COMMISSION OF THE EUROPEAN COMMUNITIES

COM(93) 266 final

Brussels, 10 June 1993

Proposal for a

COUNCIL REGULATION (EEC)

concerning the conclusion of the Agreement between the European Economic Community and the Government of the Commonwealth of Dominica on fisheries

(presented by the Commission)

EXPLANATORY MEMORANDUM

The fisheries sector constitutes a fundamental part of the economies of the French Overseas Departments of Guadeloupe and Martinique. Fishermen from these Departments traditionally fished in international waters of the region. However this situation changed when those waters came under the jurisdiction of these neighbouring countries as a consequence of the establishment of 200 miles Exclusive Economic Zones.

By its Decision of 25 January 1983, the Council adopted negotiating directives with a view to the conclusion of fishing agreements with third counrtries in the Caribbean region permitting access to waters in which Community fishermen had traditionally fished. On the basis of the said directives, an agreement between the Community and the Government of the Commonwealth of Dominica was initialled in Brussels on 14 May 1987.

Both parties commenced their respective ratifications procedures(1) to conclude the Agreement but due to differences of interpretation relating particularly to the question of definition of the fishing zones within which access would be accorded, the procedures were never finalised. Following renewed contacts between the parties, a new text was initialled in Roseau, Dominica on 13 March 1993 which resolved the outstanding differences.

This Agreement, which shall apply for an initial period of three years with the possibility of extension for further periods of three years at a time, provides for reciprocal access for vessels registered in Martinique and Guadeloupe in the waters of Dominica and for vessels from Dominica in the waters off Martinique and Guadeloupe.

In order to compensate for an imbalance in fishing possibilities in favour of Community vessels, the Community will pay a financial compensation of 1.650.000 ECU over the first three years of application of the Agreement.

The Community will contribute also the sum of 400.000 ECU towards the financing of a scientific programme aimed at increasing knowledge of the fishery resources in the waters of Dominica. In addition study grants will be financed to improve the skills and know how of persons engaged in the fishing sector for a total cost of 150.000 ECU.

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(1) Com (87) 431 final, dated 18.9.1987

These contributions will be supplemented by the licence fees paid by the shipowners.

The Commission proposes, on the above basis, that the Council as soon as possible :

- approve the Agreement, after consulting Parliament;
- authorise its President to give the notification provided for in Article 14 of the Agreement and to designate the person empowered to sign the Agreement.

Proposal for a

COUNCIL REGULATION (EEC)

concerning the conclusion of the Agreement between the European Economic Community and the Government of the Commonwealth of Dominica on fisheries

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 the Community and Dominica have negotiated and initialled an agreement on fisheries which guarantees on a reciprocal basis fishing possibilities for the Community's fishermen in the waters over which the Commonwealth of Dominica exercises sovereignty or jurisdiction, as well as for fishermen from Dominica in the Community fishing zone of the coast of the French Department of Guadeloupe and Martinique.

Whereas it is in the Community's interest to approve this Agreement.

HAS ADOPTED THIS REGULATION :

Article 1

The Agreement between the European Economic Community and the Government of the Commonwealth of Dominica on fisheries is hereby approved on behalf of the Community.

The text of the Agreement is annexed to this Regulation.

(1) JO N°

Article 2

The President of the Council is hereby authorised to give the notification provided for in Article 14 of the Agreement and to designate the person empowered to sign the Agreement in order to bind the Community.

Article 3

This Regulation shall enter into force on the third 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
The President

AGREEMENT ON FISHERIES

BETWEEN THE EUROPEAN ECONOMIC COMMUNITY AND THE GOVERNMENT OF THE

COMMONWEALTH OF DOMINICA

THE EUROPEAN ECONOMIC COMMUNITY (hereinafter referred to as "the Community") and the Government of the COMMONWEALTH OF DOMINICA, (hereinafter, referred to as Dominica)

RECALLING the close relations between the Community and Dominica;

IN THE SPIRIT of cooperation resulting from the Lome Convention, symbolising the Parties' common desire to intensify friendly relations between the African, Caribbean and Pacific States, and the Community;

CONSIDERING their mutual interest in the rational management, conservation and optimum utilisation of fish stocks, notably in the Caribbean region;

TAKING INTO ACCOUNT the signature by both Parties of the United Nations Convention on the Law of the Sea;

AFFIRMING that the exercise by coastal States of their sovereign rights in the waters within their jurisdiction for the purpose of exploring, exploiting, conserving and managing the living resources thereof must be in accordance with the principles of international law;

HAVING REGARD to the fact that Dominica has established an exclusive economic zone extending up to 200 nautical miles from its coast within which it exercises sovereign rights for the purpose of exploring, exploiting, conserving and managing the resources thereof and that the area of fisheries jurisdiction of the Community off the coast of the French Departments of Guadeloupe and Martinique, extends up to 200 nautical miles; that fishing within this area is subject to the common fisheries policy of the Community;

TAKING INTO ACCOUNT the fact that a part of the fishery resources of the Caribbean region consists of common stocks or highly interrelated stocks exploited by fishermen of both Parties, and that an effective conservation and rational management of these stocks can therefore only be achieved at this time through cooperation between the two Parties without prejudicing at a later stage other forms of cooperation;

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DETERMINED TO CONDUCT their fisheries relations in a spirit of mutual trust and respect for each other's interests;

DESIROUS of establishing the terms and conditions governing fishing activities of mutual interest to the Parties,

HAVE AGREED AS FOLLOWS:

Article 1

The purpose of this Agreement is to establish the principles and rules which will govern in future, in all respects, the reciprocal fishing activities

- of vessels flying the flag of Member States of the Community which are registered in the French Departments of Guadeloupe and Martinique and which undertake their main activity from the ports in the said area, hereinafter referred to as "Community vessels", in the waters under the jurisdiction or sovereignty of Dominica, hereinafter referred to as the fishing zone of Dominica;

- of vessels registered in Dominica in the Community fishery zone off the coast of the French Departments of Guadeloupe and Martinique, hereinafter referred to as the fishing zone of the Community.

Article 2

With the aim to maintain traditional fishing possibilities, each Party shall grant access to fishing vessels of the other Party to fish within its fishing zone in accordance with the provisions of Article 1 and those set out below.

Article 3

1. The Parties shall cooperate to ensure the conservation and rational management of the fishery resources of the sea and to facilitate the necessary scientific research in particular with regard to:
   a) stocks occurring within the fishing zones of both Parties;
   b) stocks occurring within the fishing zones of both Parties and in adjacent areas.

2. The Parties shall, in particular, consult periodically between themselves with respect to the stocks referred to in paragraph 1 with a view to agreeing on measures for the regulation of the fisheries.

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3. In the case of stocks occurring within the fishing zones of both Parties and in adjacent areas, the Parties shall seek either directly or through appropriate regional bodies to reach agreement with third parties on measures for the conservation and rational utilisation of these stocks.

4. In determining the measures for the conservation and rational utilisation of the stocks referred to in paragraph 1, the Parties shall take into account the best scientific advice available to them, the interdependence of stocks, the work of appropriate international organisations such as the Western Central Atlantic Fishery Commission and other relevant factors.

Article 4

1. The Parties shall consult periodically on the number and size of fishing vessels of either Party to be granted access to the fishing zone of the other Party, with a view to obtaining a mutually satisfactory balance in their relations in the fisheries field. The number of vessels of each Party authorized to fish in the fishing zone of the other is laid down in the annexed protocol.

2. The competent authority of each Party shall, as appropriate, communicate in due time to the other Party, a document containing all details, as set out in Annexes 1 and 2, of each fishing vessel intending to fish within the fishing zone of the other Party. The other Party shall thereupon issue the licences within the agreed limits and, where applicable, after receipt of the licence fees. Annexes 1 and 2 may be subject to review by the Joint Committee.

Article 5

With a view to obtaining for the Community a satisfactory level of fishing possibilities in the fishing zone of Dominica, the Community shall, in the event there is an imbalance in catch possibilities, grant to the Government of Dominica financial compensation as set out in the annexed Protocol to this Agreement in order to establish the mutually satisfactory balance provided for in Article 4. This compensation shall be without prejudice to financing accorded to Dominica under the Lome Convention.

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Article 6

1. The Parties shall take all appropriate measures to ensure that their vessels observe the provisions of this Agreement and the rules and regulations governing fishing in each others fishing zone.

2. Fishing vessels of one Party shall, when fishing within the fishing zone of the other Party, comply with the conservation measures, supervisory measures, other terms and conditions and all rules and regulations governing fishing activities in that zone.

3. Each Party shall take appropriate measures with a view to ensuring compliance by the vessels of third countries to which it has granted fishing rights with any conservation measures agreed between the Parties pursuant to this Agreement.

4. Each Party shall give appropriate advance notice to the other Party of any new measure or conditions governing fishing activities in its fishing zone.

5. The measures taken by each Party to regulate fisheries for the purpose of conservation shall be based on objective and scientific criteria and shall not discriminate in fact or in law against the other Party.

6. Each Party may take within its fishing zone such measures, in conformity with international law, as may be necessary to ensure compliance with the provisions of this Agreement by vessels of the other Party.

Article 7

Should the authorities of a Party decide, as a result of an unforeseeable change in the state of these fish stocks, to take new conservation measures which, in the opinion of the other Party, have a considerable effect on the fishing activities of that Party's vessels, consultations must be held between the Parties in order to redress the balance referred to in Article 4, account being taken of financial compensation already paid by the Community.

Article 8

The Parties shall consult on questions relating to the implementation and proper functioning of this Agreement.

Article 9

A Joint Committee shall be set up to ensure that this Agreement is applied correctly. The number of participants from each Party is limited to four persons not including observers.

The Committee shall meet once a year and shall hold special meetings at the request of either Contracting Party.

Article 10

Nothing contained in this Agreement shall affect or prejudice in any manner the views of either Party with respect to any question relating to the Law of the Sea.

Article 11

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Economic Community is applied and under the conditions laid down in that Treaty and, on the other hand, to the territory of Dominica.

Article 12

The Protocol and Annexes form an integral part of this Agreement.

Article 13

This Agreement shall apply for an initial period of three years after the date of its entry into force. In the event of the Agreement not being terminated by either Party through notice of termination given at least six months before the expiry of that period, it shall remain in force for additional periods of three years duration thereafter, provided that notice of termination has not been given at least six months before the expiry of any such period.

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Article 14

This Agreement shall enter in force on the date on which the Parties notify each other of the completion of the procedures necessary for this purpose.

Article 15

This Agreement is drawn up in duplicate in Danish, Dutch, English, French, Greek, German, Italian, Portuguese and Spanish languages, each of these texts being equally authentic.

For the European Economic Community

For the Government of the Commonwealth of Dominica

PROTOCOL

between the European Economic Community and the Government of the Commonwealth of Dominica on conditions relating to reciprocal access for fishing vessels of both Parties

Article 1

1. Pursuant to Article 4 of the Agreement, the following number of licences will be issued to Community vessels registered in the French Departments of Guadeloupe and Martinique and not exceeding 30 feet in length, authorised to fish in the fishing zone of Dominica :

   a) In the area outside 12 miles from the baselines :
      - 100 licences to fish demersal and pelagic species in the period 1 January to 31 December
      - 50 licences to fish pelagic species in the period 1 January to 30 June
      - 20 licences to fish demersal species in the period 1 July to 31 December; the number of these licences to be reviewed by the Joint Committee at the end of the first year of application of the Agreement.

   b) In the area between 6 to 12 miles from the baselines :
      - 30 licences to fish for pelagic species for three months of the year.

2. Pursuant to Article 4 of the Agreement, the following number of licences will be issued to vessels registered in Dominica to fish in the fishing zone of the Community off the coasts of the French Departments of Martinique and Guadeloupe :

a) in the area outside 12 miles from the baselines :

- 20 vessels not exceeding 30 feet in length to fish demersal and pelagic species in the period 1 January to 31 December

b) in the area between 6 to 12 miles from the baselines :

- the vessels mentioned in a) above may fish pelagic species for three months of the year

3. Notwithstanding the provisions laid down in paragraphs 1 and 2, each Party agrees to grant not more than five licences for vessels above 30 feet but not exceeding 40 feet in length to the other Party within the limits set out in this Protocol.

Article 2

1. Licence fees applicable to Community vessels fishing in the fishing zone of Dominica are fixed as follows :

Vessels not exceeding 30 feet :	EC$ 100 per vessel per annum
Vessels above 30 and not exceeding 40 feet :	EC$ 150 per vessel per annum

These fees will be reviewed by the Joint Committee after the first year of application of the Agreement.

2. Licence fees due for the duration of the Protocol in relation to the vessels referred to in Article 1, paragraph 2, have been taken into account in establishing the level of the financial compensation fixed in Article 3.

Article 3

1. The financial compensation referred to in Article 5 of the Agreement shall be set for the first three years of application of the Agreement at a flat-rate of 1,650,000 ECU, payable in three equal annual instalments. This financial compensation is without prejudice to any future Protocol.

2. The compensation shall be paid into an account opened with a financial institution chosen by the Government of Dominica.

Article 4

During the period of application of this Protocol, the Community shall contribute the sum of 400,000 ECU towards the financing of a scientific programme with the objective of gaining greater knowledge of the fishery resources in the waters of Dominica and in particular of the stocks referred to in Article 3 of the Agreement.

Article 5

The two Parties agree that improving the skills and knowledge of those involved in sea-fishing is a vital element in the success of their cooperation. To that end, the Community shall make it easier for nationals of Dominica to find places in establishments in its Member States and shall provide for that purpose awards for study and practical training in the various scientific, technical and economic disciplines relating to fisheries. The awards may also be used in any country linked with the Community by a cooperation agreement.

The total cost of the awards may not exceed 150,000 ECU. At the request of the relevant authorities of Dominica, part of this sum may be used to cover the costs of participation in international meetings or training courses concerning fisheries. The sum shall be payable as and when it is used.

EUROPEAN COMMUNITIES / COMMUNAUTÉS EUROPÉENNES

ANNEX I

APPLICATION FOR LICENCE TO FISH IN THE 200-MILE FISHING ZONE OF THE MEMBER STATES COVERED BY COMMUNITY RULES ON FISHERIES

DEMANDE D'OCTROI D'UNE LICENCE DE PÊCHE CONCERNANT LA ZONE DE 200 MILES RELEVANT DE LA JURIDICTION DES ÉTATS MEMBRES ET FAISANT L'OBJET DE LA RÉGLEMENTATION COMMUNAUTAIRE EN MATIÈRE DE PÊCHE

1. Name of the vessel Nom du navire	
2. Country of registration Pays d'immatriculation	
3. Home port Port d'immatriculation	
4. Registration number N° d'immatriculation	
5. External identification Identification externe	
6. Owner / Charterer *) Armateur / Affréteur *) name/nom address/adresse name/nom address/adresse *) Delete item not applicable *) Supprimer la mention inutile	
7. Gross registered tonnage Tonnage brut	
8. Overall length Longueur hors tout	
9. Engine power (B.H.P.) Puissance motrice principale (CH)	
10. Radio call sign Indicatif d'appel	
11. Radio frequency/frequencies Fréquence(s)	
12. Vessel type Type de navire	

C-130/DG XIV/1982

ANNEXE

LICENCE APPLICATION FORM

1. Name and address of owner of vessel .....
.....
2. Name and address of agent or other legal representative
.....
.....
3. Name and address of master of vessel .....
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4. Name of vessel .....
5. Type of vessel.....
6. Engine horse power.....
7. Port and country of registry.....
8. Registration number.....
9. Fishing vessel external identification mark.....
10. Signal letters .....
11. Radio call sign.....Frequency.....
12. Length.....
13. Registered net tonnage.....
14. GRT.....

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15. Description of fishing operations requested .....
.....
16. Period of validity from.....until.....

Date of application.....

Signature:

FINANCIAL STATEMENT

DATE:

1. BUDGET HEADING: B7-8000 — APPROPRIATIONS:

2. TITLE: EEC/Dominica Agreement on Fisheries

3. LEGAL BASIS: EEC/Dominica Agreement on Fisheries

4. AIMS OF PROJECT: Agreement plus protocol and annexes for a three-year period.
Financial compensation/fishing rights.
Financing of Dominica scientific and technical programmes
EEC study and training grants

5. FINANCIAL IMPLICATIONS	Period of 12 months 19	Current Financial Year 19	Following Financial Year 19
5.0 EXPENDITURE		733.333 Ecus (annual)	733.333 Ecus (annual)
- CHARGED TO THE EC BUDGET			
- (REFUNDS/INTERVENTION)			
- NATIONAL ADMINISTRATION			
- OTHER			
5.1 REVENUE			
- OWN RESOURCES OF THE EC (LEVIES/CUSTOMS DUTIES)			
- NATIONAL			

	year 1993	year 1994	year 1995	
5.0.1 ESTIMATED EXPENDITURE	733.333 Ecus (annual)	733.333 Ecus (annual)	733.334 Ecus (annual)	
5.1.1 ESTIMATED REVENUE				

METHOD OF CALCULATION:
- Financial compensation - total cost : 1.650.000 Ecus, being 550.000 Ecus/year
- Financing of Dominica scientific programme - total cost : 400.000 Ecus, being 133.333 Ecus/year
- Grants - total cost : 150.000 Ecus, being 50.000 Ecus/year

6.0 CAN THE PROJECT BE FINANCED FROM APPROPRIATIONS ENTERED IN THE RELEVANT CHAPTER OF THE CURRENT BUDGET? YES/NO

6.1 CAN THE PROJECT BE FINANCED BY TRANSFER BETWEEN CHAPTERS OF THE CURRENT BUDGET? YES/NO

6.2 IS A SUPPLEMENTARY BUDGET NECESSARY? YES/NO

6.3 WILL FUTURE BUDGET APPROPRIATIONS BE NECESSARY? YES/NO

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