

EDITORIAL COMMENTS

The Maastricht Summit

In a recent Editorial Comment we pointed to the so-called “mutton and lamb” war between Britain and France as “...only one of the areas of tension which have characterised the life of the European Community during recent months” and asked whether this could be regarded as an isolated incident or the onset of a new, and troubled, era.¹ The atmosphere at the Maastricht summit was one of considerable frustrations and disillusionment. Once again, a new definition of “vital national interests” blocked progress toward a basis for a common fisheries policy and will certainly overshadow preparations for the talks on the reform of the budgetary system which are due to begin in June. The breakdown of the earlier talks, in spite of valiant efforts by Mr Braks and Mr Kontogeorgis, over French rights to fish in British coastal waters, followed by the British refusal to approve of the fishing agreement between the Community and Canada which would have allowed the German deepsea fleet to fish off Labrador in exchange for Canadian access to Community markets, understandably annoyed Chancellor Schmidt, who had assumed that progress toward the CFP was an integral part of the price of the temporary solution of the British budgetary complaints in May of last year.

The original fisheries policy, stemming from Arts. 7, 38(1) and 235 EEC, was in essence designed to secure equal treatment between Member States and equal conditions of access to maritime areas within the Community’s jurisdiction. The unfortunate timing of the initial Regulations (2141 and 2142/70), which were promulgated at the outset of the negotiations over the first enlargement, was exacerbated by the fact that the fisheries interests of the joining States were quite different from those of the original Six. The joining States caught a much larger quantity of fish, had many more inshore fishermen and had practised more successful conservation measures in the past. The negotiations over Arts. 100, 101, and 102 of the Act of Accession were difficult and protracted; the derogations timetable soon proved impossible to maintain. Progress on the fisheries provisions of the draft Convention emerging from the Third UN Conference on the Law of the Sea (now contained in the August 1980 draft version) showed the adoption of a different approach to regional resources management. The Community responded by conducting a “holding opera-

1. Editorial Comments, “The Mutton and Lamb Story: isolated incidents or the beginning of a new era?”, 17 C.M.L.Rev. 1980, 311-314.

tion" through the adoption of the Council's "Hague Resolution" of November, 1976, which called upon Member States by concerted action to extend the limits of their fishing zones to 200 nautical miles off their North Sea and North Atlantic coasts.

From this time on, the interaction between the internal and the external aspects of the Community's fisheries policy became of crucial importance. The impasse since January 1978 has led to Britain becoming more and more isolated in its demands for exclusive or preferential inshore rights, and for improved quota allocations and adequate conservation enforcement measures. This increasing isolation has raised the so-far unanswered question of whether or not there is any future for exclusive fishing rights in the 12 mile area from the coastal baselines. The external problems have concentrated upon the rights of access of fishermen from non-Community States to Community waters, and *vice versa*. The use of the Community's external authority in the agreement with the United States of February, 1977, drew attention to the problem of the continuing validity of a substantial number of existing fisheries agreements between one or more Member States and third States. The negotiation of long-term reciprocal access arrangements with the Faroes, Norway, Spain, Sweden, Finland and Canada has been delayed because of fears that these agreements might prejudice the outcome of negotiations on the internal fisheries regime. The result has been that temporary arrangements have been resorted to in order to control the current position in both the internal and the external sectors—pending the resolution of the internal impasse.

Almost six years of negotiations preceded the failure at the Maastricht summit to agree on a common structural policy for fisheries. During this time the Community market has come under increasing economic pressure as a result of the changing patterns of trade and fishing worldwide. In spite of both Community and governmental aid, the British fishing industry has continued its inexorable decline—a decline that dates back to the period of the first of the "Cod Wars" with Iceland and to the introduction of new technology and new forms of consumer demand. Little progress can now be expected until the outcome of the French Presidential election is known. The Community was reasonably close to an agreement last December but the Maastricht summit has shown, as have a number of its predecessors, a hardening of attitudes in direct proportion to the publicity surrounding its sessions.