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**DIRECTORATE FOR FOOD, AGRICULTURE AND FISHERIES
FISHERIES COMMITTEE**

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**EUROPEAN UNION -- FISHERIES MARKET LIBERALISATION - INVENTORY OF TARIFF AND
NON-TARIFF MEASURES, ASSISTANCE MEASURES AND RESTRICTIONS ON INVESTMENTS
AND SERVICES**

The attached paper is distributed for DISCUSSION and AMENDMENT at the 87th Session of the Committee for Fisheries, 5-7 March 2001.

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EUROPEAN UNION

Trade policy regime: framework and objectives

Framework (trade and trade-related policy-making in the fisheries sector)

1. The Community has exclusive competence over the common commercial policy (CCP) since the establishment of the customs union in 1968. This policy, established principally by Article 133 of the EC Treaty (ex 113), covers "changes in tariff rates, the conclusion of tariff and trade agreements, the achievement of uniformity in measures of liberalisation, export policies and measures to protect trade such as those to be taken in the event of dumping or subsidies".
2. On the basis of Commission proposals, the CCP is decided by the Council voting by a qualified majority, except for definitive anti-dumping or countervailing measures where a simple majority applies.
3. Although the European Parliament does not have a specified role in the CCP, its assent is required under Article 300 for certain international agreements, including the WTO, and association and co-operation agreements.
4. Common Customs Tariff duties are fixed by the Council acting by a qualified majority on a proposal from the Commission as specified in Article 26 (ex 28) of the EC Treaty.

Trade policy objectives : towards a new approach regarding the commercial policy for fishery products

5. For some years now, each year the Community has unilaterally opened up opportunities for importing products intended for Community processors; the aim being to guarantee the industry access to primary products on competitive terms.
6. In the medium term, because of the growing liberalisation of world trade, including that in fisheries products, the industry as a whole will have to improve its competitiveness.
7. The Community market has gradually opened up to international competition, partly because of its supply needs, and partly because of the trade and development aid policies.
8. The changes are due to various factors including depleting fish stocks in Community waters, changes in consumers' habits, globalisation of the markets and the strong dependency of the EU on imports for both fresh products and raw materials for the processing industry.
9. A reform of the existing external trade regime had therefore become necessary to adapt it to today's market conditions. The main objectives of this regime are :
 - To achieve a better match between supply and demand.

- To strengthen the competitiveness of the processing industry.

The New EC Common Organisation of Markets for fishery and aquaculture products

10. The objective of the Common Organisation of the Market is to promote the competitiveness of the fishing industry. Products from within the Community should be given priority on the market. The common customs tariff is the basic tool for the application of the principle of Community preference. However, Community demand for fisheries products exceeds Community supply. To meet demand, the EU market must import almost 60% of fisheries and aquaculture products. This deficit is particularly important in products used as raw material by the processing industry. That industry needs to import fish at reduced duty rates in order to be competitive.

11. The common customs tariff contains many exceptions, which mean that almost two thirds of Community imports are covered by special rules. These are the results of bilateral agreements or provisions under the ACP regime and the European Economic Area (EEA). There are also unilateral reductions such as the generalised system of preferences (GSP).

12. By virtue of the above preferential tariff arrangements (ACP, GSP and GSP "DRUGS") or annual measures (tariff quotas or suspensions), the majority of Community imports of fishery products (70%) are made at zero or reduced duties.

13. Within the framework of the reform of the Common Organisation of Markets for fishery products the Community will implement, as from 1 January 2001, the suspension of duties for an unlimited duration for raw materials intended for the processing industry (see below).

14. Detailed information on the Reform of the Common Organisation of the Markets in fishery and aquaculture products can be found in the European Union web site at the following address :

http://europa.eu.int/comm/fisheries/news_corner/doss_inf/info76_en.htm

The EU Tariff

Tariff structure

15. The common commercial policy fixes the tariff rates for customs charges due on goods imported into the Community and the exceptions to this, as well as prohibitions and restrictions.

16. Raw materials and semi-manufactured goods (which the Community often does not produce anyway and which it needs to produce goods) usually benefit from low duty rates. There are also temporary or permanent duty suspensions available if Community manufacturers have to use materials or components from outside to manufacture Community exports. This makes cheap raw materials and semi-finished goods available to EU manufacturers on the same competitive footing as they are to foreign processing companies. The duty relief systems are called 'inward processing' or 'duty suspension' depending on the one used.

17. The Community is constantly adapting the Common Customs Tariff as a steering instrument for world trade. It has participated in eight tariff rounds, cutting tariffs considerably.

The Community Customs nomenclature.

18. The Community nomenclature is based on an international classification tool, the Harmonised System, administered by the World Customs Organisation (WCO).

The Combined Nomenclature

19. A goods nomenclature, hereinafter called the 'combined nomenclature', or in abbreviated form 'CN', was established by Council Regulation (EEC) No 2658/87 of 23 July 1987 to meet, at one and the same time, the requirements both of the Common Customs Tariff and of the external trade statistics of the Community.

20. The combined nomenclature comprises:

- (a) The Harmonised System (HS) nomenclature.
- (b) Community subdivisions to that nomenclature, referred to as 'CN subheadings' in those cases where a corresponding rate of duty is specified.
- (c) Preliminary provisions, additional section or chapter notes and footnotes relating to CN subheadings.

21. The combined nomenclature is reproduced in an annex (Annex I) to Regulation 2658/87. The autonomous and conventional rates of duty of the Common Customs Tariff and the supplementary statistical units, as well as other necessary information, are laid down in the said annex. This annex is regularly updated by means of regulations issued by the Commission of the European Communities.

22. The last version of this annex was published with Commission Regulation (EC) nr 2263/2000 of 13 October 2000 (OJ L264 of 18 October 2000).

23. The Integrated Tariff of the Community (TARIC = acronym for "*Tarif Intégré de la Communauté*") is an instrument which was created at the same time as the Combined Nomenclature (CN) by Regulation 2658/87 (Article 2). The TARIC contains a nomenclature in all 11 official languages with about 15 000 tariff lines. It shows all third country and preferential duty rates actually applicable as well as all commercial policy measures.

24. The TARIC comprises the Community legislation as published in the OJ. It constitutes an instrument for practical use and information, but does not have a legal status in itself. The TARIC serves as a direct basis for the preparation of Member States working tariffs. Another field for the application of TARIC codes is in automated customs clearance. The use of the TARIC codes is obligatory in customs and statistical declarations in trade with third countries [Article 5(2) of R 2658/87]. It has to be entered in box 33 of the Single Administrative Document (SAD).

25. The last version of the annex was published in the Official Journal of the European Communities on 25 April 2000 (issue C 115 A).

26. A full on-line version of the TARIC database can be found at the following web address:

http://europa.eu.int/comm/taxation_customs/databases/database.htm

Specific tariff measures

Tariff quotas

Multilateral trade quotas (GATT quotas)

27. As a result of the Uruguay Round, the Community opened a series of import quotas.
28. Council Regulation (EC) 32/2000 of 17 December 1999 (OJ L5 of 8 January 2000) includes the list of these quotas.
29. The main quota is an annual quota of 34 000 tonnes of herring. This quota is open for the period 1 January to 14 February and from 16 June to 31 December of each year.
30. There is another quota of 25 000 tons of cod and another small quota for silver hake.

Bilateral Tariff Quotas

31. There are a series of bilateral quotas between the Community and third countries. These quotas are opened on various grounds; for example, as part of a Free Trade Area Agreement, or in compensation for the accession to the Communities.

Autonomous Tariff Quotas (erga omnes)

32. These quotas are opened in order to ensure an adequate supply to satisfy user industries. They concern raw materials that are intended for the use of the processing industry and for which there is a temporary shortage in Community production.
33. These quotas are opened for most of the products from 1 April until 31 December.
34. For the year 2000, these quotas have been opened by means of Council Regulation (EC) 655/2000 of 27 March 2000 (OJ L80 of 31 March 2000).
35. From 2001 to 2003, a series of multi-annual tariff quotas will be opened. On 17 December 1999 the EU Council of Ministers agreed to open tariff quotas for the following products: herring, tuna-loins, salted cod, cooked and peeled cold water shrimps. To these quotas, the Council has decided to add three other products: cod livers, squid and tubes of squid.
36. The implementing regulation for these multi-annual quotas will be adopted at the end of the year 2000.

Information on tariff quotas

The database for tariff quotas and ceilings on the European Union web-site displays the balances of each tariff quota and ceiling applicable in the present year and in the past year. It also indicates certain other important information, such as the date when a particular tariff quota or ceiling is reached. This information is subject to constant change as a result of the daily operations which take place. The information on the European Union web-site is taken on the evening of each working day and is therefore correct at that time. It remains on the web-site until the evening of the following working day.

The web-site address is:

http://europa.eu.int/comm/taxation_customs/databases/database.htm

Autonomous tariff suspensions

Temporary tariff suspensions

37. Traditionally the Community decides, on an annual basis, to temporarily suspend the duty rates for some fishery products. The products concerned are (as it is the case for the autonomous tariff quotas) intended for the processing industry. Another feature of these products is the fact that there is virtually no Community production.

38. For the year 2000, these suspensions have been implemented by means of Council Regulation (EC) 2785/1999 of 17 December 1999 (OJ L336 of 29 December 1999).

Permanent tariff suspensions.

39. In addition to the above temporary suspensions, the Community has suspended duties on a permanent basis for some products:

Frozen tuna products

The Community decided in 1970 to suspend the import duties (for an indefinite period of time) on tuna products intended for the industrial manufacture of products falling within heading 1604.

Herring

For herring there is a permanent suspension at zero duty for herring products imported between 15 February and 15 June.

Mackerel

For mackerel there is a permanent suspension at zero duty for mackerel products imported between 15 February and 15 June.

Brislings or sprats

For brislings or sprats (*Sprattus sprattus*) there is a permanent suspension at zero duty for sprat products imported between 15 February and 15 June.

Tariff suspension implemented within the framework of the Reform of the Common Organisation of Markets for fishery and aquaculture products

40. The Regulation implementing the new Common Organisation of Markets for fishery and aquaculture products provides for a tariff regime that is more in line with the needs of the market without penalising Community fish producers. That means suspension of common customs tariffs duties for certain products intended for the processing industry. Suspension may be partial (a cut in customs duty) or total (duty reduced to 0%).

41. Through the reform, an unlimited amount of these products may be imported at a reduced duty rate or at no duty rate at all, for an indefinite period of time. In 2000, for example, the Community was allowed to import 90 000 tons of fresh, chilled or frozen cod at a reduced rate of 3%. From 2001 an unlimited amount of this fish may be imported at the reduced rate of 3%, for an indefinite period of time.

42. For deepwater prawn (*Pandalus borealis*), the quota in 2000 was 12 000 tons of duty free imports. In future there will be an unlimited amount of imports allowed at no duty rate. The duty for Alaska Pollack has been reduced from 4% (in 1999) to 0% (for an indefinite period of time).

43. The complete list of products covered by these suspensions can be found in AnnexVI of Council Regulation (EC) 104/2000 of 17 December 1999 (OJ L17 of 21 January 2000).

Preferential trade agreements

Members of the European Free Trade Association (EFTA)

44. The Community's free-trade agreements with individual members of EFTA, concluded in the early 1970s, remain in force for Iceland, Liechtenstein, Norway, and Switzerland. The agreements cover industrial products and include concessions on agricultural and fishery products.

45. The European Economic Area (EEA) entered into force on 1 January 1994 and extends the Internal Market to Iceland, Liechtenstein, and Norway. The EEA provides for the freedom of movement of goods, persons, services, and capital throughout the territory of the Contracting Parties, as provided for under basic EU legislation.

46. Relevance for fishery products: the preferential regime for the EEA countries (Iceland and Norway) means that products can enter either at unlimited quantities at zero rate duty or at a reduced rate. Faeroe Islands: On 6 December 1996, a free trade Agreement was concluded between the European Community, on the one part, and the Government of Denmark and the Home Government of the Faeroe

Islands, of the other part. This Agreement, as modified for the last time in June 1999, liberalises most trade in fisheries products between the two parties.

Countries in transition (Eastern European Countries and the Mediterranean)

Customs Union

47. A Customs Union between the Community and Turkey entered into force effective 1 January 1995. Fishery products are not part of this Customs Union but can be freely imported from Turkey into the Community.

Free Trade Agreements

48. Free Trade Agreements between the European Community, the European Coal and Steel Community and the European Atomic Energy Community, of the one hand, and the Republics of Lithuania, Estonia and Latvia, of the other hand, signed on 18 July 1994.

49. Relevance for fishery products: as a result of these free trade agreements and of the Europe Agreements, autonomous tariff quotas were opened by the Community with the three Baltic States.

Europe Agreements:

50. Following the start of the transition to the market economy in Central and Eastern European countries, the Community concluded Europe Agreements with Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, and Slovenia. All the Europe Agreement countries have since requested accession to the European Union.

51. The trade provisions of each Europe Agreement commit the parties to eliminate tariff and non-tariff barriers on industrial products by the end of a transition period of ten years, according to a liberalisation schedule that is faster for the EU than for the other party. The Europe Agreement countries are to complete their bilateral liberalisation schedules by 2001 for the Czech Republic, Hungary, Lithuania, Slovakia, and Slovenia, and 2002 for Bulgaria, Latvia, Poland, and Romania.

52. A recent development in trade relations between the EU and the Europe Agreement countries, and more generally among European countries having concluded free-trade agreements with the EU, is the introduction of the System of European Cumulating of Origin, in 1997.

53. Relevance for fishery products: As a component of these Agreements, tariff concessions in the form of tariff quotas and tariff suspensions have been exchanged between the EC and most of these countries. The Commission has received a mandate from the Council to enlarge the scope of the tariff concessions for fisheries products and is currently carrying out negotiations with the Baltic States and the CEECs (Central and Eastern European Countries).

Mediterranean countries

54. In November 1995, the "Euro-Mediterranean Partnership" was launched in Barcelona between the EU and Algeria, Cyprus, Egypt, Israel, Jordan, Lebanon, Malta, Morocco, the Palestinian Authority,

Syria, Tunisia, and Turkey. The partnership includes the establishment of a Euro-Mediterranean free-trade area by 2010, to foster the development of countries in the region. To this end, the EU concluded "Euro-Mediterranean" association agreements with Israel, Jordan, Morocco, the Palestine Liberation Organisation (for the benefit of the Palestinian Authority of the West Bank and Gaza Strip), and Tunisia; an agreement at negotiator's level was reached with Egypt in 1999. Entry into force has taken place for the Agreements with Tunisia and Morocco and, on a provisional basis, for those with Israel and the Palestinian Authority.

55. The "Euro-Mediterranean" agreements are distinguished from earlier agreements by the greater degree of reciprocity in market access commitments. Each provides for the establishment of a bilateral free-trade area, covering industrial products and including concessions on certain agricultural and fishery products. An asymmetric liberalisation schedule applies, shorter for the EU, with a transitional period to full implementation of 12 years for the developing country partner, except for Israel, which has immediate effect.

56. Relevance for fishery products: under the previous regime (Co-operation Agreements) Morocco, Algeria and Tunisia benefited from zero duties for fishery products with the exception of some canned products (*e.g.* sardines). The Euro-Mediterranean Agreements resulted in tariff quota's being opened for Tunisia for canned sardines. Morocco benefits now of free access for all fishery products

African, Caribbean and Pacific (ACP) States

57. The Partnership Agreement between the African, Caribbean and Pacific (ACP) States and the EU entered into force on 1 March 2000. This new Partnership Agreement replaces the Fourth Lomé Convention, which expired at the end of February 2000. Of the 71 ACP countries, 55 are WTO Members and 39 are least developed countries (LDC).

58. The trade provisions are one instrument of ACP-EU co-operation. The EU grants duty-free treatment on industrial and processed agricultural products originating in 70 ACP countries on a non-reciprocal basis (the trade concessions of the Trade, Development and Co-operation Agreement do not apply to South Africa).

59. Relevance for fishery products: the ACP regime implies that exports from these countries can enter the Community at zero duty rate. One of the main products concerned is canned tuna. Special quotas for non-originating products imported from ACP States have been opened for some countries benefiting from this regime.

Interregional agreements leading to free-trade agreements

60. The EU's initiative to establish closer political and economic ties with Latin America and the Caribbean led to a 1998 Interim Agreement with the objective of reciprocal trade liberalisation with Mexico, and an Interregional Framework Partnership Agreement with MERCOSUR¹ which entered into force in 1999. The EU is the main trading partner of MERCOSUR, and the second most important trading partner of Mexico.

¹ COM(1995) 495 final.

61. Negotiations were concluded on a free-trade agreement between the EU and Mexico in November 1999.² The provisions on goods entered into force on 1 July 2000.

62. Negotiations between the EU and Chile, and with MERCOSUR, began in March and April 2000, although negotiations on tariff liberalisation cannot begin before July 2001. Furthermore, the negotiating mandate indicates that negotiations are not expected to be concluded until after the end of the next round of multilateral negotiations under the WTO. The aim is to expand trade between the EU, MERCOSUR and Chile through the development of free-trade by 2005.

Generalised System of Preferences

63. The EU has introduced a revised GSP scheme for the period 1 July 1999 to 31 December 2001.³ The scheme is available to 146 independent, developing countries (and a number of dependent territories). With effect from 1 May 1998, Hong Kong, China; the Republic of Korea; and Singapore were "graduated" from the list of GSP beneficiaries.⁴

64. The product coverage of the GSP scheme includes processed agricultural products, fish, mining products, and industrial products.

65. Least developed countries are eligible for the most favourable treatment. They are granted duty-free access on all product categories covered in the general regime (Annex I), irrespective of the degree of product sensitivity, plus preferences for additional products (Annex VII), subject to preference modulation. The tariff preferences (excluding the commodity protocols) for least developed countries under the new GSP scheme are equivalent to those granted under the Lomé Convention.⁵ Under provisions to assist countries that combat drug production and trafficking, treatment better than the general regime is available to the Andean Group, the Central American Common Market, and Panama.

66. Relevance for fishery products: Tariff preferences granted to fishery products consist of a modulated tariff preference. They concern products such as tuna (loins and canned tuna) and shrimps.

Non-Tariff measures

67. The Community does not maintain non-tariff measures in the sense of quantitative import restrictions/measures, *i.e.* global or bilateral quotas, licensing schemes, including import permits and import reporting schemes, or export measures.

Trade measures in support of conservation and management of marine resources

68. Like other OECD Members, the Community has implemented a series of measures related to international resource management and conservation agreements such as ICCAT or CCAMLR.

² Available at: <http://europa.eu.int/comm/trade/bilateral/mexico/fta.htm> (15 March 2000).

³ Council Regulation 2820/98.

⁴ Council Regulation 2623/97.

⁵ Council Regulation 602/98, with effect from 1 January 1999.

ICCAT

- Atlantic bluefin tuna: the Community has imposed a ban on imports of Atlantic bluefin tuna originating in Belize, Honduras and Equatorial Guinea⁶ and has implemented the ICCAT resolution designed to make compulsory the presentation of a statistical document when Atlantic bluefin tuna is imported into the territory of a Contracting Party.⁷
- Swordfish: the Community has imposed a ban on imports of Atlantic Swordfish originating in Belize and Honduras.⁸

CCAMLR

69. The Commission has adopted a proposal for a Council Regulation aiming to transpose into Community law, measures to document catches of Antarctic and Patagonian toothfish established by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR). The new scheme provides for the obligatory presentation of a catch document for toothfish consignments destined for landing, transshipment (transfer from one ship to another), import, export or re-export. Flag States are responsible for the delivery of these documents for toothfish catches by their vessels, or transshipment into their vessels, throughout the Southern Oceans.⁹

70. More information on non-tariff measures can be found in the European Union web site at the following address:

http://europa.eu.int/comm/fisheries/doc_et_publ/factsheets/legal_texts/regl_en.htm

Price support mechanisms

71. The Community, as part of its Common Organisation of Markets for fishery products, maintains various systems of price support.

72. Market intervention measures are implemented exclusively by the producer organisations, and are triggered when the prices of products placed on the market fall below a minimum threshold.

73. The budget resources required by the intervention mechanism of the market organisation remain extremely modest in relation to the total value of landings.

74. In 1999 the total budget for these measures amounted to EURO 20 Million. The expenditure for the Common Organisation of the Market is expected to be EURO 20 million in 2000 (before the new rules become applicable). In 2001, when the new Regulation has entered into force, it is expected to increase slightly to EURO 22 million. However, by 2006 it is expected to have gone down to EURO 16 million.

⁶ Council Regulation (EC) 2092/2000.

⁷ Council Regulations 858/94 and 1446/99.

⁸ Council Regulation (EC) 2093/2000 of 28 September 2000 (OJ L249 of 03 October 2000).

⁹ COM(2000) 335 final of 10 July 2000.

75. Council Regulation (EEC) 104/2000 of 17 December 1999 (OJ L17 of 21 January 2000) on the reformed Common Organisation of the Markets for fishery and aquaculture products lays down the basic rules for the intervention mechanisms.

Price regulation systems and withdrawals schemes

76. The Community operates, as a component of the Common Organisation of Markets for fishery and aquaculture products, price support systems which set minimum prices below which fish products cannot be sold. Financial support is available to POs if they have to take fish and shellfish off the market, store them for later use or process them.

Withdrawals

How it works

77. To ensure a minimum revenue for fishermen, Producer's Organisations may take fish and shellfish products off the market when prices fall below the withdrawal prices. Depending on the products, members receive compensation from their POs, which, in turn, apply for Community aid.

78. To qualify for financial compensation, withdrawn products must conform to official quality criteria. In addition, these withdrawals must be limited to occasional excess production. The level of compensation is directly linked to the quantities of fish withdrawn; the higher the volume taken off the market, the lower the compensation paid. Products taken off the market are usually, but not automatically, destroyed. POs can take other steps to ensure that fish are not wasted. They may be sold for use in the production of animal feed. In this case, the amount of compensation they receive will be reduced by a set amount to compensate for the proceeds of this sale.

Less aid for final withdrawal

79. One of the objectives of the reform of the Common Organisation of Markets is to decrease the quantities of fish products taken off the market and thus avoid waste of resources.

80. Final withdrawal, which involves taking off the market fish products for uses other than human consumption, represents only an occasional safety net. The volumes eligible for financial compensation will be reduced from 14% to 8% of the POs' production or landings.

81. Special conditions will apply to pelagic species. Pelagic landings generally represent high volumes but relatively low value, which can mean market difficulties. They might therefore be more likely to need intervention. Eligible quantities for pelagic species have also been reduced but to a lesser extent than for other species, and will be 10% of the quantities put up for sale annually by the PO.

82. The rate of financial compensation from the Community to POs is also reduced for all species concerned. Until now, financial compensation for quantities withdrawn has been 87.5% of the withdrawal price for up to 7% of the quantities put up for sale each year. The rate is now reduced to 85% for up to 4% of the quantities put up for sale. For quantities exceeding 4%, aid will decrease gradually: For the 2001 fishing year, financial compensation will be equal to 75% of the withdrawal price for quantities between 4% and 10% for pelagic species and between 4% and 8% for other species. For the 2002 and 2003 fishing years the compensation will diminish to 65% and 55% respectively.

Aid for carry-over operations

83. At the same time as aid for final withdrawal decreases, measures that stabilise the products, so that they can be put on the market at a later date, are to be encouraged.

84. One such measure is the "carry-over" mechanism - the storing and processing of fish before placing it on the market when there is more demand. The quantities eligible for aid in the event of carry-over have been substantially increased, from 6% to up to 18% (in the case of POs that do not practice permanent withdrawal).

85. Other new implementing measures will also be applied to facilitate the use of the carry-over mechanism, such as making storage aid more easily available.

Emergency mechanism

86. There are times, however, when, as a consequence of exceptional circumstances, there are serious disturbances on the market and prices collapse. An emergency provision for intervention is introduced into the new Regulation to deal with such events. This provision would allow for an increase in the quantities eligible for final withdrawal, for up to six months.

Reference price systems

87. The reference price for products qualifying for a Community withdrawal price is equivalent to the withdrawal price.

88. There are different types of reference prices depending on the product to which they are applied:

1. For the products listed in Annex I, Parts A and B of the basic Regulation, the reference price equals the withdrawal price. The products concerned cover fresh or chilled products of heading 0302 and 0307 and shrimps of the species *Crangon crangon* and *Pandalus borealis* that are caught in Community waters.
2. For the products listed in Part C of Annex I of the basic Regulation, the reference price equals the "Community selling price". This price is set in the same way as the Community withdrawal price and it is intended for the carryover aid only.
3. For the products listed in Annex II of the basic Regulation, the reference price is equal to the price used for the private storage aid.
4. For other products, the reference price is fixed on the basis of the weighted average of customs values recorded on the import markets or in the ports of import in the Member States during the three years immediately preceding the date on which the reference price is fixed, taking into account the market situation.

Reference prices and tariff reductions

89. The reference price (see above) is the price used, under normal circumstances, as a reference for monitoring the prices of imported products. For some of the trade measures that include autonomous tariff reductions (tariff suspensions, tariff quotas), the benefit of the tariff reduction can not be invoked when the

import price (free-at-frontier) is higher than the reference price. When this is the case (the import price is higher than the reference price), then the full tariff is applied.

90. As a result of the recent reform of the Common Organisation of Markets, reference prices may be fixed only for products that are subject to :

- Tariff reduction or suspension arrangements, where the rules binding them in the WTO provide for compliance with a reference price.
- Autonomous tariff suspensions for an indefinite period of time adopted within the framework of the reform of the Common Organisation of Markets.

Other price support mechanisms

Compensatory allowance for tuna

91. This mechanism occupies a special place in the market organisation in that it is the only one based on a direct aid scheme towards producers' incomes, whereas the other mechanisms are designed to support producers' incomes through their impact on price formation.

92. This allowance is intended to compensate for the disadvantage Community producers suffer as a result of the total absence of tariff protection on tuna products imported for the processing industry.

93. The allowance is authorised by a Commission decision and it is paid to producer organisations when it is noted, during a calendar quarter, that market prices and import prices fall below a trigger level. The level at which the mechanism is activated has been lowered, as a result of the reform of the Common Organisation of Markets, from 91% to 87% of the Community producer price.

94. This mechanism is therefore automatic and intervenes *ex post*, without having any stabilising effect on the market.

95. More information on the EC price support mechanisms can be found in the European Union web site at the following address:

http://europa.eu.int/comm/fisheries/doc_et_publ/factsheets/legal_texts/regl_en.htm (legal texts)

and

http://europa.eu.int/comm/fisheries/doc_et_publ/factsheets/facts/facts_en.htm#PCP (fact sheets on the Common Fisheries Policy).

Other measures and policy instruments relevant to fisheries

Sanitary and health regulations

96. A selection of recent documents in the area of food hygiene legislation in the area of fishery products can be found at :

http://europa.eu.int/comm/fisheries/doc_et_publ/factsheets/legal_texts/sani_en.htm

97. A detailed description of this vast area of legislation would be out of place in this report. The reader is reminded of the following:

- The general principle of equivalent treatment for the production and placing on the market of Community-produced products and imported products.
- Directives 91/492/EEC and 91/493/EEC lay down a series of obligations for the production and placing on the market of live bivalve molluscs and fishery products.
- The above Directives also lay down the procedures to be followed for assessing whether the hygiene conditions under which production is carried out in a non-Community country can be considered as equivalent or not.

98. A Commission Decision, adopted after the Standing Veterinary Committee has delivered its opinion, sets the specific conditions for imports into the Community from each country; this is based on the report of a mission of experts from the Commission and the Member States. The conditions must include:

- Health certification for products exported to the Community.
- A list of approved establishments and factory vessels in accordance with the requirements laid down in the Directives and forwarded to the Commission by the recognised competent authority.
- Marking of packaging, in particular with the approval number given to the production establishment or factory vessel from which the products originate.

99. This system therefore implies the recognition of the competent authority in the third country and delegation to that authority of the power to approve the establishments and factory vessels on the basis of requirements equivalent to those set out in the Directive. Where recognition by a competent authority proves impossible, Directive 91/493/EEC provides for the possibility of direct approval of an establishment or factory vessel from the third country by Commission inspectors. Such a possibility does not exist in Directive 91/492/EEC for live bivalve molluscs.

100. Recognition of a competent authority can be called into question if routine inspections by Commission experts indicate that the guarantees are no longer being provided or if controls of imported products show that they do not comply with established health standards.

101. A Council Decision (95/408/EC of 22 June 1995 OJ 243 of 11 October 1995) provided the conditions for drawing up, for an interim period, provisional lists of third country establishments from which Member States are authorised to import certain products of animal origin, fishery products or live bivalve molluscs.

102. On the basis of the above provisions, the Commission has drawn up a list of countries which satisfy the equivalence conditions referred to in Article 2(2) of Decision 95/408/EC and which are therefore able to guarantee that fishery products exported to the Community meet the health requirements laid down for the protection of consumer health by Council Directive 91/493/EEC - laying down the health conditions for the production and the placing on the market of fishery.

103. The latest Commission Decision with the list of authorised countries is 2000/170/EC of 14 February 2000 (OJ L55 of 29 February 2000).

104. Part 1 of the list includes the countries that are fully harmonised with Community practices and legislation. These countries can export to the EU only subject to spot check and verifications carried-out by the EU.

105. Part 2 covers countries authorised to export to the EU on the basis of documentary evidence. Provisional approval is given until checks by the EU have been done. This part of the list was valid until 31 December 2000, but the Council has decided to extend the validity of this list up to December 2003.

106. For bivalve mollusc the latest Commission Decision with the list of authorised countries is 2000/332/EC of 25 April 2000 (OJ L114 of 13 May 2000).

Rules of origin

107. The basic set of rules defining the origin of goods entering the Community market are laid down in Council Regulation (EEC) 2913/1992 of 12 October 1992 (OJ Official Journal L302 of 19 October 1992).

Non-Preferential rules of origin

108. Articles 23 to 26 of Regulation (EEC) 2913/1992 defines the non-preferential origin of goods. The basic principle is that goods originating in a country shall be those wholly obtained or produced in that country.

109. For fishery products the expression "goods wholly obtained in a country" means:

- Products of hunting or fishing carried on therein.
- Products of sea-fishing and other products taken from the sea outside a country's territorial sea by vessels registered or recorded in the country concerned and flying the flag of that country.
- Goods obtained or produced on board factory ships (products referred to in the above subparagraph) originating in that country, provided that such factory ships are registered or recorded in that country and fly its flag.

Note : the expression 'country' covers that country's territorial sea.

110. For processed products Article 24 of Regulation (EEC) 2913/1992 is of relevance: "Goods whose production involved more than one country shall be deemed to originate in the country where they underwent their last, substantial, economically justified processing or working in an undertaking equipped for that purpose and resulting in the manufacture of a new product or representing an important stage of manufacture."

Preferential origin of goods

111. As stated in Article 27 of Regulation 2913/1992, the preferential rules of origin must be defined in the respective agreement governing the preferential trade arrangement.

112. There are four main groups of preferential rules of origin according to the type of agreement:

- ACP (Africa, Caribbean, Pacific) and OTC (Overseas Countries and Territories) rules.
- EEA (European Economic Area) rules.
- Rules applied in bilateral agreements.
- Rules applied within the framework of the GSP (Generalised System of Preferences).

113. In general, preferential rules of origin specify the conditions under which the vessel (or factory ship) is considered to belong to the country benefiting from the preferential regime. These are vessels:

- Which are registered or recorded in an EC Member State or in the beneficiary State.
- Which sail under the flag of an EC Member State or of the beneficiary State.
- Which are owned to an extent of at least 50% by nationals of EC Member States or of the beneficiary State, or by a company with its head office in one of these States.
- Of which the master and officers are nationals of EC Member States or of the beneficiary State.
- Of which at least 75% of the crew are nationals of EC Member States or of the beneficiary State.

114. Notwithstanding the above conditions, non-originating materials which should not be used in the manufacture of a product may nevertheless be used, provided that their total value does not exceed a given percentage of the ex-works price of the product.

115. This percentage is 5% for the GSP, 15% for ACP and OCT rules and 10% for the other agreements.

Common marketing standards

116. The common market standards take the form of freshness classes and size scales and have two main purposes: firstly, they define harmonised commercial characteristics for products throughout the Community and make it possible to distinguish common prices for each class of product so that the price system is applied in line with the real situation on the market. Secondly, they are intended to help improve quality and thus facilitate marketing.

117. Although it is not compulsory to set such standards, it goes without saying that once they are adopted it is essential they be complied with, and only products satisfying the quality and size standards and meeting packaging and marking requirements may be marketed.

118. These standards apply to both Community output and imported products. So far, standards have been adopted for thirty-six species of sea fish and for cuttlefish, fresh and chilled, whole or without heads, which between them represent the bulk of the species sold for human consumption on the Community market, as well as for three species of shellfish.

119. These marketing standards are laid down in Council Regulation (EC) No 2406/96 of 26 November 1996 (OJ L 334 of 23 December 1996).

120. It should also be mentioned that individual "composition" standards have been adopted for two processed products as well: canned sardines (Council Regulation (EEC) 2136/89 of 21 June 1989 OJ L212 of 22 July 1989) and canned bonito tuna (Council Regulation (EEC) 1536/92 of 9 June 1992, OJ L163 of 17 June 1992). These standards aim to safeguard fair trading practices and ensure correct consumer information by allowing the terms "sardine" and "tuna" to be used only for fish which really do belong to one of those species. They also govern minimum fish content, the designation of the medium in which the fish is preserved, and some of the wording on labels of canned products.

Labelling

General Community legislation on labelling of foodstuffs

121. Council Directive 2000/13/EC on labelling, presentation and advertising of foodstuffs to the final consumer is the main piece of EU legislation regarding the labelling of foodstuffs.

122. This Directive is based upon the principle of functional labelling. Its aim is to ensure that the consumer gets all the essential/objective information as regards the composition of the product, the manufacturer, methods of storage and preparation, etc. Producers and manufacturers are free to provide whatever additional information they wish, provided that it is accurate and does not mislead the consumer.

123. Furthermore, this Directive prohibits the attribution to any foodstuff with the property of preventing, treating or curing a human disease, or reference to such properties.

124. The full text of this Directive can be found at the following address of the European Union website:

http://europa.eu.int/comm/food/fs/fl/fl_index_en.html

Live, fresh and chilled fishery products

125. The new basic Regulation on the Common Organisation of the Markets in fishery and aquaculture products (Council Regulation 104/2000) introduces rules for better labelling and information for consumers on live, fresh and chilled fishery products. The name of the species, the method of production (inland, sea fishing or aquaculture) and the area where the fish was produced will have to be provided.

126. This measure will enable consumers to avoid buying fish which may have been produced or marketed in a way that harms conservation (sea fish under the minimum landing sizes for example). In addition, the details about the origins of the fish will enable inspectors in charge of monitoring to cross-check the data with those collected on board vessels or during landing.