1993/1996, are unacceptable.

IV. The cost burden of the fishery control activities carried out by Ireland is disproportionate.

B.2. In the memorandum Ireland proposes, in order for its fisheries sector to be able to contribute to the country's socio-economic development:

I. an increase in the quotas allocated to Ireland

II. extension of an exclusive zone to 12 nautical miles or adoption of measures strengthening the protection afforded to inshore fisheries.

III. adjustment of the Irish fleet in line with the quotas available (at present underexploited), which would mean an increase in fleet capacity.

IV. a bigger Community contribution to the cost (including operational costs) of fishery control work in waters under Irish jurisdiction.

C. COMMISSION'S ANALYSIS

C.1. POSSIBILITY OF INCREASING IRISH QUOTAS

C.1.1. The Hague preferences

Ireland claims that the quotas allocated to her are lower than those she has a right to expect under Article 39 of the Treaty. She points both to her very great dependence on fishing and also her socio-economic vulnerability, stressing her lagging position in the construction of Europe.

The Commission must point out that as regards quotas there already exists a "special" mechanism, the Hague preferences. The purpose of Annex VII to the Council Resolution of 3 November 1976, in stating that in the Community there are regions where "local populations are especially dependent on fisheries and related industries", was to recognize the degree of dependence on fisheries of the coastal regions of Ireland, of the northern part of the United Kingdom and of Greenland until its withdrawal from the Community.

Thus in the case of Ireland the Community in allocating catch authorizations agreed, instead of using the reference period (1973-1978) selected for quota allocation between the Member States, to multiply Irish fish landings in 1975 by a factor of two.

The Hague preferences apply to some 20 distinct stocks. The following tables show the impact of applying this mechanism on Ireland's share of the of VIIa cod stock.

TABLE 1

Theoretical allocation of EC VIIa cod quotas between Member States for the period 1982-1993, solely on the basis of the 1983 allocation key²

	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	CUMM.
BE	400	400	400	400	400	400	400	400	410	270	270	290	4440
DK													
DE													
FR	1100	1100	1100	1100	1100	1100	1100	1100	1120	730	730	810	12190
IR	7000	7000	7000	7000	7000	7000	7000	7000	7140	4660	4660	5130	77590
NL	100	100	100	100	100	100	100	100	100	70	70	70	1110
UK	6400	6400	6400	6400	6400	6400	6400	6400	6530	4270	4270	4690	70960
TAC	15000	15000	15000	15000	15000	15000	15000	15000	15300	10000	10000	11000	166300

² This was first applied to the Community's catch possibilities for 1982.

TABLE II

Theoretical allocation of EC VIIa cod quotas between Member States for the period 1982-1993, strictly applying the Hague preferences (for Ireland = 1975 catches x 2, for United Kingdom = 1975 catches)

	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	CUMM.
BE	400	400	400	400	400	400	400	400	410	150	150	200	4110
DK													
DE													
FR	1100	1100	1100	1100	1100	1100	1100	1100	1120	420	420	560	11320
IR	7000	7000	7000	7000	7000	7000	7000	7000	7140	6950	6950	6950	83990
NL	100	100	100	100	100	100	100	100	100	40	40	50	1030
UK	6400	6400	6400	6400	6400	6400	6400	6400	6530	2440	2440	3240	65850
TAC	15000	15000	15000	15000	15000	15000	15000	15000	15300	10000	10000	11000	166300

Note: Irish cod catches in ICES division VIIa were 3 475 tonnes in 1975 and United Kingdom catches 1 220 tonnes.

TABLE III

Actual allocation by the Council of EC VIIa cod quotas between Member States for the period 1982-1993

	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	CUMM.
BE	400	400	400	400	400	400	400	400	410	210	210	245	4275
DK													
DE													
FR	1100	1100	1100	1100	1100	1100	1100	1100	1120	575	575	685	11755
IR	7000	7000	7000	7000	7000	7000	7000	7000	7140	5810	5810	6045	80805
NL	100	100	100	100	100	100	100	100	100	50	50	60	1060
UK	6400	6400	6400	6400	6400	6400	6400	6400	6530	3355	3355	3965	68405
TAC	15000	15000	15000	15000	15000	15000	15000	15000	15300	10000	10000	11000	166300

Note: The quotas set by the Council compromised between strict application of the Hague preferences and strict application of the 1983 allocation key.

TABLE IV

Differences between strict application of the 1983 allocation key (Tab. I) and the actual allocation made by the Council (Tab. III)

	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	CUMM.
BE										-60	-60	-45	-165
DK													
DE													
FR										-155	-155	-125	-435
IR										1150	1150	915	3215
NL										-20	-20	-10	-50
UK										-915	-915	-725	-2555
TAC													

Note: This table shows that Ireland gains substantially larger VIIa cod quotas to the disadvantage of the other Member States involved.

C.1.2 Reference bases

Ireland considers that she does not fully exploit "her quotas".

The Commission must point out that there are a number of stocks where Irish catches reach or even exceed the quota limits and for which scientists recommend a reduction in catches.

There are also a number of stocks for which catch declarations are lower than the Irish quotas. These are in fact stocks for which precautionary TACs³ have been set. These TACs are often set at levels higher than the scientific recommendations and are thus "paper quotas".⁴

Lastly, for stocks subject to analytical TACs the Hague preferences lead to illogical situations in that, as can be seen in the case of Irish Sea cod, when the stock is at a very low level the Irish share increases (see the compromise solution adopted by the Council as set out in Table III on page 5). The share of fishing mortality reserved to Ireland can thus be seen to increase at the very moment when mortality is very high, the stock being overexploited. It is consequently true that Ireland is unable to catch its allocation.

C.1.3 The principle of balance between resources and exploitation level

The Commission would point out that according to Article 2 of R. (EEC) No 3760/92) "the general objectives of the common fisheries policy shall be to protect and conserve available and accessible living marine aquatic resources, and to provide for rational and responsible exploitation on a sustainable basis, in appropriate economic and social conditions for the sector, taking account of its implications for the marine ecosystem, and in particular taking account of the needs of both producers and consumers".

To attain these objectives the Community must as swiftly as possible achieve a situation of balance between resources and their exploitation. In consequence, given the present overexploitation by Community fishermen, including Irish, there can be no question of jeopardizing this principle for the benefit of any other interest.

C.1.4. The principle of relative stability

Ireland asks for increased quotas.

The new basic Regulation, R. (EEC) No 3760/92 of 20 December 1992, maintains the previous CFP principle of relative stability as regards access to and allocation of resources. It is true that Article 8(4)(ii) offers the possibility of some adjustment of the existing keys but it is merely specified that "following a request from the Member States directly concerned, account may be taken of the development of mini-quotas and regular quota swaps since 1983, with due regard to the overall balance of shares".

3 A precautionary TAC is a figure arrived at in the absence of a precise scientific assessment of the size of the stock. Their purpose is to prevent massive overfishing of stocks not studied analytically.

4 A paper quota is one higher than the actual catch possibilities.

Thus, as regards resources at present subjected to quantitative restrictions in the form of TACs allocated between the Member States, the Irish proposals are not for an adjustment as covered by Article 8(4)(ii) but for recasting of the entire allocation key.

The Commission cannot in consequence agree to a demand affecting application of the principle of relative stability.

The Commission wishes to point out that as regards new fishing opportunities Ireland has, as a matter of principle, the right to be included in the same way as other Member States in allocation of these opportunities accessible under agreements with third countries, on the basis of a Council Decision in line with the provisions of Article 8(4)(iii) of R. (EEC) No 3760/92.

Quite apart from the foregoing, the Commission considers that the line of argument taken by the Irish authorities, i.e. an increase in the Irish shares of stocks subject to catch restrictions for all, does not offer the best route to socio-economic development of its foodfish industrial sector.

C.2. TWELVE-MILE EXCLUSIVE ACCESS

Article 6(1) of R. (EEC) No 3760/92 authorizes Member States 'to retain ... until 31 December 2002, the arrangements defined in Article 100 of the 1972 Act of Accession and generalize up to twelve nautical miles for all the waters under their sovereignty or jurisdiction the limit of six miles laid down in that Article'.

Paragraph 2 regulates fishing in the six to twelve mile band and the actual arrangements are set out in Annex I.

These arrangements, already included in R. (EEC) No 170/83, restrict access to vessels that traditionally fished in these waters from ports in adjacent geographical zones.

Ireland considers that the establishment of an exclusive zone to twelve miles would facilitate management/conservation in a particularly sensitive band, and backs up this contention by referring to the Hague Resolution (solving the problems of coastal fishing activity) and the preamble to R. (EEC) No 170/83 (protection of coastal zones).

Any discussion of this matter must bear in mind that

- such an initiative would conflict with Article 6(2) of the basic CFP Regulation
- the German and Dutch fleets (for mackerel and herring only) and the Belgian, French and United Kingdom fleets have access to the Irish twelve-mile zone.
- Ireland has access to United Kingdom coastal waters for demersal species and nephrops.
- extension of exclusivity to twelve miles throughout the Community would have an extremely disruptive effect on the entire fishing industry.

C.3. INCREASE AND MODERNIZATION OF FISHING CAPACITY

On the grounds of the existence of underexploited resources (white fish) and faced with an outdated fleet not fishing "her quotas", Ireland in a memorandum presented on the eve of the Commission's preparatory work on the multiannual guidance programmes for the period 1992/1996 (MGP III), rejected the approaches initially proposed by the Commission.

Ireland wishes instead to

- expand the fleet segments not fishing "her quotas"
- modernize the entire fleet.

In line with the general objectives of the CFP (set out at C.1.3) the Community objective as regards fleet restructuring, stated in Article 11 of R. (EEC) No 3760/92, is to achieve a balance on a sustainable basis between resources and their exploitation. Given the present overcapacity this must mean a reduction in fishing mortality and hence a marked reduction in fleets and/or fishing activity.

It was in line with these objectives and the means of attaining them, discussed by the Fisheries Ministers last November, and following a favourable opinion by the Standing Committee or the Fishing Industry (SCFI), including Ireland, that on 21 December 1992 the Commission adopted a multiannual guidance programme for each Member State's fleet for the period 1992/1996 (MGP III).

Whereas substantial reductions were imposed on the Community pelagic fleet as a whole, in its MGP III⁵ Ireland obtained substantial waivers. The Commission partly recognized the pelagic fleet increases at the level of 1 January 1992 and also agreed to freeze the demersal fleet until 31 December 1994 at the latest at the level recorded on 1 January 1992, pending the outcome of a research programme on West Irish demersal stocks.

Further, Ireland undertook to join in the surveillance scheme for implementation of the MGP IIIs. This was the subject of a Commission statement at the SCFI meeting on 1 December 1992⁶.

C.4. LACK OF RESOURCES FOR FISHERY CONTROL WORK

Ireland points to her high expenditure, given her situation, on resources (investments) for control work and on control operations themselves in the waters under her jurisdiction and proposes that the Commission increase its contribution to all control costs, on land and sea, including operational costs.

5 OJ L 401, 31 December 1992, p.39.

6 Text of Commission statement to SCFI on 1 December 1992.

The Commission would point out, as Ireland has in any case acknowledged, that since 1988 the Community has granted ECU 18.5 million (ECU 11.5 million already paid) towards investment expenditure by Ireland on control resources. This sum is more than 20% of total Community expenditure in this area⁷:

AMOUNTS AND SHARES OF EXPENDITURE ON CONTROL RESOURCES COMMITTED
AND PAID, on basis of Decisions 87/278/EEC, 89/631/EEC
(position on 4 May 1993)

MEMBER STATE	COMMITMENTS	%	PAYMENTS	%	IMPLEMENTATION RATE
DE	0.747	0.84	0.486	1.15	65.06
DA	2.965	3.30	1.004	2.39	33.86
ES	11.998	13.50	3.845	9.15	32.04
GR	6.095	6.86	1699	4.04	27.87
FR	5.657	6.36	1.197	2.84	21.15
IT	2.324	2.61	—	—	—
IRLANDE	18.491	20.80	11.574	27.55	62.59
NL	0.767	0.86	0.180	0.42	23.46
PT	34.140	38.42	18.216	43.36	53.35
UK	7.169	8.06	4.468	10.63	62.32
TOTAL EEC	88.841	100	42.004	100	47.27

The Commission would point out that eligible expenditure is restricted to investment and there is thus no authority to finance operational costs.

On the question of allocating Community resources to help finance fishery control work, firstly the Commission would point out that this could not be envisaged for Ireland alone and secondly that, as indicated in its report on control of implementation of the CFP, the introduction of new technology will permit a reduction in certain costs at present incurred in operating conventional surveillance systems.

Thus in its proposal for a Council Regulation establishing a control system applicable to the common fisheries policy⁸ the Commission anticipates introduction of a continuous position monitoring system for fishing vessels using satellite communication. This real time system for position monitoring and information transmission will not replace conventional surveillance methods but will improve their effectiveness by doing away with the need for random searching.

Ireland has, like other Member States, launched a pilot project involving several vessels and the costs of this are 50% co-financed by the Community.

7 These contributions were granted on the basis of Decisions 87/278/EEC and 89/631/EEC.

8 COM(92)392 final.

Further, within the structural policy framework, the Commission's proposal on the Financial Instrument for Fisheries Guidance (FIFG)⁹ provides for assistance for fitting special equipment on board vessels for fishing control purposes.

The Commission is convinced that the synergistic impact of satellite position monitoring on conventional surveillance methods ought to result over the medium and long term in a substantial reduction in the operational cost of fishery control work.

⁹ COM(93)12 final of 7 April 1993, p. 48: "Proposal for a Council Regulation laying down provisions for implementing Council Regulation (EEC) No 2052/88 as regards the Financial Instrument for Fisheries Guidance".

D. CONCLUSIONS OF THE COMMISSION

In the light of the foregoing the Commission considers that the appropriate responses to the requests formulated in the Irish memorandum are:

I Increase in Irish share of Community catch possibilities

As regards resources that are at present restricted and allocated between Member States, Ireland's request is unacceptable, since any review of shares in these limited stocks would inevitably end up by jeopardizing the principle of relative stability, the fundamental rule on regulation and allocation of access to waters and resources introduced in 1983 and confirmed by the Council on 20 December last by adoption of the new CFP basic Regulation (EEC) No 3760/92.

As regards new fishing possibilities accessible under fisheries agreements with third countries, Ireland's share can be discussed in the light of the Court's judgements of 30 October 1992.

II Extension of exclusive zone to 12 nautical miles

Any action to protect coastal fisheries must strictly respect the rules of R. 3760/92. No extension of exclusive fishing rights can be envisaged. However, on the basis of Article 4(2)(a), which permits measures to "establish zones in which fishing activities are prohibited or restricted" in order to protect resources that are biologically sensitive because of the way in which they are being exploited, the Commission could make suitable proposals, if these were advisable, to protect certain biologically sensitive resources. No discrimination on a flag basis could however be permitted.

III Restructuring of Irish fishing fleets

A solution has already been found by the Commission's adoption on 21 December 1992 of the fleet MGP for the period 1993/1996. It must be stressed that given the exceptional concession made to Ireland by the Commission in line with the Council's conclusions she must reciprocate by carrying out the scheduled research programme with all speed.

IV Expenditure on control of fishing activities

The Community financial instruments do not at present permit a Community contribution to operational expenditure on fishery control. Only investments are eligible. The Commission's proposals on development of position monitoring and communication using satellites, however, go some way to providing a solution to Ireland's difficulty by permitting a marked reduction in operational costs.

Action on this point lies in the hands of the Council, which is due in the near future to decide on the Commission's proposals on establishment of a Community control system and on the FIGF.