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A5-0165/2003

REPORT

on the proposal for a Council regulation on the management of the fishing effort relating to certain Community fishing areas and resources and modifying Regulation (EEC) 2847/93
(COM(2002) 739 – C5-0030/2003 – 2002/0295(CNS))

Committee on Fisheries

Rapporteur: Struan Stevenson

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***. 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). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

By letter of 7 February 2003 the Council consulted Parliament, pursuant to Article 37 of the EC Treaty, on the proposal for a Council regulation on the management of the fishing effort relating to certain Community fishing areas and resources and modifying Regulation (EEC) 2847/93 (COM(2002) 739 – 2002/0295(CNS)).

At the sitting of 10 February 2003 the President of Parliament announced that he had referred the proposal to the Committee on Fisheries as the committee responsible (C5-0030/2003).

The committee appointed Seán Ó Neachtain rapporteur at its meeting of 23 January 2003.

It considered the Commission proposal and draft report at its meetings of 17 March, 22 April and 20 May 2003.

At the last meeting it adopted the draft legislative resolution by 11 votes to 6, with 0 abstentions.

Following the vote on the legislative amendments the rapporteur asked for his name to be withdrawn from the final report. The committee accordingly decided to table the report under the name of the chairman, Struan Stevenson.

The following were present for the vote: Struan Stevenson (chairman), Rosa Miguélez Ramos (vice-chairman), Brigitte Langenhagen (vice-chairman), Seán Ó Neachtain (rapporteur), Elspeth Attwooll, Arlindo Cunha, Nigel Paul Farage, Ian Stewart Hudghton, Liam Hyland (for Nello Musumeci pursuant to Rule 153(2)), Salvador Jové Peres, Heinz Kindermann, Carlos Lage, Vincenzo Lavarra, Giorgio Lisi, Ioannis Marinos, Patricia McKenna, Manuel Pérez Álvarez, Bernard Poignant, Catherine Stihler, Margie Sudre (for Hugues Martin) and Daniel Varela Suanzes-Carpegna.

The report was tabled on 20 May 2003.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council regulation on the management of the fishing effort relating to certain Community fishing areas and resources and modifying Regulation (EEC) 2847/93
(COM(2002) 739 – C5-0030/2003 – 2002/0295(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2002) 739)¹,
 - having regard to Article 37 of the EC Treaty, pursuant to which the Council consulted Parliament (C5-0030/2003),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Fisheries (A5-0165/2003),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 5. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1 RECITAL 1

(1) Article 4 of Council Regulation (EEC) No 3760/92 of 20 December 1992 *establishing a Community system for fisheries and aquaculture* provides that it is the Council's responsibility to establish Community measures *laying down the conditions of* access to *areas* and resources and *of* the pursuit of fishing activities.

(1) Article 4 of Council Regulation (EEC) No 2371/2002 of 20 December 2002 *on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy* provides that it is the Council's responsibility to establish Community measures *governing*

¹ Not yet published in OJ.

access to **waters** and resources and the **sustainable** pursuit of fishing activities.

Justification

The correct reference here is Regulation 2371/2002, which was adopted last December.

Amendment 2

RECITAL 1 b (new)

(1 b) Whereas it is necessary to ensure that there is no increase in the overall levels of existing fishing effort within the areas and stocks covered, and to provide for a reduction in that fishing effort if changes in resources make it necessary to introduce a general reduction of fishing opportunities.

Justification

The balance that existed in 1996 has to be reviewed on an ongoing basis, in order to ensure that there is no increase in fishing effort and that stocks are protected.

Amendment 3

RECITAL 1 c (new)

(1 c) Whereas it is necessary to take account of the complexity of fishing activities and the biological, geographical and geomorphological characteristics of the resources; whereas particular note should be taken of the need to preserve the balance of those resources in highly sensitive areas.

Justification

It is necessary to maintain and protect biologically sensitive boxes in the interest of sustainability of stocks.

Amendment 4

RECITAL 2 a (new)

(2a) Measures for the management of resources in the areas covered by this proposal should under no circumstances give rise to discrimination among Member

States and should be based on well-grounded scientific reports drawn up beforehand.

Amendment 5
RECITAL 3

(3) Other provisions laid down in these Regulations, are designed to establish a general system for the management of fishing effort in order to prevent an increase in fishing effort and are not related to the Act of Accession of Spain and Portugal. Those provisions are important for fisheries management and should be maintained. *deleted*

Justification

A different approach is needed in order to ensure that biologically sensitive boxes are protected in the interest of sustainability of stocks.

Amendment 6
RECITAL 4

(4) In order to ensure that there is no increase in the overall levels of existing fishing effort in the fisheries, it is necessary to establish a new fishing effort management regime in ICES zones Vb, VI, VII, VIII, IX and X and CECAF areas 34.1.1, 34.1.2, and 34.2.0. This regime shall limit fishing effort on the basis of the fishing effort deployed in these fisheries during the period 1998 to 2002. *deleted*

Justification

A different approach is needed in order to ensure that biologically sensitive boxes are protected in the interest of sustainability of stocks.

Amendment 7
RECITAL 4 a (new)

(4a) It is crucial to carry out direct scientific and biological surveys in all fishing areas.

Amendment 8
RECITAL 6

(6) It is necessary for the protection of the sensitive biological situation of the areas around Açores, Canary and Madeira and the preservation of the local economy of these islands, to provisionally limit certain fishing activities, ***namely in the tuna fisheries***, pending the assessment of the conditions of these fishing activities, in the areas defined in the Article 299, paragraph 2 of the EC Treaty, and covered by the present fishing regime.

(6) It is necessary for the protection of the sensitive biological situation of the areas around Açores, Canary and Madeira and the preservation of the local economy of these islands, to provisionally limit certain fishing activities, pending the assessment of the conditions of these fishing activities, in the areas defined in the Article 299, paragraph 2 of the EC Treaty, and covered by the present fishing regime.

Justification

To ensure the protection of the sensitive biological situation of the areas around the Azores, Madeira and the Canary Islands and also to preserve the local economy of these islands, limits to fishing activities should be extended to other resources besides tuna and tuna like species. This amendment seeks to achieve a more general provision.

Amendment 9
ARTICLE 1, PARAGRAPH 2

2. The provisions laid down in Articles 3, 4, 5 and 9 shall apply to vessels of over **18** metres in overall length.

2. The provisions laid down in Articles 3, 5 and 9 shall apply to vessels of over **24** metres in overall length. ***They shall apply as from 1 January 2004 to vessels of over 18 metres in overall length and as from 1 January 2005 to vessels of over 15 metres in overall length.***

Justification

This amendment brings the Commission proposal into line with the arrangements for a satellite monitoring system provided for in Article 22 of framework Regulation (EC) No 2371/2002, which introduced the same transitional periods based on the overall length of vessels, thus facilitating the system's installation in smaller vessels. This system is well-suited to the monitoring of fishing effort and will avoid fishermen having to meet two sets of requirements.

Amendment 10
ARTICLE 1 a (new)

Article 1a

Measures for the management of resources in the areas covered by this proposal shall under no circumstances give rise to discrimination among Member States and shall be based on well-grounded scientific reports drawn up beforehand.

Justification

In keeping with the explanatory statement contained in the Commission proposal and with the EU's founding Treaties, the aim must be to clarify the situation and avoid legal uncertainty and any possibility of discrimination among Member States, given that the transitional period provided for in the Act of Accession of Spain and Portugal has expired. At the same time, scientific reports drawn up beforehand must be used to ensure the efficient and sustainable management of resources in the areas covered by the Commission proposal.

Amendment 11
ARTICLE 4

Member States shall:

deleted

a) assess the levels of fishing effort exerted, during the period 1998 to 2002, in each ICES sub-area and division and CECAF area mentioned in Article 1, with regard to the pelagic fisheries defined in Annex II.

b) allocate the level of fishing effort assessed conforming to a) in each ICES sub-area or division or CECAF areas, with regard to the pelagic fisheries in Annex II, taking into account the fishing opportunities available in 2003 for each ICES sub-area or division or CECAF area.

(This amendment applies to the entire legislative text; the adoption of this amendment means that technical adjustments throughout the text will be necessary)

Justification

It is not appropriate to apply effort ceilings to pelagic fisheries. Many pelagic stocks that would be covered in any such regime are migratory species that migrate in and out of western waters on a regular basis. The introduction of effort ceilings would not be meaningful in this situation.

Amendment 12 ARTICLE 5

The fishing effort of fishing vessels equal to or less than 18 metres in overall length shall be assessed globally for each fishery.

The fishing effort of fishing vessels equal to or less than 18 metres in overall length shall be assessed globally for each fishery ***area as defined in Annex I.***

Justification

This amendment seeks to clarify the text by tying in the fishing effort to the annex.

Amendment 13 ARTICLE 6, PARAGRAPH 1

(1) The access of vessels ***fishing for tuna and tuna like species*** to island waters under the sovereignty or jurisdiction of Portugal in ICES sub-area X and CECAF areas 34.1.1, 34.1.2, and 34.2.0 , and to island waters under the sovereignty or jurisdiction of Spain in CECAF 34.1.1, 34.1.2, and 34.2.0 is limited to vessels registered in the ports of the areas concerned, except, where appropriate, in the case of Community vessels engaging in these fishing activities, which involve the use of traditional gears under a joint agreement between Member States.

(1) The access of ***fishing*** vessels to island waters under the sovereignty or jurisdiction of Portugal in ICES sub-area X and CECAF areas 34.1.1, 34.1.2, and 34.2.0 , and to island waters under the sovereignty or jurisdiction of Spain in CECAF 34.1.1, 34.1.2, and 34.2.0 is limited to vessels registered in the ports of the areas concerned, except, where appropriate, in the case of Community vessels engaging in these fishing activities, which involve the use of traditional gears under a joint agreement between Member States.

Justification

This amendment seeks to maintain the current derogations regarding access, bearing in mind the recognition of the special status of the outermost regions such as the Autonomous Regions of the Azores and Madeira, a status which has also been acknowledged by the Commission itself in its draft regulation.

Amendment 14
ARTICLE 7, PARAGRAPH 2

2. Member States may subsequently replace vessels entered on their list provided that the total capacity of vessels ***using any given fishing gear type*** does not increase.

2. Member States may subsequently replace vessels entered on their list provided that the total capacity of vessels does not increase.

Justification

The rapporteur seeks to remove reference to pelagic fishing (see justification to amendment 11).

Amendment 15
ARTICLE 8, PARAGRAPH 3

3. Each Member State shall issue special fishing permits for vessels flying its flag which engage in fishing activities in the fisheries referred to in Annex I ***and II*** in accordance with Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing permits.

3. Each Member State shall issue special fishing permits for vessels flying its flag which engage in fishing activities in the fisheries referred to in Annex I in accordance with Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing permits.

Justification

If reference to pelagic fisheries is removed (see justification to amendment 11), Annex II becomes redundant.

Amendment 16
ARTICLE 8, PARAGRAPH 4

4. With regard to the catching of pelagic species, including the highly migratory species, defined in Annex II, the Member States shall take steps to ensure a posteriori monitoring of the actual fishing effort.

deleted

Justification

Same justification as for Article 4 (Measures concerning the catching of pelagic species).

Amendment 17
ARTICLE 8, PARAGRAPH 4 a (new)

(4a) It is necessary to introduce a Community mechanism to monitor fishing effort.

Amendment 18
ARTICLE 12, PARAGRAPH 1
Article 19 a (1) (Regulation (EEC) No 2847/93)

1. “The provisions of this Title shall apply to Community fishing vessels which are authorised by Member States in accordance with Articles 3, **4**, 6 and 10 of Council Regulation XXX/2003 on the management of the fishing effort relating to certain Community fishing areas and resources and modifying Regulation (EEC) 2847/93, to carry out fishing activities in the fishing areas defined in Annex I **and II**.”

1. “The provisions of this Title shall apply to Community fishing vessels which are authorised by Member States in accordance with Articles 3, 6 and 10 of Council Regulation XXX/2003 on the management of the fishing effort relating to certain Community fishing areas and resources and modifying Regulation (EEC) 2847/93, to carry out fishing activities in the fishing areas defined in Annex I.”

Justification

The rapporteur seeks to remove reference to pelagic fishing.

Amendment 19
ARTICLE 12 a (new)

Article 12a

Monitoring

The Commission shall submit to the European Parliament and the Council a report on the general system for the management of fishing effort by 30 June 2006. On the basis of this report, the Commission shall submit to the Council any proposals for changes to the system that it considers necessary.

EXPLANATORY STATEMENT

This proposal for a Council Regulation seeks to put in place a new regime for fishing effort in Atlantic Waters, replacing the existing system, which was set out under Council Regulation (EC) No 685/95 of 27 March 1995 on the management of the fishing effort relating to certain Community fishing areas and resources², and of Council Regulation (EC) No 2027/95 of 15 June 1995, implementing a system of fishing effort management concerning certain Community fishing areas and resources³.

The Regulations (EC) No. 685/95 and (EC) No. 2027/95 make up the “Western Waters Fishing Effort Regime”. This regime allowed the adoption of the first fishing effort management regime in Atlantic Waters. The regime had a double objective:

- the implementation of the new management instrument, set out by the base Regulation (EC) No 3760/92, which had to ensure the non-increase in fishing effort for all Member States as a whole and to allocate fishing effort so as to preserve the existing distribution of fishing effort between different areas;
- the adjustment and incorporation into Community measures of the arrangements regarding access to waters and resources laid down in the Accession Act of Spain and Portugal, taking account of the necessity to preserve the equilibrium of resources in very sensitive areas, by means of certain limitations on access under the Act of Accession.

The rapporteur regrets that the Commission failed to include any reference to the framework Regulation (EC) 1275/94 of the Council of 30 May 1994 on adjustments to the arrangements in the fisheries chapters of the act of Accession of Spain and Portugal. This regulation specifically recognised the biological sensitivity of the Irish Box.

This fishing effort regime, applicable since 1 January 1996, fixed the maximum fishing effort ceilings by fishery for demersal species, which are subject to monitoring and follow-up by Member States and by the Commission, by means of Regulation (EC) 2847/93 of the Council of 12 October 1993, establishing a control system applicable to the Common Fisheries Policy.

This regime should be now revised in the light of changes in the legal framework.

The regime of access to certain areas and resources defined in the Articles 156 to 166 and 347 to 353 of the Act of Accession of Spain and Portugal expires on 31 December 2002. Spain and Portugal will from that date be fully integrated into the Common Fisheries Policy. Consequently certain provisions in Regulation (EC) 685/95, such as the limitation in the number of Spanish vessels allowed to fish in the Irish Box and the access limitations to the continental shelf waters of Portugal, have to be revised to take account of the new legal situation. There are also certain provisions of Title II of Regulation (EC) 2847/93⁴ of 12 October 1993, establishing a control system applicable to the common fisheries policy, that shall also be reviewed to take into account the new legal situation.

² OJ L 71, 31.3.1995, p. 5.

³ OJ L 199, 24.8.1995, p. 1.

⁴ OJ L 261, 20.10.1993, p. 1.

The Regulation (EC) 685/95, the Regulation (EC) 2027/85, and the Regulation (EC) 1275/94, unlike the provisions of the Act of Accession, did not contain an explicit time limit as to their validity.

According to the Commission some are of the opinion that the Regulations cease to apply with the expiry of the transitional period in the Act of Accession because of the expressed link between the two set of rules. On the contrary, others consider that because the Regulations do not contain explicit time limits and are based on Article 37 (former 43) of the Treaty they continue to apply, but have to be revised to remove existing discriminations between Member States.

In this context the rapporteur regrets that the Commission, have been unwilling or unable to produce their own legal opinion for consultation prior to drafting this report, despite a formal request in Committee.

The rapporteur agrees with the Commission that it is necessary to avoid any discrimination, including positive discrimination, based on nationality, between Member States, while maintaining efficient management of resources in the areas concerned.

However the rapporteur is in disagreement with the Commission as to the means of achieving this. He further considers that the Commission approach is an abnegation of the Commission's own position on sustainability of stocks.

The rapporteur notes that the Commission is calling on Member States to act responsibly and co-operate in order to ensure the maintenance of conservation measures and the avoidance of disputes about fishing rights in the areas concerned. The rapporteur fully concurs with these sentiments. However **he stresses that contrary to suggestions from the Commission, this is a Community matter that must find a Community solution.**

Furthermore the rapporteur underlines the Commission's confirmation that previous regulations would legally prevail until such time as the Council adopts a new regulation.

It is important for fisheries management that the provisions of Regulation (EC) No 685/95 and Regulation (EC) No 2027/95, which are designed to establish a management system in order to prevent an increase in fishing effort and which are not related to the Act of Accession of Spain and Portugal should be maintained in the present proposal.

However the significant reduction in overall fishing possibilities in the area concerned since 1996 makes it necessary to revise fishing effort ceilings.

The new fishing effort regime proposed for the Atlantic waters takes account of these evolutions and is aimed at guaranteeing the stability of fishing effort levels in the Atlantic waters, on the basis of deployed fishing effort over a recent period by the vessels of all Member States.

To achieve this objective the Commission's proposal foresees the following:

- A. The establishment of lists of fishing vessels authorised to exercise their fishing activities in the fisheries.
- B. The evaluation and the setting of maximum fishing effort ceilings for demersal fisheries.

- C. Measures concerning the capture of pelagic species.
- D. The establishment of conditions to exercise certain fishing activities.
- E. The adaptation of the Fishing Effort Control Regime.

Rapporteur's concluding comments:

The Irish Box is a biologically sensitive Box. It is not a political Box.

If the Community is serious about conservation it is vital that the Irish Box is maintained as a sensitive zone. The area encompassed by the Irish Box is a rich fishing area with a high concentration of juvenile fish and spawning grounds. Numerous scientific papers have demonstrated this over the years. Accordingly, it is critical that the EU applies restrictions on fishing effort within this area, applicable to all.

The rapporteur believes that something as scientifically and politically sensitive as the modification of access to the Irish Box can only be achieved on the basis of very sound scientific advice. It therefore beggars belief that the Commission are unable to produce any specific scientific report used in preparing their current proposal.

The rapporteur is convinced, beyond doubt that this matter has to be sorted out in a responsible manner and in a conciliatory mood. He is convinced that the different effort regimes can be integrated into one effort regime, by proposing new rules that apply to all on an equal basis.

The rapporteur has therefore tabled a series of amendments to the text which involve:

- 1. The addition of a new text setting down the co-ordinates of the Box.**
- 2. An addition to Annex 1, making the Irish Box a separate sub-zone with specific effort allocations.**
- 3. The establishment of effort limits for each zone within Western waters, including the Irish Box as a separate zone, based on recent fishing effort history for each Member State. In this way all Member States are treated equally.**
- 4. Effort levels for Western waters, including the Irish Box, will be updated periodically to reflect recent fishing effort.**
- 5. An on-going review of effort levels in Western Waters to reflect fishing activities. In this way any adjustments to Total Allowable Catches and Quotas will be taken into account and reflected within the effort allocations set down.**

The rapporteur also proposes to delete references to Pelagic fishing, as he does not consider that it is appropriate to apply effort ceilings to pelagic fisheries. Many pelagic stocks that would be covered in any such regime are migratory species that migrate in and out of western waters on a regular basis. The introduction of effort ceilings would not be meaningful in this situation.

In relation to control, the rapporteur is in favour of the continuation of the provision currently in place. These control regimes are an effective instrument in the monitoring of fishing activities within the areas.