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A7-0242/2013

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***I
REPORT

on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1100/2007 establishing measures for the recovery of the stock of European eel
(COM(2012)0413 – C7-0202/2012 – 2012/0201(COD))

Committee on Fisheries

Rapporteur: Isabella Lövin

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Symbols for procedures

*	Consultation procedure
***	Consent procedure
***I	Ordinary legislative procedure (first reading)
***II	Ordinary legislative procedure (second reading)
***III	Ordinary legislative procedure (third reading)

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

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: **[...]**.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1100/2007 establishing measures for the recovery of the stock of European eel
(COM(2012)0413 – C7-0202/2012 – 2012/0201(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2012)0413),

– having regard to Article 294(2) and Article 43(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0202/2012),

– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

– having regard to the opinion of the European Economic and Social Committee of 14 November 2012[1],

– having regard to Rule 55 of its Rules of Procedure,

– having regard to the report of the Committee on Fisheries (A7-0242/2013),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation
Recital -1 (new)

Text proposed by the Commission	*Amendment*
	(-1) Based on information to be provided by Member States, the Commission should produce a report on the outcome

[1] Not yet published in the Official Journal.

of the implementation of the Eel Management Plans and, if necessary, propose, as a matter of urgency, appropriate measures to achieve, with a high probability, the recovery of the European eel.

Amendment 2

Proposal for a regulation
Recital 2

Text proposed by the Commission	*Amendment*
(2) As a consequence of ***that*** entry into force of the Lisbon Treaty, the powers conferred under Regulation (EC) No 1100/2007 upon the Commission need to be aligned to ***Articles 290 and*** 291 of the Treaty on the Functioning of the European Union.	(2) As a consequence of ***the*** entry into force of the Lisbon Treaty, the powers conferred under Regulation (EC) No 1100/2007 upon the Commission need to be aligned to ***Article*** 291 of the Treaty on the Functioning of the European Union.

Amendment 3

Proposal for a regulation
Recital 3

Text proposed by the Commission	*Amendment*
(3) In order to apply certain provisions of Regulation (EC) No 1100/2007, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of taking measures to address a significant decline of average market prices for eels used for restocking, as compared to those of eels used for other purposes.	(3) In order to apply certain provisions of Regulation (EC) No 1100/2007, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of taking measures to address a significant decline of average market prices for eels used for restocking, as compared to those of eels used for other purposes. ***It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, based on latest scientific advice and scientific recommendations, especially at expert level, so as to ensure that the information***

	available to it will be impartial, accurate, complete, and up to date. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous and timely transmission of relevant documents to the European Parliament and to the Council.

Amendment 4

Proposal for a regulation
Recital 5

Text proposed by the Commission	*Amendment*
(5) The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.	***deleted***

Amendment 5

Proposal for a regulation
Recital 6

Text proposed by the Commission	*Amendment*
(6) In order to ensure uniform conditions for the implementation of the provisions of Regulation (EC) No 1100/2007 concerning the approval of Eel Management Plans by the Commission on the basis of technical and scientific ***data***, implementing powers should be conferred upon the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing	(6) In order to ensure uniform conditions for the implementation of the provisions of Regulation (EC) No 1100/2007 concerning the approval of Eel Management Plans by the Commission on the basis of ***the best and most recent*** technical and scientific ***information available***, implementing powers should be conferred upon the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of

powers.	implementing powers.

Amendment 6

Proposal for a regulation
Recital 6 a (new)

Text proposed by the Commission	*Amendment*
	(6a) ICES should provide new and more comprehensive advice on the status of eel stocks in 2013. In preparing such advice, ICES should look at all the causes of reduction in the eel stocks, including in relation to spawning grounds. In the event that ICES confirms that the status of the eel stock remains critical, the Commission should as soon as possible submit a proposal for a new regulation on the recovery of the stock of European eel. That Regulation should also cover long-term solutions, such as ways to unblock migratory pathways.

Amendment 7

Proposal for a regulation
Recital 7 a (new)

Text proposed by the Commission	*Amendment*
	(7a) It is important that the Commission penalise Member States which have not forwarded or analysed all the data available to them in order to enable an exhaustive and scientifically sound inventory of the situation regarding European eel to be drawn up.

Amendment 8

Proposal for a regulation

Recital 11 a (new)

Text proposed by the Commission	*Amendment*
	(11a) As long as migratory pathways remain closed, restocking is the only temporary measure available to assist eel recovery. When transfers of glass eels are conducted following available best practices, such as the Sustainable Eel standard, they are an efficient way to boost eel recovery. Another temporary measure to boost silver eel escapement is to transfer them, with human assistance, over obstacles such as dykes, hydro power stations and water pumps. At a time when fishermen are looking to find alternative occupations, their skills could be used to accelerate European eel recovery.

Amendment 9

Proposal for a regulation
Article 1 – point 1 a (new)
Regulation (EC) No 1100/2007
Article 2 – paragraph 1

Text proposed by the Commission	*Amendment*
	(1a) In Article 2, paragraph 1 is replaced by the following:
	"1. Member States shall identify and define the individual river basins lying within their national territory that constitute natural habitats for the European eel (eel river basins), which may include maritime waters. […]"

Amendment 10

Proposal for a regulation
Article 1 – paragraph 1 – point 1b(new)
Regulation (EC) No 1100/2007
Article 2 – paragraph 10

Text proposed by the Commission	*Amendment*
	(1b) In Article 2, paragraph 10 is replaced by the following:
	"10. In the Eel Management Plan, each Member State shall implement as soon as possible appropriate measures to reduce the mortality *of eel* caused by factors outside the fishery, including hydroelectric turbines *and* pumps. *Further measures shall be taken where necessary to reduce mortality caused by other factors in order to meet the targets of the Plan."*

Amendment 11

Proposal for a regulation
Article 1 – paragraph 1 – point 3 a (new)
Regulation (EC) No 1100/2007
Article 5 – paragraph 4

Text proposed by the Commission	*Amendment*
	(3a) In Article 5, paragraph 4 is replaced by the following:
	"4. A Member State which has submitted an Eel Management Plan to the Commission for approval not later than 31 December 2008, which cannot be approved by the Commission in accordance with paragraph 1 *or which does not comply with the reporting and evaluation conditions set out in Article 9,* shall either reduce fishing effort by at least 50 % relative to the average effort deployed from 2004 to 2006 or reduce fishing effort to ensure a reduction in eel catches by at least 50 % relative to the average catch from 2004 to 2006, either by shortening the fishing season for eel or by other means. This reduction shall be implemented within three months of the decision not to approve the plan *or*

	***within three months of failure to meet a reporting deadline*."**

Amendment 12

Proposal for a regulation
Article 1 – point 3 b (new)
Regulation (EC) No 1100/2007
Article 5 – paragraph 7 (new)

Text proposed by the Commission	*Amendment*
	(3b) In Article, 5 the following paragraph is added:
	"8. Starting on 1 January 2014, all Eel Management Plans shall be revised and updated every two years, taking into consideration the latest scientific advice."

Amendment 13

Proposal for a regulation
Article 1 – point 4
Regulation (EC) No 1100/2007
Article 7 – paragraphs 6 and 7

Text proposed by the Commission	*Amendment*
6. In the event of a significant decline of average market prices for eels used for restocking, as compared to those of eels used for other purposes, the Member State concerned shall inform the Commission. The Commission, by means of delegated acts adopted in accordance with Article 12a and in order to address the situation, may temporarily reduce the percentages of eels used for restocking as referred to in paragraph 2.	6. In the event of a significant decline of average market prices for eels used for restocking, as compared to those of eels used for other purposes, the Member State concerned shall inform the Commission. The Commission, by means of delegated acts adopted in accordance with Article 12a and in order to address the situation, may temporarily reduce the percentages of eels used for restocking as referred to in paragraph 2 ***where the Eel Management Plan complies with Article 2(4)***.
7. The Commission shall, not later than 31 ***December 2012***, report to the European Parliament and the Council and evaluate the measures concerning restocking	7. The Commission shall, not later than 31 ***October 2013***, report to the European Parliament and the Council and evaluate the measures concerning restocking***, taking***

including the evolution of market prices.	***into account the latest scientific advice on the conditions in which restocking is likely to contribute to an increase of the spawning stock biomass. In such report, the Commission shall review*** the evolution of market prices.

Amendment 14

Proposal for a regulation
Article 1 – point 4a (new)
Regulation (EC) No 1100/2007
Article 7 – paragraph 8

Text proposed by the Commission	*Amendment*
	(4a) In Article 7, paragraph 8 is replaced by the following:
	"8. Restocking shall be deemed to be a conservation measure for the purposes of Article 38(2) of Regulation (*EU*) *XX/XXXX [EMFF]*, provided that:
	– it is part of an Eel Management Plan established in accordance with Article 2,
	– it concerns eels […] ***caught and managed using methods and equipment that guarantee the lowest possible mortality during catch, storage, transport and breeding,***
	– it takes place in areas affording a high probability of survival and migration,
	- it contributes to the achievement of the 40 % target level of escapement as referred to in Article 2(4), ***and***
	– the eels are quarantined in order to prevent the spread of any diseases or parasites."

Amendment 15

Proposal for a regulation
Article 1 – point 5
Regulation (EC) No 1100/2007
Article 9

Text proposed by the Commission	*Amendment*
(5) ***In*** Article 9***, paragraph 3*** is ***deleted.***	(5) Article 9 is ***replaced by the following:***
	"Article 9
	Reporting and evaluation
	1. Member *States* shall *collect research data in order to quantify the impact of measures taken on the eel stock, find mitigation measures and recommend management targets. Member States shall* report to the Commission initially every third year, with the first report to be presented by 30 June 2012 *and shall make the information available to designated scientific bodies. Thereafter, the frequency of reporting shall increase to once every two years, after the first tri-annual report has been submitted.* Reports shall outline monitoring, *implementation*, effectiveness and outcome, and in particular shall provide the best available estimates of:
	(a) for each Member State, the proportion of the silver eel biomass that escapes to the sea to spawn, or the proportion of the silver eel biomass leaving the territory of that Member State as part of a seaward migration to spawn, relative to the target level of escapement set out in Article 2(4);
	(b) the level of fishing effort that catches eel each year, and the reduction effected in accordance with Articles 4(2) and 5(4);
	(c) the level of mortality factors outside the fishery, and the reduction effected in accordance with Article 2(10);
	(d) the amount of eel of less than 12 cm

in length caught and the proportions of this utilised for different purposes*;*

(e) the survival rate of restocked eels, whether during fishing, transport, restocking or escapement to the Sargasso sea to spawn;

(f) the identification, on a voluntary basis, of the spawning grounds of the eels caught.

2. The Commission shall *present to the Parliament and the Council, by* 31 *October* 2013*, a report consisting* of a statistical and scientific evaluation of the *results* of the implementation of the eel management plans*, along with an* opinion from the *STECF*. *Based on the findings of that report, the Commission may submit proposals to broaden the scope of the Regulation to include eel mortality factors other than fishery.*

3. The Commission shall, ***no later than 31 December 2013, present an evaluation of Union and international trade in European eels, that focuses,in particular, on compliance with the obligations of the Union under CITES, and an estimation of illegal trade in European eels in Member States. Such report shall identify inconsistencies in the different data sets available and suggest measures to improve monitoring of trade, including a modification of the existing custom codes to allow for more effective monitoring."***

Amendment 16

Proposal for a regulation
Article 1 – point 5 a (new)
Regulation (EC) No 1100/2007
Article 9a (new)

Text proposed by the Commission	*Amendment*
	(5a) The following Article is inserted:

	"Article 9a
	Follow-up measures
	Taking into consideration the findings in the reports referred to in Article 7(7) and Article 9(2) and (3), as well as any new and more comprehensive advice provided by ICES on the status of the European eel stock in 2013, the Commission shall, no later than 31 March 2014, present a new legislative proposal to the Parliament and to the Council aimed at achieving, with high probability, the recovery of the stock of European eel. In doing so, the Commission may consider ways of broadening the scope of this Regulation to include mortality caused by factors outside the fisheries."

Amendment 17

Proposal for a regulation
Article 1 – paragraph 1 – point 6
Regulation (EC) No 1100/2007
Article 12a – paragraph 2

Text proposed by the Commission	*Amendment*
2. The delegation of ***powers*** referred to in Article7(6) shall be conferred for ***an indeterminate*** period of ***time***.	2. The delegation of ***power*** referred to in Article7(6) shall be conferred ***on the Commission*** for ***a*** period of ***three years starting from…**. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the three-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.***
	****OJ: please insert the date of entry into force of this Regulation.***

Justification

A fixed period of time should always be set for delegated acts.

Amendment 18

Proposal for a regulation
Article 2 – paragraph 1

Text proposed by the Commission	*Amendment*
This Regulation shall enter into force on the 20th day following that of its ***publications*** in the *Official Journal of the European Union*.	This Regulation shall enter into force on the 20th day following that of its ***publication*** in the *Official Journal of the European Union*. ***It shall be consolidated with the regulation it is amending within one month of entering into force.***

EXPLANATORY STATEMENT

Introduction

European eel stock faces a myriad of problems: overfishing, loss of critical habitats, pollution, parasites, modification of ocean currents as a result of global climate change, etc. Solutions are therefore not easy, nor there is only one culprit.

To further complicate an already complex problem, many unknowns exist around several important aspects of eel biology and management. The size of the stock is uncertain, the conditions which lead to eel sex determination are not well understood, and whether re-stocked eels will actually become successful spawners is a big question mark, just to name a few.

Unknowns also relate to the monitoring and control of eels exploitation, with catch and export figures in different datasets not matching, a relevant proportion of eel catches whose destiny is not clear, and an acknowledged, although not quantified, international black market for eels.

A member of the Fisheries Committee recently said eels provoked interesting debates because we regard them as very romantic animals: eels follow the full moon, swim for thousands of miles to mate and die in the middle of the Atlantic Ocean, right after spawning. There is, in contrast, a very un-romantic fact which triggers the exploitation of eel populations: a worldwide export business which was estimated to be valued at over €10 billion between 1997 and 2007 (Crook, 2010).

Status of the European eel population

The latest scientific advice from the International Council for the Exploration of the Sea (ICES, 2012) concerning European eel is that the status of the stock remains critical and urgent action is needed. The stock is outside safe biological limits and current fisheries are not sustainable. ICES recommends that fisheries and other human activities affecting the stock be reduced as close to zero as possible. According to the ICES Working Group on Eels (WGEEL, 2012) "indications are that the eel stock has continued to decline in 2012. The WGEEL recruitment index is currently at its lowest historical level, less than 1% for the North Sea and 5% elsewhere in the distribution area with respect to 1960-1979".

Scientists often highlight there is a lot we don't know about eels. But of course solving uncertainties can work in both directions, from being a bit more optimistic to actually having even more serious concerns. The WGEEL 2012 notes for instance that "indications are that the stock-recruitment relationship for eel might be depensatory, as indicated by recruitment falling faster than stock abundance." "If true", the ICES working group says, "this would change the view on the status of the stock and appropriate reference points considerably and reinforce the urgency and gravity of the advice".

Interpreting trade data can actually be a nightmare. The EU only has four eel codes in the HS custom code system (as compared to 25 in the case of Taiwan). This makes it impossible to difference glass eels from yellow eels in many cases. ICES notes that "it appears from the prices charged that some of the exports are not correctly labelled" and that for the period September 2011 to June 2012 "large differences between the two reported datasets for Spain

(no data from the country report vs 2.4 t from Eurostat) and France (9t from the country report vs. 24 t from Eurostat)" exist. In the French case, out of 34.3 t of eel landed in the season 2011-2012, 7.2 t are "unaccounted for" and may correspond to "a combination of post fishing mortality and/or underreporting and illegal trade". In the case of Spain, ICES estimates that there are 8.5 t unaccounted for.

Fishing is, of course, not the only problem. 38% of eels sampled from 314 sights in eight countries exceeded the maximum levels for non-dioxin like PCBs in food. This is actually triggering an increased number of fisheries closures as these eels are not suitable for consumption.

Council Regulation Nº 1100/2007

In view of the above it is the strong view of this rapporteur that Council Regulation Nº 1100/2007 has not gone far enough in ensuring a recovery of the European eel population.

One major issue is that the regulation has made re-stocking one central element of the Eel Management Plans, while imposing absolutely no conditions nor giving any guidelines to ensure that stocking maximizes the chances of recovery. A proper assessment of the conditions under which stocking can constitute an effective conservation measure has not been made. The regulation doesn't impose any assessment to ensure that re-stocking only uses glass eel from areas where the existence of a surplus has been established, the identification of suitable areas where re-stocked eels would have a higher chance of becoming spawners in the future or limits regarding the distance between the donor and receptor areas (article 7). Nor does it establish any minimum survival rate of glass eels during capture and transportation for restocking.

As a result of the entry into force of the Eel Management Plans, stocking has increased "with about 22 million glass eels and 10 million mainly ongrown yellow eels restocked in 2012 and the glass eel landings data in 2010 and 2011 were higher than in 2009" (WGEEL, 2012). As mentioned above, significant monitoring problems exist. Out of 45.4 t of glass eel captured, 36.5 could be accounted for through "exports, internal usage in the donor country and from seizures".

In contrast to the wide and increasing use of restocking as a conservation measure, ICES (2011) has severely criticized its effectiveness. We find it of utmost importance that the Commission reviews the implementation of restocking measures to establish whether or not these have actually contributed to increase the spawning stock biomass of the European eel.

Regarding the existing reporting requirements we also think that they are not ambitious enough. There is no reason why reporting on catches, effort, mortality and in general implementation of the provisions in the plan couldn't be done annually (article 9, paragraph 1). We further believe that given the important statistical problems around this fishery, reporting should be kept to the level of river basins (article 2, paragraph 1) to ensure accuracy and relevance of the reported data.

The Commission should not only analyze the management plans provided by the Member States, but also the different datasets of information (country reports, EUROSTAT, CITES, FAOSTAT), with a particular emphasis on trade, in order to identify potential discrepancies and suggest improvements in monitoring and control of eels exploitation. According to DG MARE "it appears that the volume of illegal trade has increased significantly over the past 1-2

years".

Elements for a new regulation

For the reasons mentioned above, this rapporteur believes a new regulation is urgently needed. One which places stocking in its right context, giving priority to site selection and a proper evaluation of the likelihood of stocked eels below 20 cm in length reaching the spawner state. Stocking which follows clearly defined, science-based guidelines, which limit its geographic scope, ensure that diseases are not propagated, and that are based on local surpluses of young eels, should they exist.

A very different approach would be for instance, that member states select suitable sites for re-stocking where no barriers exist, presence of contaminants are low and chances of eels to survive would be high. Member States could re-stock these areas following the above mentioned guidelines, and specifically prohibit eel fishing in these river basins as a key conservation measure for this stock. These stocking areas could work as marine reserves do in the marine environment.

But we should be first and foremost reminded that the eel population is in a critical state, and that suspending all eel fisheries should remain as a first option on the table, pending the advice to be provided by ICES in 2013.

Conclusion

There is one single European eel stock. The same year the EU Eel recovery plan was being adopted in 2007 the European eel (Anguilla anguilla) was included in CITES Appendix II. The listing entered into force in 2009 and it was clearly recognized by the experts that the species qualified for an Appendix I. In 2010 the European eel was classified as critically endangered by the IUCN, and in 2011 ICES for the first time stated that glass eel stocking programmes are unlikely to contribute to the recovery.

The most recent scientific advice from ICES for 2013 states that the stock is at an historical minimum and that there are no signs of recovery. Additionally, ICES never evaluated the 40% escapement target in the EU recovery plan, and has for ten years recommended zero catches of this endangered animal.

In the light of all the above, and the alarming signs of increasing illegal exports of glass eels, the rapporteur asks: if the status of this particular stock is not serious enough to close the fishery - when is the EU going to deem a situation serious enough to take such a difficult decision?

Two European countries, Ireland and Norway, have already banned all eel fisheries. It is the view of the rapporteaur that until the measures are in place that ensure recovery of the eel stock to abundant and biologically safe levels, all European eel fisheries should be suspended.

Alignment to the TFEU

The rapporteur's view

Council Regulation (EC) No 1100/2007 of 18 September 2007 establishing measures for the

recovery of the stock of European eel currently confers to the Commission certain powers that, in Commission's opinion, have to be reclassified into measures of delegated nature and measures of implementing nature.

It is very important to find legally well founded solution safeguarding Parliament's rights created by the TFEU.

The rapporteur agrees with the Commission's proposal to the extent that it suggests the use of implementing acts for the approval of the eel management plans.

However, the reference to delegated has been deleted as the rapporteur does not agree with the policy that had to be implemented via delegated acts and proposed to remove it altogether.

Rapporteur also suggests some technical amendments to the Commission's proposal.

PROCEDURE

Title	Amendment of Council Regulation (EC) No 1100/2007 establishing measures for the recovery of European eel stocks
References	COM(2012)0413 – C7-0202/2012 – 2012/0201(COD)
Date submitted to Parliament	26.7.2012
Committee responsible Date announced in plenary	PECH 11.9.2012
Rapporteur(s) Date appointed	Isabella Lövin 6.9.2012
Discussed in committee	9.10.2012 22.1.2013 18.2.2013
Date adopted	18.6.2013
Result of final vote	+: 16 –: 9 0: 0
Members present for the final vote	John Stuart Agnew, Antonello Antinoro, Kriton Arsenis, Alain Cadec, Chris Davies, João Ferreira, Carmen Fraga Estévez, Pat the Cope Gallagher, Dolores García-Hierro Caraballo, Marek Józef Gróbarczyk, Ian Hudghton, Werner Kuhn, Isabella Lövin, Guido Milana, Maria do Céu Patrão Neves, Crescenzio Rivellini, Ulrike Rodust, Raül Romeva i Rueda, Struan Stevenson, Isabelle Thomas, Nils Torvalds
Substitute(s) present for the final vote	Jean-Paul Besset, Diane Dodds, Barbara Matera, Mario Pirillo
Substitute(s) under Rule 187(2) present for the final vote	Salvador Garriga Polledo
Date tabled	27.6.2013