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REPORT

on the proposal for a Council regulation amending Regulation (EC) No 2791/1999 laying down certain control measures applicable in the area covered by the Convention on future multilateral cooperation in the north-east Atlantic fisheries
(COM(2000) 686 – C5-0584/2000 – 2000/0280(CNS))

Committee on Fisheries

Rapporteur: John Joseph McCartin

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)

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PROCEDURAL PAGE

By letter of 15 November 2000 the Council consulted Parliament, pursuant to Article 37 of the EC Treaty on the proposal for a Council regulation amending Regulation (EC) No 2791/1999 laying down certain control measures applicable in the area covered by the Convention on future multilateral cooperation in the north-east Atlantic fisheries (COM(2000) 686 - 2000/0280 (CNS)).

At the sitting of 17 November 2000 the President of Parliament announced that she had referred this proposal to the Committee on Fisheries as the committee responsible (C5-0584/2000).

The Committee on Fisheries appointed John Joseph McCartin rapporteur at its meeting of 28 November 2000.

It considered the Commission proposal and draft report at its meetings of 18 December 2000 and 15 January 2001.

At the last meeting it adopted the draft legislative resolution by 14 votes to 0, with 1 abstention and decided to apply the procedure without debate under Rule 114(1).

The following were present for the vote: Daniel Varela Suanzes-Carpegna, chairman; John Joseph McCartin, rapporteur; Elspeth Attwooll, Niels Busk, Carlos Candal, Arlindo Cunha, Nigel Paul Farage, Carmen Fraga Estévez, Ian Stewart Hudghton, Salvador Jové Peres, Heinz Kindermann, Brigitte Langenhagen, Giorgio Lisi, Albert Jan Maat, James Nicholson, Camilo Nogueira Román and Margie Sudre.

The report was tabled on 15 January 2001.

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

LEGISLATIVE PROPOSAL

Proposal for a Council regulation amending Regulation (EC) No 2791/1999 laying down certain control measures applicable in the area covered by the Convention on future multilateral cooperation in the north-east Atlantic fisheries (COM(2000) 686 – C5-0584/2000 – 2000/0280(CNS))

The proposal is amended as follows:

Text proposed by the Commission ¹	Amendments by Parliament
(Amendment 1) Article 1	
Regulation (EC) No 2791/1999 is hereby amended as follows: 1. The footnotes to Articles 6(3), 8, 10 and 11 are deleted. 2. In Article 30, the date "31 December 2000" is replaced by "31 December 2003 " and the date "30 September 2000" is replaced by " 30 September 2003 ".	Regulation (EC) No 2791/1999 is hereby amended as follows: 1. The footnotes to Articles 6(3), 8, 10 and 11 are deleted. 2. In Article 30, the date "31 December 2000" is replaced by "31 December 2002 " and the date "30 September 2000" is replaced by " 30 June 2002 ". 3. The following is added to article 30: <i>Notwithstanding the above, the Commission may submit, before 30 June 2002, proposals to extend the validity of the provisions referred to in Articles 6(2) and (3), 8, 10 and 11 for a further period of one year. In such a case, the dates referred to in this article shall also be advanced by one year.</i>

Justification:

It is in the interests of all that the Community proceed as quickly as possible towards the adoption of a definitive control regime. However, certain flexibility should be retained so that the correct Community structures can be put in place. Parliament and Council must also be given time to consider what will undoubtedly be controversial and complicated proposals.

¹ Not yet published in OJ.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the proposal for a Council regulation amending Regulation (EC) No 2791/1999 laying down certain control measures applicable in the area covered by the Convention on future multilateral cooperation in the north-east Atlantic fisheries (COM(2000) 686 – C5-0584/2000 – 2000/0280(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2000) 686¹),
 - having been consulted by the Council pursuant to Article 37 of the EC Treaty (C5-0584/2000),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Fisheries (A5-0007/2001),
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. Instructs its President to forward its position to the Council and Commission.

¹ Not yet published in OJ.

EXPLANATORY STATEMENT

1. INTRODUCTION

The North East Atlantic Fisheries Commission (NEAFC), established in 1953 and of which the European Community is a member, is the regional fisheries body covering the North East Atlantic area.

It is based on the Convention on Future Multilateral Co-operation in the North East Atlantic Fisheries which entered into force in 1982¹ and which seeks to promote the conservation and optimal management of the fishery resources within its regulatory area. The existing Contracting Parties are Denmark (on behalf of the Faeroe Islands and Greenland), the European Union, Iceland, Norway, Poland and the Russian Federation.

With its secretariat located in London, NEAFC operates a regional approach which is consistent with the sovereign jurisdiction of coastal states over their fisheries and is therefore based on international cooperation and consultation. It can thus make binding recommendations concerning fisheries conducted beyond the areas under the control of the Contracting Parties, unless there is an objection within 50 days of the date of notification of a recommendation.

Under a Scheme of Control and Enforcement adopted through two recommendations in November 1998 and which entered into force on 1 July 1999, each Contracting Party notifies the NEAFC Secretariat of vessels authorised to fish species regulated by NEAFC in the area outside national fisheries jurisdiction. Moreover, they must notify the secretariat each week of the number of vessels actually operating in the Convention area and provide accurate weekly catch reports for the regulatory area and their own waters. The scheme also includes arrangements for inspections at sea which provide for reciprocal rights of inspection of vessels and the follow-up of infringements, and the inspection of non-Contracting Party vessels in port.

This Scheme was transposed into Community law by Council Regulation (EC) No 2791/1999² of 16 December 1999 laying down certain control measures applicable in the area covered by the Convention on future multilateral cooperation in the north-east Atlantic fisheries. The aim of this Regulation was to bring Community legislation into line with the two recommendations adopted by NEAFC in 1998 and incorporate all earlier measures into a new single instrument for control and enforcement designed to ensure respect for the conservation and management policy agreed under the Convention.

With regard to responsibility within the Community for NEAFC inspections and controls, the Council of Fisheries Ministers of 22 November 1999 decided to introduce an 'ad hoc arrangement' for the year 2000, dividing the task between the Commission and the Member States. The aim of the current proposal is to extend this arrangement until 31 December 2003.

¹ Approved by Council Decision (1/608/EEC of 13 July 1981, OJ L 227, 12.08.1981, p.21

² OJ L 337, 30.12.1999, p.1.

2. BACKGROUND TO CURRENT COMMISSION PROPOSAL

The NEAFC control system bears a close resemblance to the rules currently applied by the North West Atlantic Fisheries Organisation (NAFO). However, the proliferation of NAFO control measures, several of them pilot projects, such as satellite monitoring and a Community observer scheme, which were implemented in very different ways by various NAFO members, has frequently led to criticisms with regard to the coherence of the system.

Thus, for NEAFC, the Community, under regulation 2791/1999, adopted a “made to measure” Regulation, incorporating all the experience gained in the NAFO context.

However, at the time of adoption of this regulation, there was no common position within the Council and between the Council and Commission on the Community mechanisms to be applied to the allocation of inspection duties. It was therefore decided to establish an "ad hoc" pilot project for the year 2000.

The main cause for division was the so-called financial burden of providing the controls required under the NEAFC recommendations. The Commission position was clear in that under Article 2(2) of Regulation (EEC) No. 2347/93, each Member State ‘shall monitor, outside the Community fishery zone, the activities of its vessels in cases where such control is required to ensure compliance with Community rules applicable in those waters’. The Commission took the view, therefore, that it should be up to the Member States to provide adequate resources to meet their obligations of control within NEAFC.

This position was challenged by some within the Council, who argued that as in the case of NAFO, inspection and control should be funded from the Community budget to the extent of some 4 MEURO per year. In turn, the Commission pointed out that this came about as a result of the exceptional circumstances arising out of the 1995 “Greenland Halibut” dispute with Canada, during which a Community fishing vessel was illegally boarded and arrested by the Canadian authorities.

In addition, the Commission considered that in the context of the current reform exercise, chartering inspection vessels could not be seen as one of the "core tasks" of the institution. This position was supported by several Member States within the Council, who saw, amongst other reasons, implications for national sovereignty in allowing the Commission to assume greater responsibilities in this area.

Thus, the "ad hoc" scheme adopted for 2000 only provides for a system of control measures, which includes the sharing of responsibility in particular for:

- Communication of lists of vessels: the Commission forwards information supplied by the Member States to the NEAFC Secretariat;
- Transmission of VMS messages: Member states transmit the required information to the NEAFC Secretariat in real time. At present, the VMS system is being installed and tested in the Member States;
- Aggregate Reporting: Catch data is supplied to the NEAFC Secretariat through cooperation between the Commission and the Member States;

- Joint inspection and surveillance programme: The programme assigns to each Member State and the Commission the periods for which they are responsible for inspection and surveillance in the NEAFC regulatory area. The Commission and the Member States have taken responsibility in turn for surveillance and inspection duties as required.
- Resources made available to the programme: A total of 161 inspectors, 16 inspection vessels and 2 surveillance aircraft have been assigned to the scheme on behalf of the Community by seven Member States and the Commission.
- Co-ordination of the inspection programme: Member States expressed the wish that the Commission should co-ordinate the programme. DG Fish therefore assigned the resources needed for co-ordination, i.e. one administrator working half time, two assistant administrators working 20% of the time and one administrative assistant working 20% of the time to undertake administrative management only.

It was intended that this "ad hoc" scheme should allow sufficient time for the obligations of the Commission and the Member States to be evaluated, with the Commission required to submit appropriate proposals providing for a definitive regime before 30 September 2000. For various reasons, this did not occur.

The Commission now feels that the one-year period was too short in order to fully appreciate the implementation constraints of the NEAFC rules and is proposing that the scheme should continue for a further 3 years, with the Commission required to submit proposals for a definitive regime by 30 September 2003 at the latest.

Moreover, it is understood that the Commission has just launched an overall review of monitoring in international waters and, more particularly, of the application by the Community of inspection schemes of regional fisheries organisations in their regulatory areas. This will initially take the form of a Communication to parliament and the Council and should be presented by the Commission early in 2001.

In these circumstances, the Commission argues, it would be illogical to adopt definitive measures for NEAFC, ahead of what may amount to an overall change of approach with regard to control problems within regional fisheries organisations in general.

3. ASSESSMENT OF THE COMMISSION PROPOSAL

Through the "ad hoc" arrangements outlined above, the Community has been able to fulfil its commitments under the NEAFC scheme.

However, it is no secret that the implementation of a surveillance and inspection programme shared between the Member States and the Commission is proving, despite the efforts deployed, to be cumbersome in terms of organisation, co-ordination and the resources needed.

Moreover, the secondary effects linked to the temporary absence of the control authorities from Community and national waters, due to their participation in the programme, cannot be measured at this stage.

Nevertheless, given that international obligations are being fulfilled, Parliament should not be over concerned about the operation of these "ad hoc" arrangements, but rather it should be looking to the future and considering what kind of regime is best suited to carrying out the increasingly complicated control tasks related to the Community's growing involvement in regional fisheries organisations.

In the debate over responsibilities, Parliament's position should be clear. With regard to the existing situation, it believes that:

Member States shall take all necessary measures, including but not limited to inspections either at sea or upon landing, to ensure monitoring of catches of species made by their vessels operating in waters subject to the sovereignty or jurisdiction of third countries and on the high seas, and to ensure verification and recording of transshipments and landings of such catches¹

However, at the same time Parliament has consistently argued that in the future 'the Community fisheries inspectorate should be significantly strengthened for regular control work within EU waters and within the legal jurisdiction of Member States, and have wider powers that enable them to operate autonomously within Member States for the deep water fleet, whilst coastal boats should conform to local requirements and be subjected to regular EU inspection²;' Parliament has also repeatedly praised the NAFO experience and called on the Commission to consider how the NAFO control model could be adapted, strengthened and more widely applied.²

It is Parliament's wish, therefore, to see a heightened Community involvement in inspection and control not only in Community waters but also within regional fisheries organisations.

As mentioned above, it is the Commission's belief and that of several Member States, that such a shift in responsibility would represent a reversal in the policy now being implemented that the Commission should confine itself to "core tasks".

This point of view is readily understandable in that fisheries control is a highly complicated and specialist task, yet it is clear that neither the present cumbersome ad hoc arrangements cannot be continued indefinitely. Furthermore, in a situation, with regard to regional fisheries organisations, where it is the Community which is the Contracting Party and not the Member States, it is also clear that a system of purely national controls can never be wholly adequate.

For this reason, your rapporteur would make a strong call for the establishment of a *Community Inspection Agency*, which could pool the resources of the Commission and the Member States and work independently, yet within the ambit of the Community framework.

¹ A4-0331/1998 of 07.10.1998

² Resolution A4-0277/1998 of 18.09.1998

² Resolution A4-0277/1998 of 18.09.1998

4. CONCLUSIONS

As the Council's repeated demands for urgency on this proposal have demonstrated, serious delays have occurred at both Commission and Council level, which have prevented this text (or indeed more correctly, a definitive proposal) being presented to Parliament in good time. However, it is obvious that, given the difference of opinion described above, a long-term solution to the problems of inspection and control may take some time to work out.

It is reasonable therefore that the Commission be given further time in which to make considered proposals. A *Community Inspection Agency*, such as that called for by your rapporteur, could not be set up over night. However, it is in the interests of all concerned that progress be achieved as rapidly as possible.

For this reason, your rapporteur considers that a two rather than three year extension of the current ad hoc arrangements would be a desirable and attainable goal, provided that there is the political will to achieve it. He has therefore put forward an amendment to this effect, but included the flexibility for an extension of up to one additional year, provided that this can, if necessary, be justified by the Commission in a proposal to Parliament and Council. Although Parliament wants to see a new regime as quickly as possible, it also wants to ensure that the Community gets it right first time.

The deadline for the presentation of Commission proposals has also been advanced so as allow Parliament and Council more time for the discussion of what will undoubtedly complicated and perhaps controversial proposals.

With this change, the current Commission proposal should be approved by Parliament without delay.