



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 06.06.2005
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2005/0110 (CNS)

Proposal for a

COUNCIL REGULATION

**amending Regulation (EC) No 3317/94 as regards the transmission of applications for
fishing licences to third countries**

(presented by the Commission)

EXPLANATORY MEMORANDUM

Before a protocol to a fisheries agreement expires, the contracting parties start renewal negotiations. At the close of these negotiations, as well as the new text of the protocol and the annex thereto, the parties also sign an exchange of letters on the provisional application of the new protocol from a specific date between the expiry date of the previous protocol and the entry into force of the new protocol as negotiated, which avoids any interruption in the fishing activities of the Community fleet in the exclusive economic zone (EEZ) of that third country. In most cases this provisional date of application is the day following the expiry date of the previous protocol.

Once all these documents have been signed the Commission departments start the procedure required to produce a formal proposal, which is then transmitted to the Council for adoption. This procedure comprises two strands: a Council regulation (Regulation), with the opinion of the European Parliament, and a Council decision (Decision) allocating the fishing opportunities between the Member States and approving the exchange of letters on the provisional application of the protocol; this procedure may take several months. The second strand is designed to bring forward the point at which a decision is taken by the Council. However, this is sometimes several months after the date of provisional application laid down in the exchange of letters, as the date on which negotiations end depends on the third country .

To avoid the situation where the fishing opportunities provided for in the new protocol cannot be used in the intervening period, this proposal aims to allow the Commission to process applications from the Member States for fishing opportunities immediately and to transmit them to the third country. It is in the Community's interests to avoid any suspension, even temporary, of fishing activities, which would be damaging both to the European Community and to the fishing fleets concerned.

Pending the adoption of the Council decision on the exchange of letters on the provisional application of the new protocol to a fisheries agreement and on the allocation of fishing opportunities among the Member States, this proposal lays down temporary provisions allowing the Commission to transmit licence applications to third countries based on the method of allocating the fishing opportunities used in the agreement, taking into account the principle of relative stability. Provided all the conditions required under the new protocol are met, this will allow third countries to issue licences and authorise applicant vessels to fish in the EEZ concerned in accordance with the date laid down in the exchange of letters. Since the proposal deals with renewals of agreements only, it may use the existing allocation on a temporary basis, leaving it for other texts to lay down any reallocation of fishing opportunities.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Having regard to the opinion of the European Economic and Social Committee³,

Whereas:

- (1) Under the terms of the fisheries agreements between the Community and third countries, before the expiry of the period of validity of each protocol the contracting parties are to negotiate in order to agree the contents of a new protocol for the following period and, once the protocol has been agreed, sign an exchange of letters on its provisional application on a given date to allow fishing activities to continue.
- (2) Under Article 5(2) of Council Regulation (EC) No 3317/94 of 22 December 1994 laying down general provisions concerning the authorization of fishing in the waters of a third country under a fisheries agreement⁴, the Commission examines the applications from each Member State in the light of the fishing opportunities allocated to it and transmits them to the third country concerned.
- (3) Where the Council procedure adopting the decision on the exchange of letters on the provisional application of a new protocol to a fisheries agreement and on the allocation of fishing opportunities among the Member States cannot be finalised before the date of this provisional application, to avoid any interruption of fishing activities by Community vessels the Commission should be allowed, on a temporary basis, to transmit fishing licences to the third country taking into account the principle of relative stability.
- (4) Regulation (EC) No 3317/94 should therefore be amended accordingly,

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

³ OJ C [...], [...], p. [...].

⁴ OJ L 350, 31.12.1994, p. 13.

HAS ADOPTED THIS REGULATION:

Article 1

The following subparagraph is hereby added to Article 5(2) of Regulation (EC) No 3317/94:

“If the Council has not yet adopted the decision on the temporary application of a new protocol to a fisheries agreement with a third country allocating fishing opportunities between the Member States, the Commission shall transmit the licence applications to the third country concerned in accordance with the first subparagraph, without prejudice to the provisions subsequently adopted by the Council. For the purposes of this transmission, the Commission shall apply the method of allocating fishing opportunities in force in the previous protocol.”

Article 2

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council
The President