COMMISSION OF THE EUROPEAN COMMUNITIES

COM(94) 35 final

Brussels, 07.03.1994

94/0032 (CNS)

Amended proposal for a

COUNCIL REGULATION (EC)

on adjustments to the fisheries arrangments provided for in the Act of Accession of Spain and Portugal

(presented by the Commission pursuant to Article 189 A (2) of the EC-Treaty)

Explanatory Memorandum

On 23 December 1992, in accordance with the Act of Accession of Spain and Portugal and in particular Articles 162 and 350 thereof, the Commission adopted a Report to the Council and Parliament on the application of the Act of Accession of Spain and Portugal in the fisheries sector1, hereinafter called "the 1992 Report".

The analysis made in the 1992 Report of the application of the arrangements laid down in the Act of Accession calls for those arrangements to be adjusted from 1 January 1996.

With this is mind, on 13 October 1993 the Commission sent the Council a proposal for a Council Regulation on adjustments to these fisheries arrangements with a view to ensuring their inclusion in the common arrangements from that date on2.

Moreover, at its part-session in December 1993, the Parliament adopted a resolution endorsing the Commission's proposal.

The resolution contains a number of amendments to the proposal. The Commission agreed to include Amendments Nos 3, 5, 6 and 7 to the substance of its initial proposal, adapting their form to its wording. The Commission agreed to include Amendment No 8 in the form proposed by Parliament. The Commission is including a new recital in line with Amendment No 6. Amendments Nos 3, 5, 6, 7 and 8 relate to the following:

- the reference to compliance with the acquis communautaire and the access restrictions in force (third recital - Amendment No 3);

- the introduction of a new recital (recital number five), which better reflects the meaning of Amendment No 6 relating to the second part of Article 3(3) (taking account of the particular characteristics of the maritime regions and the needs of the local populations dependent on fishing and related industries);

- the adoption of Community measures establishing the conditions for access to the zones and resources and the restrictions on exploitation rates by means of appropriate technical measures (Article 3(2) - Amendment 5);

- the application of the general principles of the common fisheries policy and developments in fishing opportunities as against the levels of fishing effort laid down in the Act of Accession (first part of Article 3(3), - Amendment No 6)

- the introducion of a new article, Article 4, relating to the zones and Community resources other than those referred to in Article 3(2) of the proposal (Amendment No 7);

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1 SEC(92) 2340 final of 23 December 1992.

2 COM(93) 493 final of 13 October 1993.

- the references to the fishing licences which the vessels are obliged to hold (Article 4 - Amendment 8).

The Commission did not accept the other amendments because:

- they no not have a sufficient legal basis or are inconsistent with the aims of the common fisheries policy (second citation - Amendment 1; second citation (a) (new) - Amendment 2; Article 4a (new) - Amendment 9);

- they would reintroduce unacceptable discrimination based on the flag the vessel is flying (Article 2, Amendment 4)

- their purpose is to renew the "Irish box" zone, which was not envisaged by the Commission nor by the Council in its conclusions of June 1993 (Article 1a (new) Amendment 10).

AMENDED PROPOSAL
for a Council Regulation (EC)
on adjustments to the fisheries arrangments provided for
in the Act of Accession of Spain and Portugal

The text of the proposal is hereby amended as follows:

Third recital

Whereas the new provisions must facilitate the full integration of Spain and Portugal into the general scheme of the common fisheries policy and must fully comply with the acquis communautaire, especially the limits in force, and in particular with regard to the principle of relative stability and the exceptions to the principle of free access to waters as laid down by Council Regulation (EEC) No 3760/92; whereas, in addition, such adjustments must not result in an increase in fishing effort;

Fifth recital (new)

Whereas the adjustments must take account on a case-by-case basis of the geographical, geomorphological and biological conditions of each maritime region of the Community in order to contribute to the introduction of responsible fishing and to the preservation of the individual requirements of regions where the socio-economic development of the local populations is particularly dependent upon fishing and related industries;

Article 3(2)

In accordance with the procedure laid down in Article 43 of the Treaty and within the framework of Articles 4 and 8 of Regulation (EEC) No 3760/92, the Council shall adopt by 31 December 1995 Community measures entering into force on 1 January 1996 laying down the conditions of access to fishing zones and resources and/or restrictions on exploitation by fixing fishing opportunities in terms of the authorized volume of catches and fishing effort, and technical measures to encourage the use of selective gear and methods of fishing.

Article 3(3)

In compliance with the general principles of the common fisheries policy, and in particular relative stability, the application of Articles 4 and 8 of Regulation (EEC) No 3760/92 must take account, in each case, of developments in fishing opportunities, without exceeding the levels of fishing effort laid down in Articles 158, 160, 164, 165, 349, 351 and 352 of the Act of Accession.

Article 4 (new)

For Community zones and resources other than those referred to in Article 3 above, with the exception of those subject on 31 December 1993 to quarantine restrictions on catches, the Council shall, in compliance with the general principles of the common fisheries policy, adopt in accordance with Articles 4 and 8 of Regulation (EEC) No 3760/92 the Community measures laying down conditions of access, including restrictions on exploitation taking account of fishing activities during a recent and representative period.

Article 5 (former Article 4)

All Community fishing vessels authorized to engage in fishing activities where the exploitation rate is restricted in accordance with Articles 3 and 4 must hold a fishing licence which fixes the conditions of access to those fisheries, granted and managed by the Member States whose flag the vessel is flying.

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