



EUROPEAN PARLIAMENT

2009 - 2014

Session document

A7-0051/2009

10.11.2009

REPORT

on the proposal for a Council decision concerning the approval on behalf of the European Community, of the Amendments of Annex II and Annex III to the Convention for the protection of the marine environment of the North-East Atlantic (OSPAR Convention) in relation to the storage of carbon dioxide streams in geological formations
(COM(2009)0236 – C7-0019/2009 – 2009/0071(CNS))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Anna Rosbach

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- *** Assent procedure
majority of Parliament's component Members except in cases covered by Articles 105, 107, 161 and 300 of the EC Treaty and Article 7 of the EU Treaty
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend the common position
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council decision concerning the approval on behalf of the European Community, of the Amendments of Annex II and Annex III to the Convention for the protection of the marine environment of the North-East Atlantic (OSPAR Convention) in relation to the storage of carbon dioxide streams in geological formations (COM(2009)0236 – C7-0019/2009 – 2009/0071(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the proposal for a Council decision (COM(2009)0236),
 - having regard to Articles 175(1) and 300(2), first subparagraph, of the EC Treaty,
 - having regard to Article 300(3), first subparagraph, of the EC Treaty, pursuant to which the Council consulted Parliament (C7-0019/2009),
 - having regard to Rules 55 and 90(8) of its Rules of Procedure,
 - having regard to the report of the Committee on the Environment, Public Health and Food Safety (A7-0051/2009),
1. Approves the proposal for a Council decision as amended and approves the amendments of Annex II and Annex III to the Convention;
 2. Instructs its President to forward its position to the Council and the Commission, and to the governments and parliaments of Belgium, Denmark, Finland, France, Germany, Iceland, Ireland, Luxembourg, The Netherlands, Norway, Portugal, Spain, Sweden, Switzerland and United Kingdom.

Amendment 1

Proposal for a Council decision

Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) The Community has recently adopted Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide¹. Under that Directive, the geological storage of carbon dioxide should be pursued provided that it obtains private, national and Community support and proves to be an environmentally safe

technology; it should also be kept continuously under review from an environmental and safety perspective, and should not, in any way, serve as an incentive to increase the use of fossil fuel.

¹OJ L 140, 5.6.2009, p. 114.

Justification

The amendment of the OSPAR Convention supplements the measures recently taken at Community level on the storage of carbon dioxide under Directive 2009/31/EC. The recitals to the approval decision should make reference to this Directive.

Carbon capture and storage remains an untested technology, which may induce unforeseen consequences and warrants caution, particularly if millions of tons of CO₂ end up injected under the sea bed of the North-East Atlantic. There are significant concerns regarding the cost of CO₂ transport and other health, safety and risk management issues which are included in the recently adopted Community measures on the storage of carbon dioxide under Directive 2009/31/EC and a more explicit reference should be made to this.

Amendment 2

Proposal for a Council decision Recital 4 b (new)

Text proposed by the Commission

Amendment

(4b) Mixed Community and Member States' competence linked with the principle of unity in the international representation of the Community favours joint action for simultaneous deposition of instruments of approval of the amendments by the Community and by those of its Member States which are Contracting Parties to the Convention;

Justification

The Community and its Member States should, if possible simultaneously, approve the amendment of Annexes II and III of the OSPAR Convention by 1 June 2010. Otherwise, there would be a risk of discrepancies in the links between Community and Member State international law.

Amendment 3

Proposal for a Council decision Article 2 - paragraph 1 a (new)

Text proposed by the Commission

Amendment

Member States which are Contracting Parties to the Convention shall endeavour to take the necessary steps with a view to depositing their instruments of ratification or approval simultaneously with those of the European Community and the other Member States and as far as possible not later than 1 June 2010.

Justification

The proposed text is based on the wording used in similar cases for mixed agreements involving Member States and the Community (cf. Article 2 of Council Decision 2004/869/EC of 24 February 2004 concerning the conclusion, on behalf of the European Community, of the International Treaty on Plant Genetic Resources for Food and Agriculture).

EXPLANATORY MEMORANDUM

The European Community is a Contracting Party to the Convention for the protection of the marine environment of the north-east Atlantic (OSPAR Convention) pursuant to Council Decision 98/249/EC of 7 October 1997¹. In addition to the Community, Belgium, Denmark, France, Finland, Germany, Ireland, Luxembourg, the Netherlands, Portugal, Spain, Sweden, and the UK are Contracting Parties to the Convention, along with Iceland, Norway and Switzerland.

The aim of the Convention is to prevent and eliminate pollution and to protect the maritime area against the harmful effects of human activities. It entered into force on 25 March 1998.

Decisions were taken at the meeting of the OSPAR Commission in June 2007 in Ostend (Belgium) to amend Annexes II and III of the Convention in relation to the storage of carbon dioxide streams in underground geological formations, along with accompanying decisions (OSPAR Decisions 2007/1 and 2007/2), with a view to legally enabling Carbon Capture and Storage (CCS) operations in the OSPAR maritime area.

Some Member States are currently considering storing carbon dioxide under the seabed. It is therefore important to implement the planned Treaty amendment as soon as possible so that it is also legally permissible to store carbon dioxide in geological formations on the seabed. It is, nevertheless, essential to ensure that the carbon dioxide is permanently retained in the storage facility and does not have any adverse effects on the marine ecosystem or human health.

This proposal for an approval decision by the Community applies to the amendments to Annexes II and III of the OSPAR Convention. The Community and its Member States should, if possible, simultaneously approve the amendment of Annexes II and III of the OSPAR Convention. Otherwise, there would be a risk of discrepancies in the links between Community and Member State international law. The Community instruments should be deposited before the next OSPAR Ministerial Meeting in Bergen, Norway (20-24 September 2010) and thus if possible by 1 June 2010.

The amendment of the OSPAR Convention supplements the measures taken at Community level on the storage of carbon dioxide. The Parliament and the Council recently adopted Directive 2009/31/EC of 23 April 2009 on the geological storage of carbon dioxide². The recitals to the approval decision should make reference to this Directive.

In view of the adoption of Directive 2009/31/EC, the Commission should take the necessary steps to guarantee without delay the entry into force of OSPAR Decisions 2007/1 and 2007/2 in accordance with Article 13 of the OSPAR Convention³. Recital 14 of Directive 2009/31/EC explicitly refers to the Decisions adopted by the Contracting Parties to the

¹ OJ C 104, 3.4.1998, p. 1.

² OJ L 140, 5.6.2009, p. 114.

³ cf. Point 6 of the Explanatory Memorandum for the COM proposal - COM(2009) 0236, p. 3.

OSPAR Convention in 2007 in relation to the storage of carbon dioxide in geological formations under the seabed.

PROCEDURE

Title	Convention for the protection of the marine environment of the North-East Atlantic (OSPAR): Annexes II and III relating to the storage of carbon dioxide streams in geological formations
References	COM(2009)0236 – C7-0019/2009 – 2009/0071(CNS)
Date of consulting Parliament	10.6.2009
Committee responsible Date announced in plenary	ENVI 14.7.2009
Committee(s) asked for opinion(s) Date announced in plenary	ITRE 14.7.2009
Not delivering opinions Date of decision	ITRE 2.9.2009
Rapporteur(s) Date appointed	Anna Rosbach 10.9.2009
Discussed in committee	5.10.2009
Date adopted	4.11.2009
Result of final vote	+: 48 –: 1 0: 3
Members present for the final vote	János Áder, Elena Oana Antonescu, Kriton Arsenis, Pilar Ayuso, Paolo Bartolozzi, Martin Callanan, Nessa Childers, Chris Davies, Bairbre de Brún, Esther de Lange, Bas Eickhout, Edite Estrela, Gerben-Jan Gerbrandy, Julie Girling, Françoise Grossetête, Satu Hassi, Jolanta Emilia Hibner, Dan Jørgensen, Christa Kläß, Jo Leinen, Corinne Lepage, Peter Liese, Linda McAvan, Radvilė Morkūnaitė, Miroslav Ouzký, Gilles Pargneaux, Andres Perello Rodriguez, Mario Pirillo, Pavel Poc, Anna Rosbach, Oreste Rossi, Dagmar Roth-Behrendt, Daciana Octavia Sârbu, Carl Schlyter, Richard Seeber, Theodoros Skylakakis, Bogusław Sonik, Catherine Soullie, Salvatore Tatarella, Anja Weisgerber, Glenis Willmott
Substitute(s) present for the final vote	José Manuel Fernandes, Gaston Franco, Matthias Groote, Mairead McGuinness, Judith A. Merkies, Alojz Peterle, Michèle Rivasi, Crescenzo Rivellini, Eleni Theoharous, Michail Tremopoulos, Peter van Dalen
Date tabled	11.11.2009