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REPORT

1. on the proposal for a Council decision on amending Council Decision 97/413/EC concerning the objectives and detailed rules for restructuring the Community fisheries sector for the period from 1 January 1997 to 31 December 2001 with a view to achieving a balance on sustainable basis between resources and their exploitation
(COM(2001) 322 – C5-0308/2001 – 2001/0128(CNS))

and

2. on the proposal for a Regulation amending Regulation (EC) No 2792/1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector
(COM(2001) 322 – C5-0309/2001 – 2001/0129(CNS))

Committee on Fisheries

Rapporteur: Elspeth Attwooll

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

1. By letter of 27 June 2001 the Council consulted Parliament on the proposal for a Council decision on amending Council Decision 97/413/EC concerning the objectives and detailed rules for restructuring the Community fisheries sector for the period from 1 January 1997 to 31 December 2001 with a view to achieving a balance on a sustainable basis between resources and their exploitation (COM(2001) 322 – 2001/0128(CNS))
2. By letter of 27 June 2001 the Council consulted Parliament, pursuant to Article 36 and 37 of the EC Treaty on the proposal for a Regulation amending Regulation (EC) No 2792/1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector (COM(2001) 322 - 2001/0129(CNS))

At the sitting of 5 July 2001 the President of Parliament announced that she had referred these proposals to the Committee on Fisheries as the committee responsible, proposal 1 to the Committee on Legal Affairs and the Internal Market for its opinion (C5-0308/2001) and proposal 2 to the Committee on Economic and Monetary Affairs and the Committee on Regional Policy, Transport and Tourism for their opinions (C5-0309/2001).

The Committee on Fisheries appointed Elspeth Attwooll rapporteur at its meeting of 11 July 2001.

The committee considered the Commission proposal and draft report at its meetings of 10 July, 12 September and 9 October 2001.

At the last meeting it adopted the draft legislative resolution n° 1 by 10 votes to 1 with 0 abstention and the draft legislative resolution n° 2 by 10 votes to 2, with 0 abstention.

The following were present for the vote: Daniel Varela Suanzes-Carpegna, chairman; Rosa Miguélez Ramos, vice-chairman; Niels Busk, Arlindo Cunha, Carmen Fraga Estévez, Ian Stewart Hudghton, Salvador Jové Peres (for Mihail Papayannakis), Heinz Kindermann, Carlos Lage, Brigitte Langenhagen, Patricia McKenna, James Nicholson and Dominique F.C. Souchet.

The opinion of the Committee on Legal Affairs and the Internal Market is attached; the Committee on Economic and Monetary Affairs decided on 4 September 2001 and the Committee on Regional Policy, Transport and Tourism decided on 10 July 2001 not to deliver an opinion.

The report was tabled on 11 October 2001.

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

1. LEGISLATIVE PROPOSAL

1. Proposal for a Council decision on amending Council Decision 97/413/EC concerning the objectives and detailed rules for restructuring the Community fisheries sector for the period from 1 January 1997 to 31 December 2001 with a view to achieving a balance on sustainable basis between resources and their exploitation COM(2001) 322 – C5-0308/2001 – 2001/0128(CNS)

The proposal is amended as follows:

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1
Recital 3

Measures to improve safety should not lead to an increase in fishing effort *and such measures should therefore be applied within the existing capacity objectives for the fleet.*

Measures to improve safety should not lead to an increase in fishing effort. *(Delete 15 words)*

Amendment 2
Article 1, paragraph 2, point b)

(b) The words 'except in the framework of programmes for improving safety of navigation at sea' are deleted.

Deleted.

¹ OJ C not yet published.

Justification

If the objective is to extend MAGP IV for a further year, there is no point in introducing far-reaching changes at the last minute which would completely change the philosophy of an MAGP which has already been in operation for almost five years, particularly when those changes could have negative repercussions in the area of maritime safety.

Amendment 3
Article 1, paragraph 3

3) In Article 4, paragraph 2 is deleted Deleted.

Justification

Same as for the previous amendment..

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the proposal for a Council decision on amending Council Decision 97/413/EC concerning the objectives and detailed rules for restructuring the Community fisheries sector for the period from 1 January 1997 to 31 December 2001 with a view to achieving a balance on a sustainable basis between resources and their exploitation(COM(2001) 322 – C5-0308/2001 – 2001/0128(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2001) 322¹),
 - having been consulted by the Council (C5-0308/2001),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Fisheries and the opinion of the Committee on Legal Affairs and Internal Market (A5-0316/2001),
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. 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.

¹ OJ C not yet published.

2. LEGISLATIVE PROPOSAL

2. Proposal for a Regulation amending Regulation (EC) No 2792/1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector (COM(2001) 322 – C5-0309/2001 – 2001/0129(CNS))

The proposal is amended as follows:

Text proposed by the Commission¹

Amendments by Parliament

Amendment 4 Recital 3

(3) The provisions of Regulation (EC) No 2792/1999 concerning public aid for the renewal and modernisation of the fleet should be strengthened in order to ensure that fishing effort does not increase, in particular by requiring that fishing effort objectives be met in all segments of the fleet before aid may be granted, and that no aid be granted where such objectives have been met by a reduction in activity rather than capacity.

Deleted.

Justification

If the objective is to prolong the MAGP, the consequent change to the FIGF must tally with that objective and not take the opportunity to introduce substantial changes at the last minute, thereby bringing about a completely different MAGP and FIGF. The change whereby, before a vessel in a particular segment can receive aid, all segments of the fleet must also have fulfilled the requirements unfairly penalises segments which have complied with the objectives. Calculation would also be difficult, given that the actual objectives laid down at the time were multiannual. As regards removing the possibility of receiving aid if the objectives have been met by a reduction in effort, the Commission's own wording recognises that the rules allowed the possibility of the objectives being met in this way, which, indeed, was an initiative of the Commission itself.

¹ OJ C not yet published.

Amendment 5
Article 1, paragraph 2

(2) In Article 6, paragraph 2 is deleted. Deleted

Justification

It is stressed once again that, if the objective is to prolong MAGP IV for one year, it is unacceptable to introduce far-reaching changes at the last minute which would completely change the philosophy both of an MAGP which has already been in operation for almost five years and of the FIG Regulation, particularly where these changes would have a negative impact on maritime safety, quality of life and safety for crews, the value and quality of catches and hygiene and health conditions.

Amendment 6
Article 1, paragraph 3

3. In Article 7, paragraph 3, point b) the following point is inserted :

“iv) if the third country to which the vessel is to be transferred is not a Contracting or Co-operating Party to relevant regional fisheries organisations, that country has not been identified by such organisations as one which permits fishing in a manner which jeopardises the effectiveness of international conservation measures;”.

3. In Article 7, paragraph 3, point b), the following point is inserted :

“iv) if the third country to which the vessel is to be transferred is not a Contracting or Co-operating Party to relevant regional fisheries organisations, that country has not been identified by such organisations as one which permits fishing in a manner which jeopardises the effectiveness of international conservation measures; ***as an additional guarantee, the Commission shall publish, within a period of two months, the list of third countries to which the transfer of Community vessels is explicitly prohibited. That list shall be updated whenever circumstances so require***”.

Justification

It would be useful to have an up-to-date list of countries to which the export of vessels is prohibited both in order to facilitate operational decisions in the industry and ensure that it is difficult to circumvent this new rule, and also to improve information for anyone concerned by the consequences of illegal fishing.

Amendment 7
Article 1 (4)

“1. Without prejudice to the conditions laid down in the second subparagraph of Article 3 (3), public aid for fleet renewal and modernisation shall be granted only on the following conditions and those set out in Article 6 and Annex III and provided that the annual objectives ***in all the segments*** of the multiannual guidance programmes are respected:

“1. Without prejudice to the conditions laid down in the second subparagraph of Article 3 (3), public aid for fleet renewal and modernisation shall be granted only on the following conditions and those set out in Article 6 and Annex III and provided 0that the annual objectives of the multiannual guidance programmes ***for the segment for which the aid is being granted*** are respected:

Justification

The Commission proposal would be unfair to certain segments by penalising them directly for acts or omissions in other segments. The amendment clarifies the existing approach to improving compliance, which allows financial assistance to be given only to those segments that have met their own capacity objectives.

Amendment 8
Article 1, paragraph 4, point a)

a) public aid can be granted only for vessels belonging to segments for which the annual objectives of the multiannual guidance programme have been achieved

Deleted.

only by a reduction in capacity and not by a reduction in activity;

Justification

As already argued in a previous justification, the fact that fleets have met their objectives by a reduction in effort must not be penalised only for the last year, given that this possibility was provided for in MAGP IV from the very start.

Amendment 9
Article 1 (5)

In Article 10, Paragraph 1, point d), the words "overall annual objectives" are replaced by "annual objectives in all the segments";

Deleted.

Justification

This relates to Amendment 2 and is to make it clear that the overall annual objectives must continue to be met before financial assistance can be given to any individual segment.

Amendment 10
Article 1 (6)

In Article 16, paragraph 2, the words “where a Council Decision imposes technical restrictions” are replaced by the words “where Community legislation imposes technical restrictions”.

In Article 16, paragraph 2, the words “where a Council Decision imposes technical restrictions” are replaced by the words “where Community legislation imposes technical restrictions, ***subject to consultation of the European Parliament.***”

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the proposal for a Regulation amending Regulation (EC) No 2792/1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector (COM(2001) 322 – C5-0309/2001 – 2001/0129(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2001) 322¹),
 - having been consulted by the Council pursuant to Articles 36 and 37 of the EU Treaty(C5-0309/2001),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Fisheries (A5-0316/2001),
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. 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.

¹ OJ C not yet published.

EXPLANATORY STATEMENT

I

Concerning:

the proposal for a Council decision on amending Council Decision 97/413/EC concerning objectives and detailed rules for restructuring the Community fisheries sector for the period from 1st January 1997 to 31st December 2001 with a view to achieving a balance on a sustainable basis between resources and their exploitation. (COM(2001)322 - C5-0308/2001 - 2001/0128 (CNS))

The current multi annual guidance programme (MAGP IV) was established by Council Decision 97/413 EC. It is due to expire on 31st December 2001. The Fisheries Committee fully endorses the Commission's proposal to extend the programme to 31st December 2002, pending the outcome of discussions on the reform of the Common Fisheries Policy as a whole. The extension has necessitated a technical change, that of increasing the reduction rates for fishing effort - from 30% to 36% for stocks defined as depletion risk and from 20% to 24% for stocks defined as overfished according to Annex 1 of Council Decision 97/413/EC.

The Commission proposal, however, also seeks to introduce a change in relation to safety with a view to improving the effectiveness of MAGP IV. Specifically, the proposal removes the possibility of allowing an increase in the objectives on safety grounds. Currently Article 3, which applies only to vessels under 12 metres, allows for an increase in the aggregate capacity of this segment in the context of frameworks for improving safety of navigation at sea. Article 4 allows for an increase in the objectives equivalent to increases in capacity resulting exclusively from safety improvements, on a case-by-case basis, where these do not increase the fishing effort of the vessels concerned.

The Commission reasonably argues in the Explanatory Memorandum that "all new vessels should be constructed to a certain minimum standard of safety, and the capacity to build these new vessels could be found from within the existing capacity objectives". Clearly, too, the present provisions afford possibilities for abuse. At the same time, concern must be expressed at any measures that reduce the potential for safety improvements, particularly where existing vessels under 12 metres and programmes for navigation safety are concerned.

The European Parliament shares the Commission's desire for improvements in the effectiveness of the MAGP, as expressed in its resolutions of 20th January 2000 (draftsman Cunha, report A5-0096/99) and 5th July 2001 (draftsman Busk, report A5-0188/2001).

The Fisheries Committee questions, however, whether the changes relating to safety are sufficiently urgent that they require to be made in advance of any MAGP V to be

established in combination with the reform of the CFP as a whole.

The Committee also stresses the extent to which the effectiveness of multiannual guidance programmes is dependent on their proper implementation, including the use of instruments that compel compliance, and on the establishment of precise, clear and comparable criteria for the measurement of vessels, including their tonnage and engine power, and of categories of fishing fleets.

II

Concerning:

the Proposal for a Council Regulation amending Regulation (EC) 2792/99 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector.

(COM(2001)322 -C5-0309/2001 -(2001/0129 (CNS))

The proposal is for the amendment of Regulation (EC) No 2792/1999 concerning the implementation of the multiannual guidance programmes for fishing fleets and, in particular, the rules concerning public aid for the renewal and modernisation of the fleet. In line with the proposal for the prolongation of Council Decision 97/413/EC to December 2002, it extends the date at which Member States must supply the information specified in Annex II to the Regulation for use in drawing up any subsequent multiannual guidance programmes to 1st May 2002.

The proposal makes three other significant changes to the existing Regulation:

1. It deletes the second part of Article 6, which allows Member States to submit a request for “a clearly identified and quantified increase in the capacity objective for measures to improve safety, navigation at sea, hygiene, product quality and working conditions, provided that these measures do not result in an increase in the exploitation rate of the resources concerned.”
2. It prohibits the granting of public aid for the transfer of vessels to third countries which have been identified as fishing “in a manner which jeopardises the effectiveness of international conservation measures”.
3. It requires all segments of Member States’ fleets to have achieved the annual objectives before any public aid for fleet modernisation or renewal is granted.

The first of the above gives rise to similar concerns to those expressed in relation to the proposal for amendment of Council Decision 97/413/EC, particularly since the justification offered by the Commission is again in terms of the construction of new vessels. It could be regarded as helping to sustain adverse conditions in older vessels.

The second change is an important reinforcement of existing restrictions.

The third has to be questioned. Currently no segment can have access to funding unless overall national targets and its own individual target have been met. The change would mean that not only must the overall targets be met but that the MAGP objectives in all segments must be respected. This seems to run counter to the principles of justice, in that one segment may be penalised directly for the acts or omissions of another. Indeed, the more equitable situation would be to maintain the status quo.

18 September 2001

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS AND THE INTERNAL MARKET

for the Committee on Fisheries

on the proposal for a Council Decision amending Council Decision 97/413/EC concerning the objectives and detailed rules for restructuring the Community fisheries sector for the period from 1 January 1997 to 31 December 2001 with a view to achieving a balance on a sustainable basis between resources and their exploitation

and

on the proposal for a Council Regulation amending Regulation (EC) No 2792/1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector

(COM(2001) 322 – C5-0308/2001 – 2001/0128((CNS))

Draftsman: Sir Neil MacCormick

PROCEDURE

The Committee on Legal Affairs and the Internal Market appointed Sir Neil MacCormick draftsman at its meeting of 11 July 2001.

It considered the draft opinion at its meetings of 10 and 18 September 2001.

At the latter meeting it adopted the following amendments by 22 votes to 0, with 1 abstention.

The following were present for the vote: Rainer Wieland, acting chairman; Ward Beysen, vice-chairman; Paolo Bartolozzi, Luis Berenguer Fuster, Maria Berger, Raina A. Mercedes Echerer, Janelly Fourtou, Marie-Françoise Garaud, Gerhard Hager, Malcolm Harbour, Othmar Karas, Ioannis Koukiadis, Klaus-Heiner Lehne, Toine Manders, Luís Marinho, Véronique Mathieu, Hans-Peter Mayer, Manuel Medina Ortega, Angelika Niebler, Antonio Tajani, Felekna Uca, Theresa Villiers, Diana Wallis, Joachim Wuermeling and Stefano Zappalà.

SHORT JUSTIFICATION

(a) Proposal for a Council Decision amending Council Decision 97/413/EC concerning objectives and detailed rules for restructuring the Community fisheries sector for the period from 1 January 1997 to 31 December 2001 with a view to achieving a balance on a sustainable basis between resources and their exploitation. (COM(2001) 322 - C5-0308/2001 - 2001/0128 (CNS))

It is proposed to extend the current multiannual guidance programme (established by Council Decision 97/413 EC and due to expire on 31 December 2001) until 31 December 2002, pending the outcome of discussions on the reform of the Common Fisheries Policy. It is further proposed to increase the reduction rates for fishing effort from 30% to 36% for stocks defined as "depletion risk" and from 20% to 24% for stocks defined as "overfished" in the annexes to Decision 97/413.

Additionally, the Commission proposes to eliminate the possibilities presently afforded by Decision 97/413 to increase capacity objectives on safety grounds. At present, Article 3, which applies only to vessels of under 12 metres, allows for an increase in the aggregate capacity of this segment in the context of frameworks for improving safety of navigation at sea and Article 4 allows for an increase in the objectives equivalent to increases in capacity resulting exclusively from safety improvements, on a case-by-case basis, where these do not increase the fishing effort of the vessels concerned.

(b) Proposal for a Council Regulation amending Regulation (EC) No 2792/1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector. (COM(2001) 322 -C5-0309/2001 -(2001/0129 (CNS))

Apart from extending the date at which Member States must supply the information specified in Annex II to Regulation No 2792/1999 for use in drawing up any subsequent multiannual guidance programmes to 1 May 2002 in line with the proposal for extension of Decision 97/413/EC to December 2002, the Commission proposes (a) to delete the second part of Article 6, which allows Member States to submit a request for "a clearly identified and quantified increase in the capacity objective for measures to improve safety, navigation at sea, hygiene, product quality and working conditions, provided that these measures do not result in an increase in the exploitation rate of the resources concerned"; (b) to prohibit the granting of public aid for the transfer of vessels to third countries which have been identified as fishing "in a manner which jeopardises the effectiveness of international conservation measures" and (c) to require all segments of Member States' fleets to have achieved the annual objectives before any public aid for fleet modernisation or renewal is granted.

Observations

Your rapporteur is concerned that these proposals would penalise operators of existing fishing vessels concerned to increase safety of navigation. The Commission's justification in the explanatory memorandum is couched solely in terms of new vessels ("all new vessels should be constructed to a certain minimum standard of safety, and the capacity to build these new vessels could be found from within the existing capacity objectives"). The problem which the Commission should be addressing is that of compliance. To address the problem of overfishing in this way would be contrary both to the principle of proportionality and also to the principle of relative stability, which was defined in the preamble to Regulation No 170/83 as having to "safeguard the particular needs of regions where local populations are especially dependent on fisheries and related industries".

Furthermore, your rapporteur considers that to require all segments of national fleets to have achieved the annual objectives before any public aid for fleet modernisation or renewal can be granted would be unlawful as contrary to the most rudimentary principles of natural justice. It would permit one segment to be penalised for things done or left undone in another. It could, in fact, result in fishermen being penalised for acts and omissions of their State government and constitute vicarious punishment.

Your rapporteur therefore commends to the Committee the proposals for amendments set out below.

AMENDMENTS

The Committee on Legal Affairs and the Internal Market calls on the Committee on Fisheries, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1

Recital 3 (Proposal for a Council decision amending Decision 97/413)

Measures to improve safety should not lead to an increase in fishing effort and such measures should therefore be applied within the existing capacity objectives for the fleet.

Delete.

¹ OJ C ##.

Justification

Preserves the status quo on the ground that considerations of proportionality preclude restricting safety improvements on grounds of capacity as distinct from those of actual effort.

Amendment 2

Article 1(2)(b) of the proposal for a Council decision amending Decision 97/413

(b) The words "except in the framework of programmes for improving safety at sea" are deleted. ***Delete.***

Justification

Preserves the status quo. Programmes for improving safety ought not to be excluded.

Amendment 3

Article 1(2) of proposal for a regulation amending Regulation No 2792/1999

In Article 6, paragraph 2 is deleted. ***The following words are inserted at the beginning of Article 6, paragraph 2: "For existing vessels of their fleet of less than 12 metres overall,".***

Justification

This would enable Member States to request a clearly identified and quantified increase in the capacity objectives in respect of existing vessels of under 12 metres for measures to improve safety, navigation at sea, hygiene, product quality and working conditions, provided that those measures do not result in an increase in the exploitation rate of the resources concerned.

Amendment 4

Article 1(4) of the proposal for a regulation amending Regulation No 2792/1999

1. Without prejudice to the conditions laid down in the second subparagraph of Article 3(3), public aid for fleet renewal and modernisation shall be granted only on the following conditions and those set out in Article 6 and Annex III and provided that the annual objectives ***in all the segments*** of the multiannual guidance programmes are respected:

1. Without prejudice to the conditions laid down in the second subparagraph of Article 3(3), public aid for fleet renewal and modernisation shall be granted only on the following conditions and those set out in Article 6 and Annex III and provided that the annual objectives of the multiannual guidance programmes ***for the segment for which aid is applied*** are respected:

Justification

To require all segments of national fleets to have achieved the annual objectives before any public aid for fleet modernisation or renewal can be granted would be unlawful as contrary to the most rudimentary principles of natural justice. It would permit one segment to be penalised for things done or left undone in another. It could, in fact, result in fishermen being penalised for acts and omissions of their State government and constitute vicarious punishment.

Amendment 5

Article 1(5) of the proposal for a regulation amending Regulation No 2792/1999

In Article 10, paragraph 1, point d), the words "overall annual objectives" are replaced by "annual objectives in all the segments";

Delete.

Justification

See justification to preceding amendment.

