

Case T-493/93

Hansa-Fisch GmbH

v

Commission of the European Communities

(Fisheries — EEC-Morocco Agreement — Issue of licences —  
Act of Accession of Spain and Portugal — Relative stability —  
Legitimate expectations)

Judgment of the Court of First Instance (Fourth Chamber), 8 March 1995 ..... II - 577

Summary of the Judgment

*Accession of new Member States to the Communities — Spain — Portugal — Fisheries — Continuation of fishing activities resulting from agreements concluded with non-member countries — EEC-Morocco agreement on relations in the sea fisheries sector — Submission of requests for fishing licences to the Moroccan authorities — Priority given to Spanish and Portuguese fishermen — Breach of the prohibition of discrimination on grounds of nationality — None (EEC Treaty, Art. 7; Act of Accession 1985, Arts 167(3) and 354(3); Council Regulation No 3760/92)*

Articles 167(3) and 354(3) of the Act of Accession of Spain and Portugal, read in the light of the other provisions of the chapters to which they belong, of the preparatory documents and of Regulation No 3760/92 establishing a Community system for fisheries and aquaculture, require the Council to continue the fishing activities in which Spain and Portugal were engaged on the basis of fisheries agreements concluded by them with non-member countries before their accession to the Communities. It follows that, when submitting requests for fishing licences to the Moroccan authorities in accordance with the 1992 agreement on relations in the sea fisheries sector between the Community and Morocco, the Commission was right to give priority to Spanish and Portuguese fishermen, in so far as that agreement did not create fishing possibilities exceeding those used by Spanish and Portuguese fishermen on the

basis of the bilateral agreements referred to in Articles 167(1) and 354(1) of the Act of Accession.

That priority is not contrary to the prohibition of discrimination on grounds of nationality laid down in Article 7 of the Treaty. Fishermen who did not have fishing activities in a given zone are not in the same position as those who had fishing activities in that zone and the difference between their situations is justification for giving priority to the latter in the allocation of fishing licences for the zones in question. The requirements of the Act of Accession thus concur with those of the principle of equal treatment, the distinguishing criterion applicable being imposed by Articles 167(3) and 354(3) of that Act.