COMMISSION OF THE EUROPEAN COMMUNITIES

COM(93) 214 final

Brussels, 17 May 1993

Proposal for a

COUNCIL REGULATION (EEC)

on the conclusion of the Agreement in the form of exchanges of letters between the European Economic Community, of the one part, and the Government of Canada, of the other part, concerning their relations in the fisheries sector

(presented by the Commission)

EXPLANATORY MEMORANDUM

I. Historical

1. In the framework of the overall relations between the Community and Canada, fisheries has been traditionally a politically sensitive point of dispute.

2. As a result of a fundamental disagreement on the management of the part of the so called 2J3KL cod stock in the waters adjacent to the Canadian EEZ, which developed as from 1985 and intensified after the enlargement of the Community in 1986, access of Community vessels to resources in the Canadian EEZ as well as access to Canadian ports were discontinued as from 1987. Therefore, the 1981 framework Fisheries Agreement between the EC and Canada became ineffective, together with the 1976 bilateral Fisheries Agreement between Portugal and Canada, whilst the 1976 bilateral Fisheries Agreement between Spain and Canada was denounced by Canada.

3. Furthermore, the Community and Canada had profound differences of view regarding conservation and rational management of fish stocks within NAFO. Canada managed to convince NAFO to agree to a moratorium on directed cod fishery in 3L, to which the Community opposed as it was not based on scientific advice, not consistent with the exploitation of the stock in the Canadian fishing zone and not designed to achieve optimum utilisation of the resources in the Regulatory Area. Furthermore, the Community opposed to the management strategy based on a fishing mortality of F0.1, since the state of the resources, at that stage, justified higher fishing mortalities such as Fmax. (The difference between these strategies is considerable with regard to fishing effort, which in the case of F0.1 is much lower and fitted in those years to the size of the Canadian fleet.)

   For the above reasons, the Community adopted, as from 1986, autonomous quota for its fishery in the Regulatory Area (see annex).

4. Since 1989, the Community has pursued an active policy with the aim of concluding a global Fisheries Agreement with Canada and has taken numerous initiatives to that effect. In particular, the autonomous quota have been gradually reduced (see annex).

   This policy was intensified in the course of 1992, when Canada finally accepted the assessment of the 2J3KL cod stock by the NAFO Scientific Council and proposed a NAFO consistent solution for the management of this stock for 1993.

In the framework of this policy, the Commission engaged in an extensive process of diplomatic contacts and exploratory consultations at different levels. The President of the Commission, Mr Delors, and Vice Presidents, Andriessen and Marin, discussed fisheries issues with their Canadian counterparts in Canada, whilst Canadian ministers visited Europe.

Pursuant to the visit of Vice President Marin to Canada in early 1990, the Commission and Canada engaged in bilateral cooperation on an expert level in different areas (scientific cooperation, control and enforcement and fishing of Non-Contracting Parties) and, subsequently in 1991, the Commission was engaged in a process of meetings at Senior Official level.

5. The initiatives taken by the Community in 1990, 1991 and, in particular, in 1992, allowed the Community to reintegrate in the NAFO framework for the 1993 TACs and quota.

As a result of these initiatives, Canada was expected to normalise relations in fisheries (non-discriminatory treatment of Community fishermen for access to surplus resources and access to ports). At the end of 1992, Canadian delegations presented themselves twice (29-30 October and 24-26 November) in Brussels for exploratory consultations. Despite the Canadian way of working and the delicate character of the relations in fisheries between Canada and the Community, an outline for an Agreement was obtained.

The Commission examined the results of the exploratory consultations on Wednesday, 9 December 1992, on the basis of which it decided to transmit to the Council a recommendation for a Council decision authorising the Commission to negotiate a Fisheries Agreement with Canada. This recommendation was formally presented in the Council the next day, Thursday. COREPER agreed to discuss the recommendation of the Commission the following day, Friday, during which discussion it appeared that Member States agreed to proceed to the adoption of the mandate on the Monday or Tuesday of the following week. Finally the Council adopted the mandate on Tuesday, 15 December 1992.

After the Council adopted the mandate authorising the Commission to negotiate a Fisheries Agreement, official negotiations took place immediately after. The fact that the Council adopted without delay the recommendation of the Commission proves that both institutions had similar views on the importance and delicacy of Fisheries Relations between the Community and Canada.

II. <u>Official Negotiations</u>

In conformity with the Council mandate, the Commission conducted official negotiations between the Community and Canada in Brussels on 16-17 December 1992.

Experts from Member States participated in the meetings, and Legal Advisors from both the Commission and the Council were associated with the examination of the documents established and were present at the meetings.

The Commission saw no point in prolonging the strained relations in the Fisheries Sector with Canada, provided the principles as reflected in UNCLOS and the NAFO Convention are respected.

NAFO, which manages only a small proportion of the fish resources in the Northwest Atlantic, and Canada have to increase their efforts to rebuild fish stocks (over a period of six years the catches of cod in the Northwest Atlantic have dropped by almost 80%) inter alia, by finding solutions for the fishing activities of vessels flying the flag of Non-Contracting Parties. Since the largest proportion of the fish resources in the Northwest Atlantic occur in the Canadian fishing zone, Canada will share the largest burden of restrictive management during the coming years.

For the above reasons, the Commission proposes the Council to adopt the attached proposed Regulation approving the Agreement reached in December.

NAFO PROPOSED QUOTA TO EEC / EEC AUTONOMOUS QUOTA / EEC CATCHES

1986 - 1989

	1986			1987			1988			1989		
STOCK	NAFO "Quota" to EEC	EEC Autonomous Quota	EEC Catches	NAFO "Quota" to EEC	EEC Autonomous Quota	EEC Catches	NAFO "Quota" to EEC	EEC Autonomous Quota	EEC Catches	NAFO "Quota" to EEC	EEC Autonomous Quota	EEC Catches
Cod 2J + 3KL	BAN	68 560	60 076	BAN	75 700	33 675	BAN	84 000	19 998	BAN	58 400 (2)	40 669
3M	6 465	7 500	11 051	6 465	7 500	6 441	BAN	BAN	———	BAN	BAN	———
3NO	12 445	26 400	30 470	12 445	26 400	21 884	14 750	26 400	16 502	9 220	26 400	15 610
Redfish 3M	3 100	———	11 572	3 100	———	22 648	3 100	12 000	7 180	3 100	12 000	12 901
3LN	———	———	23 434	———	———	27 883	———	20 000	12 256	———	20 000	7 183
American Plaice 3M	350	———	2 789	350	———	5 106	350	3 000	1 311	350	3 000	2 581
3LNO	700	———	21 162	610	———	11 812	510	9 000	7 086	390	6 820	8 175
Yellowtail 3LNO	300	———	5 887	300	———	1 213	300	5 000	209	100	1 670	610
Witch 3NO	———	———	6 263	———	———	2 482	———	4 000	1 402	———	4 000	1 337
Capelin 3NO	———	———	———	375	375	———	250	375	———	700	700	———
Squid 3 + 4 (1)	NS	25 000	———	NS	25 000	1 130	NS	25 000	———	NS	25 000	550

(1) Quota to the Community is not specified
(2) Adjusted downwards from 84 000 tonnes

/u2/doyle/CANADA/tbl-etk-86-89

NAFO PROPOSED QUOTA TO EEC / EEC AUTONOMOUS QUOTA / EEC CATCHES

1990 - 1993

	1990			1991			1992			1993	
	NAFO "Quota" to EEC	EEC Autonomous Quota	EEC Catches	NAFO "Quota" to EEC	EEC Autonomous Quota	EEC Catches	NAFO "Quota" to EEC	EEC Autonomous Quota	EEC Catches (2)	NAFO "Quota" to EEC	EEC Catches
STOCK											
Cod 2J + 3KL	BAN	32 000	23 514 (4)	BAN	27 000	21 797 (4)	BAN	26 300	9 532 (5)	0	
3M	BAN	BAN	637	6 465	———	3 555 (5)	6 465	———	6 251 (6)	6 465	
3NO	6 860	7 000	6 821 (5)	5 016	———	4 913 (6)	5 016	———	2 463 (7)	3 762	
Redfish 3M	7 750	12 000	17 455	7 750	———	9 363 (7)	6 665	———	6 814 (8)	4 650	
3LN	———	6 000 (2)	7 064	———	6 000 (2)	5 881 (8)	———	6 000 (3)	3 572 (9)	476	
American Plaice 3M	350	500	464	350	———	702 (9)	350	———	429 (10)	350	
3LNO	317	500	661 (6)	328	———	440 (10)	328	———	510 (11)	133	
Yellowtail 3LNO	100	200	118	140	———	242 (11)	140	———	6 (12)	140	
Witch 3NO	———	1 200 (3)	1 154	———	1 000 (3)	608	———	1 000 (4)	572	———	
Capelin 3NO	750	———	72	750	———	30	750	———	———	0	
Squid 3 + 4 (1)	NS	15 000	———	NS	15 000	316	NS	15 000	———	NS	

1990

(1) PM not specified
(2) Including the 476t ex-GDR quota
(3) No "traditional" NAFO quota/EEC fishing
(4) Fishery stopped on 10.12.90 (Portugal)
(5) Fishery stopped on 23.11.90 (Spain)
(6) Fishery stopped on 27.10.90 (EEC)

1991

(1) PM not specified
(2) Including the 476t ex-GDR quota
(3) No "traditional" NAFO quota/EEC fishing
(4) Fishery stopped on 03.08.91 (Spain)
(5) Fishery stopped on 20.11.91 (Spain)
(6) Fishery stopped on 10.10.91 (UK) and 12.11.91 (Portugal)
(7) Fishery stopped on 09.11.91 (EEC)
(8) Fishery stopped on 14.12.91 (EEC)
(9) Fishery stopped on 07.12.91 (EEC)
(10) Fishery stopped on 15.09.91 (EEC)
(11) Fishery stopped on 10.11.91 (EEC)

1992

(1) PM not specified
(2) Figures as of end of December 1992
(3) Including the 476t ex-GDR quota
(4) No "traditional" NAFO quota/EEC fishing
(5) Fishery stopped on 03.06.92 (EEC)
(6) Fishery stopped on 16.07.92 (EEC)
(7) Fishery stopped on 26.07.92 (EEC)
(8) Fishery stopped on 26.07.92 (EEC)
(9) Fishery stopped on 26.07.92 (EEC)
(10) Fishery stopped on 01.11.92 (EEC)
(11) Fishery stopped on 05.06.92 (EEC)
(12) Fishery stopped on 16.07.92 (EEC)

/u2/doyle/CANADA/tbl-etk-90-93

Proposal for a

COUNCIL REGULATION (EEC) No

of

on the conclusion of the Agreement in the form of exchanges of letters between the European Economic Community, of the one part, and the Government of Canada, of the other part, concerning their relations in the fisheries sector

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Whereas Canada is a major partner of the European Community, with whom sound relations should be maintained in the fisheries sector; whereas a framework should accordingly be established for mutual cooperation with a view to fostering effective conservation and to introducing the exploitation of fishery resources in the North-West Atlantic on a lasting basis and whereas in that connection the two Parties have agreed on the aspects to be covered by their relations in the fisheries sector;

Whereas the Agreement in the form of an exchange of letters between the European Economic Community, of the one part, and the Government of Canada, of the other part, concerning their relations in the fisheries sector should be approved;

Whereas the two Parties intend implementing the specific cooperation measures provided for in the Memorandum of Understanding appended to the exchange of letters pursuant to the United Nations Convention on the Law of the Sea to which they are signatories and pursuant to the Convention on Future Multilateral Co-operation in the Northwest Atlantic Fisheries to which they are Contracting Parties; whereas it should accordingly be made clear that the Commission is authorized to conduct the consultations provided for to that end in accordance with the negotiating directives decided on 15 December 1992;

Whereas the relations between the two Parties in the fisheries sector are based in particular on access to surplus resources in Canadian waters;

Whereas specific provisions should be laid down for terminating cooperation if the Community is unable to maintain it owing to special circumstances;

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(1)

HAS ADOPTED THIS REGULATION:

Article 1

The Agreement in the form of exchanges of letters between the European Economic Community, of the one part, and the Government of Canada, of the other part, concerning their relations in the fisheries sector is hereby approved in the name of the Community.

The text of the Agreement in the form of exchanges of letters of which the Memorandum of Understanding forms an integral part is appended hereto.

Article 2

The President of the Council is hereby authorized to designate the persons empowered to sign the Agreement in the form of exchanges of letters.

Article 3

The Commission, assisted by a committee comprising representatives of the Member States, shall conduct the consultations between the European Economic Community and the Government of Canada pursuant to points I(d), (e), (g) and (h) and II of the Memorandum of Understanding.

Article 4

1. In the event of difficulties as provided for in point IV(d) of the Memorandum of Understanding, the Commission shall immediately forward a report accompanied by its opinion to the Council and the Member States to the effect that the conditions for terminating the Agreement are fulfilled. Within 10 days of the forwarding of the opinion to the Council, any Member State may raise the matter in the Council. The Council, acting by a qualified majority, may decide not to terminate the Agreement. Unless a decision not to terminate is taken within one month following the forwarding of the opinion to the Council or unless a Member State raises the matter in the Council within the abovementioned 10 days, the Agreement shall be terminated by the Commission.

2. The Commission, in the name of the Community, shall notify the termination of the Agreement in the form of an exchange of letters in accordance with point IV(e) of the Memorandum of Understanding.

Article 5

1. Where the Government of Canada decides, in accordance with point III(b) of the Memorandum of Understanding, to offer the European Economic Community possibilities of fishing surplus resources in its fishing zone, the Council, acting by a qualified majority on a proposal from the Commission, shall take a decision on allocation between the Member States within two months following receipt thereof.

2. The owner or operator of a vessel of a Member State which conducts fishing or any other operations under point III(c) of the Memorandum of Understanding shall provide the competent authorities of the Community with any information which may be required pursuant to that point concerning fish or fishery products caught or otherwise obtained. The detailed rules for the application of this paragraph shall be adopted in accordance with the procedure laid down in Article 18 of Regulation (EEC) No 3760/92 (1).

Article 6

This Regulation shall enter into force on the day following its publication in the Official Journal of the European Communities.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council

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(1) OJ No. L 389 of 31.12.1992, p. 1.

A G R E E M E N T

IN THE FORM OF EXCHANGES OF LETTERS

CONCERNING FISHERIES RELATIONS

BETWEEN THE EUROPEAN ECONOMIC COMMUNITY

AND THE GOVERNMENT OF CANADA

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Letter from the European Community

Sir,

I have the honour to acknowledge receipt of your letter of today's date, which reads as follows:

"I have the honour to refer to the negotiations between the Delegations of Canada and the European Economic Community held in Brussels from 16 to 17 December 1992 on bilateral fisheries relations. These negotiations resulted, on 17 December 1992, in the initialling of the enclosed Memorandum of Understanding between the Government of Canada and the European Community on Fisheries Relations which aims at the attainment, in conformity with the provisions of the United Nations Convention on the Law of the Sea and the 1978 Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, of effective conservation and sustainable exploitation of Northwest Atlantic fisheries resources.

I have the further honour to propose that this letter which is authentic in Danish, Dutch, English, French, German, Greek, Italian, Portuguese and Spanish, and the enclosed Memorandum, if such meets with the approval of the Community, together with your letter in reply indicating such concurrence shall constitute an Agreement on Fisheries Relations between the Government of Canada and the European Community which shall enter into force on the date of your reply."

I have the further honour to inform you that the European Community is in agreement with the contents of your letter.

Please accept, Sir, the assurance of my highest consideration.

Enclosure: Memorandum of Understanding

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Letter from Canada

Sir,

I have the honour to refer to the negotiations between the Delegations of Canada and the European Economic Community held in Brussels from 16 to 17 December 1992 on bilateral fisheries relations. These negotiations resulted, on 17 December 1992, in the initialling of the enclosed Memorandum of Understanding between the Government of Canada and the European Community on Fisheries Relations which aims at the attainment, in conformity with the provisions of the United Nations Convention on the Law of the Sea and the 1978 Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, of effective conservation and sustainable exploitation of Northwest Atlantic fisheries resources.

I have the further honour to propose that this letter which is authentic in Danish, Dutch, English, French, German, Greek, Italian, Portuguese and Spanish, and the enclosed Memorandum, if such meets with the approval of the Community, together with your letter in reply indicating such concurrence shall constitute an Agreement on Fisheries Relations between the Government of Canada and the European Community which shall enter into force on the date of your reply.

Please accept, Sir, the assurances of my highest consideration.

Enclosure: Memorandum of Understanding

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MEMORANDUM OF UNDERSTANDING
BETWEEN
THE EUROPEAN COMMUNITY AND THE GOVERNMENT OF CANADA
ON FISHERIES RELATIONS

Following negotiations between the Delegations of Canada and the European Community held in Brussels from 16 to 17 December 1992 on bilateral fisheries relations,

The Government of Canada and the European Community (hereinafter referred to as "the Parties"),

Recalling the 1976 Framework Agreement for Commercial and Economic Cooperation between Canada and the European Community;

Recalling the 1990 Declaration on EC-Canada Relations in which both sides reaffirm their determination further to strengthen their partnership and to seek close cooperation on matters of mutual interest, in particular within international bodies;

Noting the commitment of the Parties to cooperate closely in all international fora with a view to promoting the effective implementation of the provisions of the United Nations Convention on the Law of the Sea in conformity with international law, particularly in matters pertaining to the conservation and utilization of the living resources of the sea;

Recalling the 1978 Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, and in particular that the Parties are committed to implement with respect to their nationals the proposals for joint action regulating fishing in the Regulatory Area adopted in conformity with Article XI of that Convention;

Noting the Parties' concern regarding the current state of the fish stocks in the Northwest Atlantic, particularly the high fishing mortality and the catch of juveniles which impede rebuilding of the stocks;

Noting the agreement of both Parties that effective implementation of the measures adopted by the Fisheries Commission at the 14th Annual NAFO Meeting, notably those referring to minimum mesh size and minimum fish sizes, are expected to reduce fishing mortality and the catch of juveniles;

Noting the gravity of the situation and the fact that previous reductions in catch possibilities have not resulted in a commensurate reduction in fishing mortality;

Noting the agreement of the Parties that fishing effort in the NAFO Regulatory Area shall be managed in a way that contributes to the rebuilding of the stocks;

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Noting the moratorium on fishing for 2J3KL cod inside the Canadian fishing zone imposed by Canada in 1992 to ensure the conservation of the stock and the decision at the 14th Annual NAFO Meeting that directed fisheries for this stock in Division 3L in the NAFO Regulatory Area shall not be permitted in 1993;

Noting that the Parties, both bilaterally and in the framework of NAFO, are cooperating in designing and adopting measures to ensure effective international inspection and control of fishing activity in the NAFO Regulatory Area;

Noting that the Parties, both individually and in the framework of NAFO, are considering measures intended to improve the balance between fishing effort and legitimate fishing possibilities in the NAFO Regulatory Area;

Noting the agreement of the Parties that the practice of vessels re-flagging to States that are not Contracting Parties to the NAFO Convention in order to fish without restraint in the NAFO Regulatory Area constitutes an unacceptable threat to conservation of Northwest Atlantic fish stocks;

Recalling the observation by the NAFO Scientific Council that vessels flying the flags of States that are not Contracting Parties to the NAFO Convention fish in the NAFO Regulatory Area for stocks and with small mesh gear contrary to conservation measures enacted by Contracting Parties, thus affecting adversely the attainment of the objectives of the Convention;

Recalling that the Parties have cooperated within NAFO on steps aimed at eliminating fishing contrary to NAFO conservation decisions by vessels flying the flags of States that are not Contracting Parties to the NAFO Convention and that the Parties have also sought the cooperation of these flag States to obtain the withdrawal of their vessels from the NAFO Regulatory Area;

Recognizing that the actions taken by flag States which are not Contracting Parties to the NAFO Convention have not resolved the current threat to conservation in the NAFO Regulatory Area;

Recognizing that both Parties have adopted and implemented measures within the NAFO framework to improve inspection and control in the Regulatory Area:

(a) for the documentation and marking of fishing vessels and gears to standards adopted by NAFO;

(b) to enable the regular exchange of surveillance and control information, as well as the exchange of inspectors;

(c) on aerial surveillance under the NAFO Scheme of Joint International Inspection and Surveillance and the treatment of aerial surveillance reports;

(d) on the NAFO hail system;

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(e) to ensure that their appropriate authorities take prompt action to conduct the investigations necessary to obtain evidence of apparent infringements of NAFO Conservation and Enforcement Measures and to ensure immediate judicial or administrative action as appropriate;

(f) on the monitoring of the quota uptake (ie, catches compared to quotas) and verification that fishery prohibitions are being respected, by an inspection presence in the NAFO Regulatory Area and through inspections of landings;

Recognizing that both Parties will implement as of 1 January 1993 the following measures agreed in NAFO:

(a) an 18-month pilot observer scheme;

(b) the requirement for vessel masters to present NAFO inspectors with stowage plans or production log books;

(c) minimum sizes for cod and flatfish;

(d) a standard mesh size of 130 mm for groundfish, including two derogations accepted by NAFO;

(e) rules on incidental by-catches; and

(f) a one net rule (secure stowage of gear that is not authorized for use in the NAFO Regulatory Area).

I. The Parties have agreed:

(a) To cooperate to support effective conservation and sustainable exploitation of Northwest Atlantic fisheries resources;

(b) To comply with the decisions of NAFO on fisheries management and conservation, in accordance with their rights and obligations under the NAFO Convention;

(c) To support the adoption by the NAFO Fisheries Commission of management and conservation measures which are in conformity with Article XI of the NAFO Convention, having regard to the cooperative manner in which Canada and the Community contributed to management and conservation decisions reached at the 1992 Annual NAFO Meeting. As required by the foregoing Article, Canada shall continue to inform the Fisheries Commission of its management and conservation measures and decisions;

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(d) To identify ways to encourage further economic and commercial cooperation between Canadian and Community fisheries interests;

(e) To consult with a view to presenting joint proposals, without prejudice to international rights and obligations, in time for consideration at the 1993 Annual NAFO Meeting on :

- a dispute settlement mechanism to resolve disputes between NAFO Contracting Parties that may arise from use of the objection procedure in a way which might affect adversely the attainment of the objectives of the NAFO Convention;

- measures to prevent fishing in the NAFO Regulatory Area by vessels flying the flags of States which are not Contracting Parties to the NAFO Convention which affect adversely the attainment of the objectives of the NAFO Convention, in particular measures applicable to such flag States which do not take effective and timely action with respect to the fishing activities of their nationals or vessels in the NAFO Regulatory Area;

- further measures including the possibility of preventing imports of fish caught in the NAFO Regulatory Area by vessels flying the flags of States which are not Contracting Parties to the NAFO Convention;

(f) To apply measures to deter re-flagging of their vessels to flags of States which are not Contracting Parties to the NAFO Convention for the purpose of fishing in the NAFO Regulatory Area contrary to NAFO Conservation and Enforcement Measures;

(g) To cooperate on the implementation and improvement of measures to ensure effective surveillance and inspection of fishing activity in the NAFO Regulatory Area so that agreed management measures are respected;

(h) To work together within NAFO on development and implementation of further measures to improve the balance between fishing effort and legitimate fishing possibilities and to take domestic action as necessary to ensure effective implementation of such measures;

(i) To establish a Joint Committee of Senior Officials to meet as necessary but at least once a year to review the operation of this Agreement and the implementation of their respective undertakings by the Parties;

(j) To ensure appropriate enforcement of NAFO Conservation and Enforcement Measures and their own regulations applicable to fisheries by their vessels in the NAFO Regulatory Area;

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- Beginning in 1993, the Community shall exercise at least the same degree of control over Community vessels as in 1992 to ensure that their catches do not exceed quotas, by closing fisheries when quotas are deemed to have been exhausted and by endeavouring to limit fishing effort (number of vessels and fishing days) in relation to quotas and other legitimate fishing possibilities so as to ensure effective surveillance and control;

(k) To continue to have fisheries patrol vessels in the NAFO Regulatory Area for inspections under the NAFO Scheme of Joint International Inspection and Surveillance subject to operational requirements;

- To this end, for 1993 the European Commission intends to assign a fisheries patrol vessel to the NAFO Regulatory Area for a period of ten months as in 1992;

- In the absence of a Community patrol vessel and, when practicable for both Parties, the Community Commission will assign fisheries inspectors to carry out NAFO inspection duties from a Canadian patrol vessel; and

(l) To continue to carry out in 1993, and without prejudice to subsequent years by mutual agreement, quarterly reviews of Canadian and Community surveillance and inspection activities and data, including reports of catches by their vessels in the NAFO Regulatory Area so as to ensure accurate and timely determination of the actual uptake of quotas.

II. With respect to 2J3KL cod:

Recognizing that the NAFO Scientific Council has concluded since 1986 that 5% of the total biomass of the stock on average over the year is estimated to have occurred in the NAFO Regulatory Area, the Parties:

(a) Note that Canada will request annually that the NAFO Scientific Council carry out an assessment of the stock taking into account all relevant scientific evidence including the findings and supporting data of the Canadian Atlantic Fisheries Scientific Advisory Committee;

(b) Recognize that Canada will set a total allowable catch (TAC) annually and that the NAFO Fisheries Commission will set and allocate to Contracting Parties an amount equal to 5% of the TAC for the NAFO Regulatory Area in accordance with the distribution key established by the Commission and in conformity with the NAFO Convention; and

(c) Agree to support decisions by the NAFO Fisheries Commission, based on any relevant information or advice provided to it by the NAFO Scientific Council, regarding 5% of the TAC which are consistent with the management and conservation decisions taken by Canada.

III. The Parties note the decision of the Government of Canada:

(a) To permit Community fishing vessels to enter and use Canadian ports in accordance with Canadian law, rules and conditions;

(b) To make available to the Community allocations of fish designated by Canada as surplus to Canadian harvesting requirements on a basis comparable to arrangements for licensing of other foreign vessels to fish in the Canadian fishing zone, taking into account the traditional interest of the Community in receiving, in the event of any surpluses being available, allocations of groundfish (such as in particular redfish, witch and Greenland halibut); and

(c) To permit Community vessels to participate with Canadian companies in commercial arrangements under developmental or other fisheries programs in accordance with policies established by the Government of Canada.

IV. The Parties agree that:

(a) Nothing in this Agreement shall prejudice any multilateral convention to which Canada and the Community, or Canada and any Member State of the Community, are parties, or the views of either Party with respect to any question relating to the Law of the Sea;

(b) This Agreement is without prejudice to the delimitation of economic zones or fishery zones between Canada and Member States of the Community;

(c) This Agreement shall enter into force upon signature, at which time it shall supersede the Agreement on Fisheries between the Government of Canada and the European Economic Community signed on 30 December 1981;

(d) If difficulties arise with respect to the interpretation or implementation of this Agreement, either Party shall so notify the other Party and request that bilateral consultations be held as soon as possible with a view to resolving such difficulties; and

(e) If no solution is agreed despite best efforts by the Parties, either Party may terminate this Agreement at any time following 60 days from the date of receipt by the other Party of the request for consultations mentioned in paragraph (b) above.

Letter from Canada

Sir,

With reference to the Agreement on Fisheries Relations between the Government of Canada and the European Community signed on this date, I am writing to you with regard to the decision to be taken on the distribution among NAFO Contracting Parties of the 5 percent of the total allowable catch of 2J3KL cod that will be available annually in the NAFO Regulatory Area. I have the honour to confirm that Canada and the Community will propose at the 1993 Annual NAFO Meeting that the Community share of this 5 percent shall be two-thirds.

I have the honour to confirm my understanding that the Community will limit its catches of 2J3KL cod to the share approved by NAFO.

Canada notes that the Council of the European Community is considering provisions for the reform of the Common Fisheries Policy, including new monitoring measures and a licensing scheme applicable to Community vessels operating in the NAFO Regulatory Area designed to manage fishing effort (number of vessels and fishing days) to ensure that catches are commensurate with established quotas and other legitimate fishing possibilities, and the withdrawal of licences in the event of an infringement.

I have the further honour to propose that this letter, which is equally authentic in English and French, and your letter of even date shall constitute an integral part of the Agreement on Fisheries Relations between the Government of Canada and the European Community signed on this date.

Please accept, Sir, the assurance of my highest consideration.

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Letter from the European Community

Sir,

I have the honour to acknowledge receipt of your letter of today's date, which reads as follows :

"With reference to the Agreement on Fisheries Relations between the Government of Canada and the European Community signed on this date, I am writing to you with regard to the decision to be taken on the distribution among NAFO Contracting Parties of the 5 percent of the total allowable catch of 2J3KL cod that will be available annually in the NAFO Regulatory Area. I have the honour to confirm that Canada and the Community will propose at the 1993 Annual NAFO Meeting that the Community share of this 5 percent shall be two-thirds.

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I have the further honour to propose that this letter, which is equally authentic in English and French, and your letter of even date shall constitute an integral part of the Agreement on Fisheries Relations between the Government of Canada and the European Community signed on this date."

I have the honour to confirm that the contents of your letter are acceptable to the Community and that your letter and the present letter constitute an integral part of the Agreement on Fisheries Relations between the Government of Canada and the European Community signed on this date in accordance with your proposal.

Please accept, Sir, the assurance of my highest consideration.

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