

EUROPEAN PARLIAMENT

1999



2004

Session document

21 February 2000

FINAL
A5-0036/2000

REPORT

on the proposal for a Council directive amending Directive 93/53/EEC
introducing minimum Community measures for the control of certain fish
diseases
(COM(1999) 437 – C5-0168/1999 – 1999/0191(CNS))

Committee on Fisheries

Rapporteur: Ian Stewart Hudghton

| <i>Symbols for procedures</i> | <i>Abbreviations for committees</i> |
|--|---|
| <p>* Consultation procedure <i>majority of the votes cast</i></p> <p>**I Cooperation procedure (first reading) <i>majority of the votes cast</i></p> <p>**II Cooperation procedure (second reading) <i>majority of the votes cast, to approve the common position</i> <i>majority of Parliament's component Members, to reject or amend the common position</i></p> <p>*** Assent procedure <i>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></p> <p>***I Codecision procedure (first reading) <i>majority of the votes cast</i></p> <p>***II Codecision procedure (second reading) <i>majority of the votes cast, to approve the common position</i> <i>majority of Parliament's component Members, to reject or amend the common position</i></p> <p>***III Codecision procedure (third reading) <i>majority of the votes cast, to approve the joint text</i></p> <p>(The type of procedure depends on the legal basis proposed by the Commission)</p> | <p>I. AFET Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy</p> <p>II. BUDG Committee on Budgets</p> <p>III. CONT Committee on Budgetary Control</p> <p>IV. LIBE Committee on Citizens' Freedoms and Rights, Justice and Home Affairs</p> <p>V. ECON Committee on Economic and Monetary Affairs</p> <p>VI. JURI Committee on Legal Affairs and the Internal Market</p> <p>VII. INDU Committee on Industry, External Trade, Research and Energy</p> <p>VIII. EMPL Committee on Employment and Social Affairs</p> <p>IX. ENVI Committee on the Environment, Public Health and Consumer Policy</p> <p>X. AGRI Committee on Agriculture and Rural Development</p> <p>XI. PECH Committee on Fisheries</p> <p>XII. REGI Committee on Regional Policy, Transport and Tourism</p> <p>XIII. CULT Committee on Culture, Youth, Education, the Media and Sport</p> <p>XIV. DEVE Committee on Development and Cooperation</p> <p>XV. AFCO Committee on Constitutional Affairs</p> <p>XVI. FEMM Committee on Women's Rights and Equal Opportunities</p> <p>XVII. PETI Committee on Petitions</p> |

CONTENTS

| | Page |
|------------------------------------|-------------|
| PROCEDURAL PAGE | 4 |
| LEGISLATIVE PROPOSAL | 5 |
| DRAFT LEGISLATIVE RESOLUTION | 8 |
| EXPLANATORY STATEMENT | 9 |

PROCEDURAL PAGE

By letter of 30 September 1999 the Council consulted Parliament, pursuant to Article 37 of the EC Treaty, on the proposal for a Council Directive amending Directive 93/53/EEC introducing minimum Community measures for the control of certain fish diseases (COM(1999) 437 – 1999/0191(CNS)).

At the sitting of 7 October 1999 the President of Parliament announced that he had referred this proposal to the Committee on Fisheries as the committee responsible (C5-0168/1999).

At its meeting of 12 October 1999 the Committee on Fisheries appointed Mr Hudghton rapporteur.

It considered the Commission proposal and the draft report at its meetings of 29 November and 7 December 1999 and 26 January and 21 February 2000.

At the last meeting it adopted the draft legislative resolution by 13 votes in favour, 1 against with no abstentions.

The following were present for the vote: Varela Suanzes-Carpegna, chairman; , Rosa Miguélez Ramos, vice-chairman; Ian Stewart Hudghton, rapporteur; Elspeth Attwooll, Carmen Fraga Estévez, Monica Frassoni (for Patricia McKenna), Salvador Jové Peres (for Mihail Papayannakis), Giorgos Katiforis (for Carlos Candal), Heinz Kindermann, John Joseph McCartin (for Brigitte Langenhagen), Bernard Poignant, Struan Stevenson (for James Nicholson), Catherine Taylor (for Glyn Ford), Michiel van Hulten (for Vincenzo Lavarra).

The report was tabled on 21 February 2000.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

LEGISLATIVE PROPOSAL

Proposal for a Council directive amending Directive 93/53/EEC introducing minimum Community measures for the control of certain fish diseases (COM(1999) 437 – C5-0168/1999 – 1999/0191(CNS))

The proposal is amended as follows:

Text proposed by the Commission¹

Amendments by Parliament

(Amendment 1)
Recital (2) a (new)

Whereas it is necessary for the Commission to investigate fully the source of ISA in Scotland, possible spread of the disease and the interchange between farmed and wild salmon;

Justification:

Self Explanatory

(Amendment 2)
Recital (2) b (new)

Whereas no compensation has been made payable to salmon farmers for the compulsory withdrawal of entire salmon farms under Council Directive 93/53/EEC, and whereas commercial insurance is not forthcoming because of the third party intervention;

Justification:

Self Explanatory

¹ OJ C 342, 30.11.1999, p.42.

(Amendment 3)
Recital (2) c (new)

Whereas the Scottish salmon industry faces an ongoing crisis which will become more severe if no compensation is available;

Justification:

Self Explanatory

(Amendment 4)
Recital (4)

Whereas a vaccination policy may offer a new tool for controlling and containing ISA after an outbreak; at present no such option is provided for under Community legislation;

Whereas a vaccination policy may offer a new tool for preventing ISA and for controlling and containing ISA after an outbreak; whereas at present no such option is provided for under Community legislation and therefore no vaccine has been developed to counter the European strain of Infectious Salmon Anaemia;

Justification:

Self Explanatory

(Amendment 5)
Recital (4) a (new)

Whereas the Commission and the Council must propose the necessary and urgent amendments of Council Decision 90/424/EEC² to provide for the specific addition of Infectious Salmon Anaemia to provide for prompt and adequate compensation, and funding for research and development into a vaccine for ISA;

² OJ L 224 , 18.08.1990, p. 19; Council Decision of 26 June 1990 on expenditure in the veterinary field

Justification:

Self Explanatory

(Amendment 6)
Recital (5)

Whereas Directive 93/53/EEC should therefore be amended accordingly,

Whereas in the absence of sufficient scientific and technical evidence, inadequate consultation with the salmon industry and interested parties, and in order to provide for an intermediate solution, Directive 93/53/EEC should therefore be amended accordingly,

Justification:

Self Explanatory

DRAFT LEGISLATIVE RESOLUTION

Legislative resolution of the European Parliament on the proposal for a Council directive amending Directive 93/53/EEC introducing minimum Community measures for the control of certain fish diseases (COM(1999) 437 – C5-0168/1999 – 1999/0191(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council, (COM(1999) 437³),
 - having been consulted by the Council pursuant to Article 37 of the EC Treaty (C5-0168/1999),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Fisheries (A5-0036/2000),
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 should it intend to depart from the text approved by Parliament;
 4. Asks to be consulted again if the Council intends to amend the Commission proposal substantially;
 5. Instructs its President to forward its position to the Council and Commission.

³ OJ C342, 30.11.1999, p. 42.

EXPLANATORY STATEMENT

Background

a. The disease

Infectious salmon anaemia (ISA) is a contagious viral disease of salmon transmitted through water via clinical material such as blood, faeces, mucus etc. There is no evidence of vertical transmission through eggs or milt. However, there is evidence that other species such as trout, eels and herring may carry the virus without being affected by it. The signs of the disease include acute anaemia, accumulation of fluid in the blood cavity, haemorrhage in visceral organs, darkening of the liver, enlarged dark spleen, and in the later stages high levels of mortality.

The disease was first formally recorded in Norway in 1984 and more recently in Canada (1996). The virus is known not to survive beyond 26 degrees centigrade and therefore poses no risk to humans.

The Scottish salmon industry, which is important, particularly in many fragile, remote areas of the country such as the Western Isles and the Shetland Islands, has been hit hard by the spread of ISA. ISA was first found in Scotland in May 1998. The disease is believed to have originated in Loch Nevis and is thought to have spread through fish transfers and factory discharges, as well as the introduction of smolts which were then transferred to another farm. Around 240 salmon farms have been affected in some way by ISA, with 29 farms affected directly. The current situation is that there are eleven suspected farms, with a large area (twenty-four farms) categorised as 'high risk'. The disease is confirmed where there is a combination of laboratory findings and clinical signs/ visual lesions/ post mortem changes. The presence of the virus does not automatically mean that the disease will develop clinically. Only one in three sites declared suspicious, where the virus has been detected, have subsequently been confirmed as having the disease.

Under directive 93/53 EEC⁴, where the ISA disease is confirmed a policy of withdrawal must be pursued, this includes compulsory culling, movement controls on fish, equipment, material and personnel, the disinfection of cages and nets, and a six month following period.⁵

b. The impact of ISA

The Scottish salmon farming industry is the biggest in the European Union and is spread throughout some of Europe's most peripheral communities, in many cases having revitalised areas that otherwise would have continued to depopulate. 90% of UK aquaculture is based in Scotland, with Scotland being the largest EC salmon producer, with approximately 350 farms.

⁴ OJ L 175, 19.7.1993, p. 23; Directive as amended by the Act of Accession of Austria, Finland and Sweden. Implemented in the UK by virtue of the Diseases of Fish (Control) Regulations 1994.

⁵ For sites designated 'suspicious' a complete ban on movement is imposed, disinfection of equipment etc., but as long as there are no clinical signs of the disease, fish may continue to be grown for marketing.

Salmon farming is a vital employer in the Highlands & Islands of Scotland, worth 800 million Euro annually (production and processing) and approximately 6,500 jobs. ISA has resulted in premature harvesting of fish, with costs to industry of approximately 60-70 million Euro. No compensation is available, and as a result of third party intervention, no commercial insurance is forthcoming. Current claims for damages amount to 20 million Euro.

2. *Council Proposal to amend the Fish Disease Directive*

The proposal introduces a scheme for gradual culling and the possibility of a vaccination scheme.

a. (i) *Gradual withdrawal*

The proposal aims to introduce a system closer to the Norwegian system of containment and gradual culling. The idea is that there is a gradual withdrawal of salmon from infected farms, starting with the most infected sea pens first, and moving on in accordance with the risk posed.

In this regard it is very important for the Community to have co-operative relations with Norway. The Norwegian strategy has been shown to be very effective in wiping out the disease, which reached very high levels in Norway. For example, in 1991-93 alone there were 80-90 cases of ISA per year, more recently the control measures have stabilised the extent of the virus to eight or ten cases per year. The Norwegian measures limit the problems encountered logistically by the immediate culling of huge quantities of salmon within very short time-scales and the resulting hygiene problems and market dumping, pushing down the market price, which arises with *en mass* slaughter.

The proposal may also open the door to more flexible following arrangements in relation to suspect sites and the possibility for commercial insurance, which is possible in Norway. However, this is not guaranteed and notable differences between the proposed system and the current system in Norway should therefore be examined. These include twelve public health inspections per year and certification of fish movements.

(ii) *Vaccination*

The current Fish Disease Directive prohibits the use of vaccines to combat ISA. The proposal would allow vaccination within the context of culling. Although this is a welcome move, no vaccination has yet been found. Canada has a vaccine which has a success rate of 76%. However, this concerns a Canadian strain of ISA, which is somewhat different from the European strain. The Canadian vaccine could be used as a basis for developing a vaccine for the European strain, but efforts at a Community level are required to find a vaccine. Such efforts must include funding for research, which at present is not possible. Under Council Decision 90/424/EEC³, funding towards a vaccine would be possible, if ISA was added to the list of diseases. The Commission must therefore propose an amendment to Council Decision 90/424/EEC to specifically add ISA to the list of diseases.

b. *ISA in wild salmon*

There is increased evidence of the ISA virus being present in wild salmon, although there is as yet no confirmation of wild fish with the clinical manifestation of the disease. This gives rise

³ OJ L 224 , 18.08.1990, p. 19; Council Decision of 26 June 1990 on expenditure in the veterinary field

to the suggestion that ISA in salmon may be endemic.

ISA has been detected in wild fish off the coast of the United Kingdom. It has been isolated in three cases - two sea trout and one eel. Laboratory tests have also shown that virus may also have been present off east coast of the United Kingdom in brown and rainbow trout and in salmon parr in freshwater in the Conon, in the Tweed and on farms in Aberdeenshire and Kinross-shire. Very significantly, the lack of site contact with other ISA affected farms and the evidence of virus in wild fish, however limited, suggests the possibility of a wider prevalence of the virus in the farmed and wild environment than previously thought. Claims of spread from fish farming to the wild are unsupported. The three aforementioned cases were from fish in areas where there are fish farms, but the possible cases on the east coast of Scotland and England are not anywhere near salmon farming sites.

If ISA is endemic in salmon, a policy of compulsory culling may no longer be tenable as it would not be 'containable'. The Commission must therefore carry out urgent scientific and technical research to determine the extent of ISA in wild salmon throughout the Community, and whether, on that basis, a policy of culling remains the best course of action. It must also determine what scientific evidence there is to demonstrate the existence and extent of interchange between farmed and wild salmon.

c. A Community problem

In addition to the Scottish salmon industry being severely damaged through the detrimental consequences caused by the presence and spread of ISA in Scotland, and the damaging withdrawal regime imposed by the Fish Disease Directive, Ireland has also suffered greatly from the presence of ISA in Scotland and the Scottish authorities' implementation of the eradication policy. Each time a Scottish farm was forced to harvest out fish prematurely and in large numbers, the market for salmon in the Community collapsed. The attendant publicity of each slaughter did not help the image of salmon in the market place. The eradication policy also forced a lot of cheap fish onto the market which was quickly bought up by the Irish processing industry, creating fears in the industry about dumping and the risk of transmitting ISA.

Thus, clearly the containment of ISA is of concern not only to Scotland, but to the Community as a whole. ISA poses a threat to the Community salmon industry at present, and potentially a greater threat if it were to spread to the other Member States. The Commission must ensure that comprehensive research is carried out for the benefit of the Community salmon industry into the source of ISA.

3. Compensation

a. General

The UK Government and Scottish Executive have consistently argued that no compensation is payable because there are no human health grounds involved, even though a policy of compulsory culling has been pursued.

The effects of the policy of compulsory culling are estimated to result in a reduction of 25% in production capacity in the Scottish salmon farming industry in the year 2000. There have

already been an estimated 120 job losses, and the numbers are set to grow substantially in 2000, if urgent action is not taken. This has vast implications in the Highlands & Islands, where the majority of the salmon farming industry is located, but also on major suppliers to the industry throughout Scotland, from feed companies to engineering companies, to pen and net manufacturers.

Compensation linked to the culling of a site would allow for restocking and restructuring, allowing for continued employment and sustainable methods of production to be introduced.⁷ It would also protect the companies' and individuals' rights to the peaceful enjoyment of their property. Under the Fish Disease Directive, funding upon application by the Member State is permitted, 50% of the funding coming from the Member State government, 50% from the industry affected. Unfortunately, the Scottish salmon industry has been devastated by the disease and is in no position to match Member State funding, even if the UK government had notified the Commission of its intent to compensate affected salmon farmers.

However, under Council Decision 90/424/EEC⁸, compensation would be available, 50% funded by the Member State and 50% funded through the European Commission. This would allow for the industry to be compensated and rebuilt. Again, an amendment is required to Council Decision 90/424/EEC in order to specifically include ISA in the list of diseases. The Commission and Council are therefore called upon to urgently propose appropriate amendments to take account of this.

Litigation

Another factor, which we must be aware of when considering the amendment to the Fish Disease Directive and the question of compensation, is that in Scotland legal action is currently being pursued against the government for imposing compulsory culling of infected salmon farms. It is argued that compulsory destruction of property without prompt, adequate and effective compensation is contrary to both EC law and the European Convention on Human Rights. It is also against the rights of companies and individuals to the peaceful enjoyment of private property.⁹

4. *Other considerations*

a. *Investor confidence*

⁷ In the New Brunswick region of Canada, a compensation package was established for compulsory removal of 1997 generation fish by a Fish Health Technical Committee, comprising representatives from the Federal Official Service, Province vets and industry.

⁸ Articles 3 and 24.

⁹ In recognising the right to the peaceful enjoyment of property, the Court of Justice has on a number of occasions referred to the First Protocol of the European Convention on Human Rights: Case 44/79, *Hauer v Land Rhienland-Pfalz*, [1979] ECR 3727; Joined Cases 154, 205, 226-228, 263 and 264/78, *Valsabbia v Commission*, [1980] ECR 907, Case C-2/92, *R v Ministry of Agriculture, Fisheries and Food ex parte Bostock*, [1994] ECR I-995; Case C-204/94, *R v Commissioners of Customs & Excise ex parte Faroe Seafood & Føroya Fiskasøla*, [1996] ECR I-2465; Case C-280/93, *Irish Farmers' Association and Others v Minister for Agriculture and Food and the Attorney General* [1997] ECR I-1809.

Investment in salmon farming through private funds and banks has plummeted, resulting in many large and small companies either going up for sale or giving up. The buying of smolts for the next season is also problematic, and salmon farms will encounter yet more problems if investor confidence is not boosted.

b. Commercial insurance

As a result of the third party intervention on the part of the government, commercial insurance is not available. This is not the case in Norway. The amendment to the Directive could potentially open the door to prospective commercial insurance. However, the differences in the Norwegian system, in particular the greater number of public funded health inspections, should be more fully addressed, as this may go some way to ensuring that commercial insurance is in fact forthcoming.

c. The problem of Consumer confidence

Increased public awareness of the problem of ISA has brought with it a downturn in consumer confidence in the salmon industry, especially in light of incompetence demonstrated by the authorities in recent food scares across the Community. ISA poses no human health risk, the advice of the UK Advisory Committee on the Microbiological Safety of Food is that the disease poses no threat to humans as the virus does not survive beyond 26 degrees centigrade and therefore does not affect warm blooded animals. Consumers need to be adequately informed about ISA and in particular the fact that there are no human health risks involved.

5. Conclusions

In conclusion, the current culling regime has not achieved its intended results – ISA has not been eradicated and the number of cases continues to rise.

The amendments to directive 93/53 EEC are acceptable in that it should improve the present situation. The amendments are not a relaxation of the current regime, but rather measures to ensure that controls should be implemented in a more logical and systematic fashion. It will allow salmon farms to market unaffected salmon, rather than culling them immediately before they are of marketable size.

It is important to stress the urgent nature of this proposal as there are vast implications involved in further delays. The salmon industry will not be able to buy smolts for next season, with the continuing uncertainty in the industry, banks are unwilling to have stocks as guarantees.

However, the urgency and speed with which we must act, means that the imperative questions about compensation, the viability of the harsh restrictions imposed on suspect sites, the development of a vaccine, and the existence of ISA in wild salmon are not addressed by this proposal.

As a result, although the proposal can be approved without substantive amendments, it must be stressed that this is an intermediate solution.

It is essential that the Council and the Commission take further urgent action to amend Council Decision 90/424/EEC to specifically include ISA, that the Commission instigate scientific and technical research into the development of a vaccine and the proper research into the sources of ISA, and any interchange between wild and farmed salmon. Furthermore, the differences in the Norwegian system should be fully assessed, and the need for further changes in the regulation of ISA in the near future addressed.