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REPORT

on the proposal for a Council regulation on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy
(COM(2002) 185 – C5-0313/2002 – 2002/0114(CNS))

Committee on Fisheries

Rapporteur: Salvador Jové Peres

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

By letter of 28 June 2002 the Council consulted Parliament, pursuant to Article 37 of the EC Treaty, on the proposal for a Council regulation on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy (COM(2002)185 – 2002/0114(CNS)).

At the sitting of 4 July 2002 the President of Parliament announced that he had referred this proposal to the Committee on Fisheries as the committee responsible and the Committee on Budgets, the Committee on Budgetary Control and the Committee on the Environment, Public Health and Consumer Policy for their opinions (C5-0313/2002).

The Committee on Fisheries had appointed Salvador Jové Peres rapporteur at its meeting of 19 June 2002.

By letter of 4 September 2002, the committee decided to request the opinion of the Committee on Legal Affairs and the Internal Market on the proposal's legal basis under Rule 63(2).

The committee considered the Commission proposal and the draft report at its meetings of 9 July, 21 October and 12 November 2002.

At the last meeting it adopted the draft legislative resolution by 14 votes to 4, with 1 abstention.

The following were present for the vote: Struan Stevenson (chairman), Rosa Miguélez Ramos (vice-chairman), Brigitte Langenhagen (vice-chairman), Hugues Martin (vice-chairman), Salvador Jové Peres (rapporteur), Elspeth Attwooll, Niels Busk, Arlindo Cunha, Ilda Figueiredo, Ian Stewart Hudghton, Heinz Kindermann, Giorgio Lisi, Albert Jan Maat, Ioannis Marinos, Camilo Nogueira Román, Juan Ojeda Sanz, Seán Ó Neachtain, Marit Paulsen, Manuel Pérez Álvarez, Fernando Pérez Royo (for Carlos Lage), Yves Piétrasanta (for Patricia McKenna), Bernard Poignant, Dominique F.C. Souchet (for Michael John Holmes), Catherine Stihler, Daniel Varela Suanzes-Carpegna and Herman Vermeer.

The opinions of the Committee on Budgets and the Committee on the Environment, Public Health and Consumer Policy and Committee on Legal Affairs and the Internal Market on the proposed legal basis are attached; on 1 October 2002 the Committee on Budgetary Control decided not to deliver an opinion.

The report was tabled on 13 November 2002.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the proposal for a Council regulation on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy (COM(2002) 185 – C5-0313/2002 – 2002/0114(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2002) 185¹),
 - having been consulted by the Council pursuant to Article 37 of the EC Treaty, (C5-0313/2002),
 - having regard to the opinion of the Committee on Legal Affairs and the Internal Market on the proposed legal basis,
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Fisheries and the opinions of the Committee on Budgets and the Committee on the Environment, Public Health and Consumer Policy (A5-0392/2002),
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. Calls for initiation of the conciliation procedure under the Joint Declaration of 4 March 1975 if the Council intends to depart from the text approved by Parliament;
 5. Asks to be consulted again if the Council intends to amend the Commission proposal substantially;
 6. Instructs its President to forward its position to the Council and Commission and the parliaments in the Member States.

Text proposed by the Commission

Amendments by Parliament

Amendment 1
Recital 2 a (new)

¹ Pending publication in the OJ.

(2a) Due account must be taken of all the factors which contribute to the decline in fish stocks, such as pollution, climate change and maritime transport.

Justification

In addition to the over-exploitation of stocks caused directly by fishing, other equally important factors, such as pollution, climate change and maritime transport, must be taken into account.

Amendment 2
Recital 3

(3) The objective of the Common Fisheries Policy should therefore be to provide for sustainable exploitation of living aquatic resources and of aquaculture in the context of sustainable development, taking account of the environmental, economic and social aspects in a balanced manner.

(3) The objective of the Common Fisheries Policy should therefore be to provide for sustainable exploitation of living aquatic resources and of aquaculture in the context of sustainable development, taking account of the environmental, economic and social aspects in a balanced manner; ***this coherence of Community action should guarantee the development of sustainable economic activity and the maintenance of the jobs and living conditions of those working in the sector.***

Justification

The protection and conservation of marine resources and the rational and responsible exploitation of such resources must constitute an essential element of fisheries management and are fundamental to the sector's vitality.

Amendment 3
Recital 3 a (new)

(3a) The implementation plan adopted at Johannesburg within the World Summit on Sustainable Development stipulates, in the section on protecting and managing natural resources, that an ecosystemic

approach to the protection of biodiversity should be applied and provides for stocks to be maintained or restored to maximum sustainable levels not later than 2015.

Justification

It is important to highlight one of the results achieved at the World Summit on Sustainable Development.

Amendment 4
Recital 3 b (new)

(3b) The rational and responsible exploitation of marine resources on a sustainable basis is fundamental to ensuring the vitality of the Community fishery sector.

Justification

Self-explanatory.

Amendment 5
Recital 5 a (new)

(5a) The socioeconomic impact of the reduction in fishing effort should be offset by implementing appropriate measures and increasing the resources allocated under the FIFG and the Union's internal policies.

Justification

The reduction in fishing effort will have an adverse socioeconomic impact, not only in the fisheries sector, but also in the regions which depend on it. For that reason, the structural measures aimed specifically at the fisheries sector and the flanking measures implemented under internal policies (Chapter B2-9 of the budget) should be strengthened by means of new, specific instruments and additional resources. Given that the Commission's proposal for the revision of the FIFG is flawed, any reform which failed to make provision for the resulting impact would be unjustifiable.

Amendment 6 Recital 7 a (new)

(7a) Supports the Commission's proposal to study the introduction of new fisheries management systems which have already proved successful in other States and which may help to achieve the objectives of the Common Fisheries Policy.

Justification

There are management systems other than those employed in the EU which have already achieved good results in other states and which might be used to bring the size of the fleet more closely into line with the resources actually available.

Amendment 7 Recital 10

(10) The Community fleet should be reduced to bring it into line with available resources and specific measures should be set up in order to attain that objective, including the fixing of reference levels for fishing capacity which may not be exceeded, ***a special Community facility to promote scrapping of fishing vessels and*** national entry/exit schemes.

(10) The Community fleet should be reduced to bring it into line with available resources and specific measures should be set up in order to attain that objective, including the fixing of reference levels for fishing capacity which may not be exceeded, ***facilities to encourage the temporary cessation of activity, restrictions on the number of days on which vessels may fish, more selective fishing techniques,*** national entry/exit schemes ***and, where justified, the scrapping of fishing vessels.***

Justification

The scrapping of vessels should be regarded as the last resort in connection with efforts to reduce fishing effort.

Amendment 8

Recital 12

(12) Rules in place since 1983 restricting access to resources within the 12-nautical mile zones of Member States have operated satisfactorily **and** should continue to apply on a permanent basis.

(12) Rules in place since 1983 restricting access to resources within the 12-nautical mile zones ***of the territorial waters*** of Member States have operated satisfactorily, ***have supported inshore fishing in the areas concerned and have made an important contribution to maintaining stocks, so that they*** should continue to apply on a permanent basis ***so as to make a vital contribution to safeguarding traditional fishing activities and the socioeconomic fabric of regions dependent on fisheries, supporting non-industrial inshore fishing and protecting fishery resources and the most sensitive areas of coastlines.***

Justification

The importance of a permanent derogation governing access to resources within the 12-nautical mile zones of Member States' territorial waters should be emphasised. The rules have reduced fishing pressure in biologically sensitive inshore areas and contributed to the maintenance of stocks. At the same time, the economic stability of non-industrial inshore fishing has been guaranteed. These arguments highlight the need for the rules in question to continue to apply indefinitely.

Amendment 9

Recital 12 a (new)

(12a) The area of restricted access to resources should be extended to 50 nautical miles in the case of the outermost regions, in view of the specific problems they face and in accordance with Article 299(2) of the EC Treaty.

Justification

Self-explanatory.

Amendment 10
Recital 14 a (new)

(14a) In view of the temporary biological situation of stocks, relative stability must also safeguard the particular needs of regions where local populations are especially dependent on fisheries and related activities as decided by the Council in its resolution of 3 November 1976, and in particular Annex VII thereto.

Justification

The Hague Resolution, which gave rise to the Hague Preferences, was a commitment made unanimously in the Council of Ministers in 1976. It is therefore a binding obligation entered into by the EU Council that was clearly acknowledged in the preambles of EC Regulations 170/83 and 3760/92. Yet the Hague Resolution has never been fully incorporated into relative stability. The review process now affords the opportunity to fully incorporate the Hague Resolution into the relative stability keys.

Amendment 11
Recital 14 b (new)

(14b) Effort levels have been established under Council Regulation 685/95 which guarantee that existing balances in exploitation by fishery and by zone shall not be disturbed in western waters and, therefore, it is in this sense also that relative stability must be understood.

Justification

There is an imperative need to strengthen the protection measures of biologically sensitive areas due to the recent and significant changes to the fishing patterns in the areas concerned.

Amendment 12

Recital 17

(17) ***The Community*** should ***be able to seek reparation in the form of quota deductions from*** Member States when the rules of the Common Fisheries Policy have been violated resulting in losses to the common resource. ***Where such a quota deduction is not possible, the compensation may take the form of a quota equivalent value. Where it is established that another*** Member State has suffered prejudice as a result of the violation ***of the rules, part or all of the*** reparation or compensation ***should be allocated to that Member State.***

(17) ***Penalties should target those who are at fault and responsible for implementation, Member State governments and the Commission*** should ***therefore be more proactive in instigating infringement proceedings against*** Member States when the rules of the Common Fisheries Policy have been violated resulting in losses to the common resource. ***Fishermen should not be penalised for acts or omissions of their Member State governments, which would constitute vicarious punishment, if a*** Member State has suffered prejudice as a result of the violation ***Community law by another Member State or the Community Institution, any consideration of*** reparation or compensation ***should be subject to due process and in accordance with the infringement procedures set out in the Treaties.***

Justification

It is essential that any concept of quota penalties be dismissed as it is contrary to the principles of natural justice to penalise fishermen for their Member States' failures/infringements. The Commission must instead more actively pursue its existing powers under the Treaties.

Amendment 13

Recital 19

(19) The Commission should be able to take immediate measures to prevent any failure to comply with the rules of the common

(19) The Commission should be able to take immediate ***emergency*** measures to prevent any failure to comply with the rules of the common fisheries policy from resulting in

fisheries policy from resulting in damage to living aquatic resources.

damage to living aquatic resources ***whilst respecting fundamental principles of Community law, including proportionality and legitimate expectations.***

Justification

Such measures should only be allowed in emergency situations and must respect the principles of Community law.

Amendment 14
Recital 20

(20) The Commission should be provided with appropriate powers to carry out its obligation to control and evaluate the implementation of the Common Fisheries Policy by the Member States.

(20) The Commission should be provided with appropriate powers ***and means*** to carry out its obligation to control and evaluate the implementation of the Common Fisheries Policy by the Member States.

Justification

Powers are of no use if the means available to exercise them are not sufficient.

Amendment 15
Recital 21

(21) It is necessary to intensify co-operation and co-ordination between all relevant authorities in order to achieve compliance with the rules of the Common Fisheries Policy, in particular through the exchange of national inspectors, by requiring Member States to give the same value to inspection reports drawn up by Community inspectors, inspectors of another Member State or Commission inspectors as to their own inspection reports for the purpose of establishing the facts.

(21) It is necessary to intensify co-operation and co-ordination between all relevant authorities in order to achieve compliance with the rules of the Common Fisheries Policy, in particular ***by strengthening Community controls and*** through the exchange of national inspectors, by requiring Member States to give the same value to inspection reports drawn up by Community inspectors, inspectors of another Member State or Commission inspectors as to their own inspection reports for the purpose of establishing the facts.

Justification

Strengthening Community controls is fundamental in a common policy.

Amendment 16 Recital 22

(22) *A simplified procedure should be introduced for the implementation of measures adopted in the context of international agreements **which become binding on the Community if it does not object.***

(22) *In connection with the implementation of measures adopted in the context of international agreements, **the substance of the agreement should be reviewed in each case with a view to choosing the procedure which best respects the division of competences in force.***

Justification

The transposition of duly ratified international agreements must respect the existing division of competences between the Council, the Commission and the Member States in the fisheries sphere.

Amendment 17 Recital 23

(23) Since *the* measures necessary for the implementation of this Regulation are management measures or measures of general scope within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission¹ they should be adopted by use of the management procedure provided for in Article 4 or the regulatory procedure provided for in Article 5 of that Decision.

OJ L 184 , 17/07/1999 p. 23

(23) Since *some* measures necessary for the implementation of this Regulation are management measures or measures of general scope within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission² they should, **where possible,** be adopted by use of the management procedure provided for in Article 4 or the regulatory procedure provided for in Article 5 of that Decision.

²OJ L 184 , 17/07/1999 p. 23

Justification

Some of the measures necessary for the implementation of this draft regulation go beyond implementing powers.

Amendment 18

Recital 25

(25) To ensure that the Common Fisheries Policy benefits from the best scientific, technical and economic advice, the Commission *should* be assisted by *an appropriate committee*.

(25) To ensure that the Common Fisheries Policy benefits from the best scientific, technical and economic advice, the Commission *will* be assisted by *two committees: the STECF and the Fisheries Advisory Committee for Fisheries and Aquaculture*.

Justification

The Commission is already assisted by two fisheries committees. Their role should be strengthened, not diluted.

Amendment 19

Article 2, paragraph 1

1. The Common Fisheries Policy shall ensure exploitation of living aquatic resources that provides sustainable environmental, economic and social conditions.
For this purpose, the Community shall apply the precautionary principle in taking measures designed to protect and conserve living aquatic resources, to provide for their sustainable exploitation and to minimise the impact of fishing activities on marine ecosystems. It shall aim at a progressive implementation of an eco-system-based approach to fisheries management. It shall

1. The Common Fisheries Policy shall ensure exploitation of living aquatic resources that provides sustainable environmental, economic and social conditions.
For this purpose, the Community shall apply the precautionary principle *widely* in taking measures designed to protect and conserve living aquatic resources, *so that they remain at levels of abundance which do not either put them at risk of depletion or affect ecological relationships*, to provide for their sustainable exploitation and to minimise the impact of fishing activities on marine eco-

aim to contribute to efficient fishing activities within ***an economically viable and competitive*** fisheries and aquaculture industry, ***providing*** a fair standard of living for those who depend on fishing activities and ***taking account of*** the interest of consumers.

systems ***and shall step up scientific research in this area***. It shall aim at a progressive implementation of an eco-system-based approach to fisheries management. It shall aim to contribute to efficient fishing activities within ***a sustainable*** fisheries and aquaculture industry, ***aiming to provide both*** a fair standard of living for those who depend on fishing activities and ***a policy that is in*** the interest of consumers.

The same objectives, aims and measures shall apply to fishing activities pursued under the Community's fisheries agreements with third countries.

Justification

Scientific research should be stepped up. Whilst the fishing industry must strive to be efficient, its distinct nature in relation to most other economic activities must be recognised, particularly the important contribution that it makes to the sustainability of coastal fishing communities and to the welfare of consumers. The fishing activities pursued by the Community's or Member States' fishing fleets outside Community waters pursuant to fisheries agreements constitute a threat to the marine environment and fish stocks in third countries' waters. The objectives, aims and measures of the regulation should therefore also apply expressly to such fishing activities.

Amendment 20

Article 2, paragraph 2, point (a)

a) a clear definition of responsibilities at the Community, national and local levels;

a) a clear definition ***and allocation of and strict respect for*** responsibilities at the Community, ***Member State***, national and local levels, ***bearing in mind the interdependence on each other of those levels***;

Justification

*The definition of responsibilities leaves room for improvement, but the existing definition must be respected and care taken to avoid adding confusion. Above all, the Community character of the CFP must be maintained, seeking a maximum level of integration and coherence with the *acquis communautaire* as a whole. Whilst it is essential to outline the varying responsibilities of those working in the fisheries sector at different levels, it is also important to underline that none of the three levels should be seen in isolation but as a part of an interdependent network.*

Amendment 21

Article 2, paragraph 2, point (c)

c) ***broad*** involvement of stakeholders at all stages of the policy from conception to implementation;

c) ***real*** involvement of stakeholders at all stages of the policy from conception to implementation ***which recognises the regionalisation inherent in the CFP reflecting the special nature of fisheries management and the impact it has on fragile coastal communities;***

Justification

Clearly scientific advice must be verifiable, independent and up-to-date, otherwise there will be no confidence in the management system. The Regional Councils cannot be mere talking shops just adding an unproductive layer of bureaucracy, they must be bodies with real teeth and decision-making powers, which genuinely involve the stakeholders and ensure that the Common Fisheries Policy builds upon their experiences and is more responsive.

Amendment 22

Article 2, paragraph 2, point (da) (new)

(da) observance of international principles and guidelines for sustainable fisheries management.

Justification

The common fisheries policy should logically also be governed by the international principles and guidelines adopted in the sector, such as the Lysekil guidelines for the application of the precautionary principle (1995) and the Bergen Declaration on coordination of environmental and fisheries policies (1997).

Amendment 23
Article 3, point (b)

(b) 'fishing vessel' means any vessel equipped for and licensed to carry out commercial exploitation of living aquatic resources including exploratory or experimental fishing;

(b) 'fishing vessel' means any vessel equipped for and licensed to carry out commercial exploitation of living aquatic resources including exploratory or experimental fishing ***and the transport or transshipment of fish not deriving from aquaculture;***

Justification

The need for coherence with the rules on control.

Amendment 24
Article 3, point (j)

(j) 'precautionary ***approach to*** fisheries management' means management action based on the principle that absence of adequate scientific information should not be used as a reason for postponing or failing to take measures to conserve target species, associated or dependent species and non-target species and their environment;

(j) 'precautionary ***principle in*** fisheries management' means management action based on the principle that absence of adequate scientific information should not be used as a reason for postponing or failing to take measures to conserve target species, associated or dependent species and non-target species and their environment ***whilst managing the risk in a proportionate and non-discriminatory manner;***

Justification

In order to avoid confusion, reference should be made throughout to the precautionary principle. The precautionary principle is usually to be invoked when two factors appear: 1) the recognition that something may induce negative effects; and 2) scientific evidence is not conclusive enough to determine an appropriate level of protection for the public or the environment (although scientific evidence should give reasonable ground for concerns that existing levels of protection are insufficient). A scientific risk assessment should be carried out on the basis of all available information. On the basis of this assessment, political decision makers are then to decide how to manage this risk. In doing so they should find a level of risk that is acceptable to those upon whom the risk is imposed. Decisions must observe the principles of proportionality, non-discrimination, consistency and include an examination of the benefits and costs of action/inaction and should be subject to an ongoing examination of scientific developments.

Amendment 25 Article 3, point (m)

(m) ‘fishing capacity’ means a vessel’s tonnage in GT and its power in kW, as defined in Council Regulation (EC) N° 2930/86. ***For certain types of fishing activity, capacity may be defined in terms of the amount and/or the size of a vessel’s fishing gear;***

(m) ‘fishing capacity’ means a vessel’s tonnage in GT and its power in kW, as defined in Council Regulation (EC) N° 2930/86;

Justification

To remove the vagueness and lack of definition with regard to fishing gear, which is more closely linked to fishing effort.

Amendment 26 Article 3, point (n)

(n) ‘exit from the fleet’ means the removal of a vessel from the fishing fleet register of a Member State. ***As long as a vessel continues to fly the flag of a Member State, it shall not be considered as an exit from the fleet;***

(n) ‘exit from the fleet’ means the removal of a ***fishing*** vessel from the fishing fleet register of a Member State;

Justification

The possibility of converting vessels and crews to other activities such as those linked to tourism or aquaculture should not be ruled out.

Amendment 27

Article 4, paragraph 2, introductory part

2. The measures referred to in paragraph 1 shall be drawn up on the basis of the available scientific and technical advice and in particular of the reports drawn up by the Committee established under Article 34. They may, in particular, include measures for each stock to limit fishing mortality and the environmental impact of fishing activities by:

2. The measures referred to in paragraph 1 shall be drawn up on the basis of the available scientific, ***economic, social*** and technical advice and in particular of the reports drawn up by the Committee established under Articles ***32 and*** 34. They may, in particular, include measures for each stock, ***including, where relevant, non-target species***, to limit fishing mortality and the environmental impact of fishing activities by:

Justification

Sustainable exploitation must take account both of fish stocks and fishing communities. Where restrictive measures are adopted, implementing arrangements must be geared to limiting their social impact on communities which depend on fishing. Article 32 relates to the Regional Advisory Councils and Article 34 to the Scientific, Technical and Economic Committee for Fisheries. Both should be able to offer valuable advice on which to draw up the measures referred to in paragraph 1.

Amendment 28

Article 4, paragraph 2, point (ga) (new)

(ga) studying the introduction of new fisheries management systems which have already proved successful in other States and which may help to achieve the objectives of the Common Fisheries Policy.

Justification

There are management systems other than those employed in the EU which have already achieved good results in other States and which might be used to bring the size of the fleet more closely into line with the resources actually available.

Amendment 29 Article 5, title

Multi-annual management plans

Multi-annual ***and multi-species***
management plans

Justification

Bearing in mind the connections between the various stocks, the plans must be multi-species if they are to be effective.

Amendment 30 Article 5, paragraph 2, point (a)

(a) for stocks outside safe biological limits, ensure their ***rapid*** return within those limits;

a) for stocks outside safe biological limits, ensure their return within those limits ***within the shortest possible period, minimising the social and economic impact;***

Justification

The speed of stock recovery must be adapted to guarantee the survival of the fishing industry.

Amendment 31 Article 5, paragraph 3

3. The multi-annual plans shall be drawn up on the basis of the precautionary ***approach to*** fisheries management. They shall be based on conservation reference points recommended by relevant scientific bodies.

3. The multi-annual plans shall be drawn up on the basis of the precautionary ***principle in*** fisheries management. They shall be based on conservation reference points recommended by relevant scientific bodies.

Justification

In order to avoid confusion, reference should be made throughout to the precautionary principle.

Amendment 32

Article 5, paragraph 4, introductory part

The multi-annual plans shall include targets against which the recovery of stocks to within safe biological limits or the maintenance of stocks within such limits shall be assessed. The targets shall be expressed in terms of

The multi-annual plans ***shall, save in exceptional cases, be multi-species and*** shall include targets against which the recovery of stocks to within safe biological limits or the maintenance of stocks within such limits shall be assessed. The targets shall be expressed in terms of

Justification

Bearing in mind the connections between the various stocks, the plans must be multi-species if they are to be effective.

Amendment 33

Article 5, paragraph 4, final subparagraph

The plans shall specify the priorities for achieving these targets and shall, where appropriate, include targets relating to other living aquatic resources and the maintenance or improvement of the conservation status of ecosystems.

The plans shall specify the priorities for achieving these targets and shall, where appropriate, include targets relating to other living aquatic resources and the maintenance or improvement of the conservation status of ecosystems ***in accordance with targets set out in the Community Action Plan to integrate environmental protection requirements into the Common Fisheries Policy.***

Justification

It is essential that the targets and requirements of the Community Action Plan to integrate environmental protection requirements in the Common Fisheries Policy have direct reference in the rules regarding multi-annual management plans. Without this explicit link, integrated environmental protection will not be seen as an objective, as outlined in Article 1 of this Regulation, but will be considered a 'bolt-on' measure. This would show the continued commitment of the European Parliament to upholding the requirements of the Treaty, under Article 6, in the field of fisheries.

Amendment 34 Article 5, paragraph 6

6. The Commission shall report on the effectiveness of the multi-annual management **plan** in achieving the targets.

6. The Commission shall **submit an annual report to the Council and the European Parliament** on the effectiveness of **all** the multi-annual management **plans** in achieving the targets **set for each of them**.

Justification

The need to specify the form which information on the effectiveness of management plans must take, the intervals at which it is to be provided and the addressees.

Amendment 35 Article 6, paragraph 1

1. **For stocks for which a multi-annual management plan has been adopted**, the Council shall decide on catch and/or fishing effort limits as well as the conditions associated to those limits **for the first year of fishing under the plan. For the following years, catch and/or fishing effort limits shall be decided by the Commission in accordance with Article 31 (2), in accordance with the harvesting rules set out in the multi-annual management plan.**

1. The Council, **through the procedure laid down in Article 37(2) of the Treaty**, shall decide on catch and/or fishing effort limits as well as the conditions associated to those limits.

Justification

See justification to amendment 36.

Amendment 36 Article 6, paragraph 2

2. For stocks not subject to a multi-annual management plan the Council, acting by qualified majority on a proposal from the Commission, shall decide on catch and/or fishing effort limits as well as the conditions associated to those limits.

Deleted

Justification

The speed of stock recovery is the main parameter for the sustainability of fishing activity. Consequently, it cannot be concluded that the definition of such limits is no more than an implementing power, nor that having them set by the Commission would comply with Articles 37, 202 and 211 of the EC Treaty. Inflexibility arising from management by means of multiple instruments should be avoided. In order to avoid the problems resulting from catch limits, they should be replaced by a system based on fishing effort limits. (Joint justification for amendments 35 and 36).

Amendment 37 Article 7, paragraph 1

1. In the event of a serious threat to the conservation of living aquatic resources, or to the ecosystem resulting from fishing activities, which requires immediate action, the Commission, at the substantiated request of a Member State or on ***its own initiative***, may decide on emergency measures which shall last not more than ***one year***.

1. In the event of a serious threat to the conservation of living aquatic resources, or to the ecosystem resulting from fishing activities, which requires immediate action, the Commission, at the substantiated request of a Member State or on ***the recommendation of the Committee established under Article 34 or of the scientific committees of regional fisheries organisations***, may decide on emergency measures which shall last not more than ***six months***.

Justification

A six-month period is more than sufficient and will allow the adoption of longer-term measures through the usual procedure, respecting the powers laid down in the Treaties.

Amendment 38 Article 7, paragraph 2

2. The Member State shall communicate the request referred to in paragraph 1 at the same time to the Commission and to the Member States ***as well as to the Regional Advisory Councils concerned***, which may submit their written comments to the Commission within five working days of their receipt of the request.

The Commission shall take a decision on the matter at any time within 15 working days of its receipt of the substantiated request.

2. The Member State shall communicate the request referred to in paragraph 1 at the same time to the Commission and to the Member States, which may submit their written comments to the Commission within five working days of their receipt of the request.

The Commission shall take a decision on the matter at any time within 15 working days of its receipt of the substantiated request.

Justification

It is not appropriate to place the regional advisory councils on the same footing as the Member States. Commission decisions must be adopted on the basis of objective criteria and by means of a transparent and non-discriminatory procedure. It is hard to see through what democratic procedure the regional advisory councils could possibly adopt declarations within a time limit of five days.

Amendment 39 Article 10, paragraph 1

1. Member States shall put in place measures to reduce the fishing capacity of their fleets in order to achieve a stable and enduring balance between such fishing capacity and Community fishing opportunities and taking into account the measures adopted pursuant to Article 6.

1. Member States shall put in place, ***inter alia***, measures to reduce the fishing capacity of their fleets in order to achieve a stable and enduring balance between such fishing capacity and Community fishing opportunities and taking into account the measures adopted pursuant to Article 6.

Justification

In addition to measures to reduce fleet capacities, the conservation of stocks calls for the introduction of other instruments, such as TACs and quotas and appropriate technical measures.

Amendment 40 Article 10, paragraph 2

2. Member States shall ensure that the reference levels for fishing capacity referred to in Article 11 and paragraph 4 of this Article are not exceeded.

2. Member States shall ensure that the reference levels for fishing capacity referred to in Article 11 and paragraph 4 of this Article are not exceeded, ***whilst taking account of the economic and social impact of such an instrument.***

Justification

Due account must always be taken of the impact of the proposed measures. Overly rigid application of the system would jeopardise fishing activity.

Amendment 41 Article 11, paragraph 1

1. The Commission shall establish for each Member State reference levels for the total fishing capacity of the Community fishing vessels flying the flag of that Member State in accordance with the provisions of Article 31 (2).

The reference levels shall be the sum of the objectives of the Multiannual Guidance Programme 1997-2002 (hereinafter "MAGP IV") for each segment as fixed for 31 December 2002 pursuant to Council Decision 97/413/EC.

1. The Commission shall establish for each Member State reference levels for the total fishing capacity of the Community fishing vessels flying the flag of that Member State in accordance with the provisions of Article 31 (2).

The reference levels shall be the sum of the objectives of the Multiannual Guidance Programme 1997-2002 (hereinafter "MAGP IV") for each segment as fixed for 31 December 2002 pursuant to Council Decision 97/413/EC. ***These levels shall be revised periodically to incorporate changes due to technological improvements to fishing efficiency.***

Amendment 42
Article 12

In order to prevent any overall increase in fishing capacity Member States shall manage entries into the fleet and exits from the fleet in such a way that, *at any time, the total fishing capacity of entries into the fleet shall not exceed the total fishing capacity of exits from the fleet.*

In order to prevent any overall increase in fishing capacity Member States shall manage entries into the fleet and exits from the fleet in such a way that *the reference levels are not exceeded.*

Justification

If the intention is to regulate fishing capacity, the relevant parameters should be used. Developments in the number of fishing vessels need not coincide with developments in fishing capacity.

Amendment 43
Article 15, paragraph 2

2. Each Member State shall make available to the Commission the minimum information referred to in paragraph 1.

2. Each Member State shall make available to the Commission the minimum information referred to in paragraph 1, *which the Commission shall have the right to verify by inspection or other means.*

Amendment 44
Article 15, paragraph 3

3. The Commission shall set up *a* Community fishing fleet register containing the information that it receives under paragraph 2 and shall make it available to *Member States.*

3. The Commission shall set up *an electronic* Community fishing fleet register containing the information that it receives under paragraph 2 and shall make it available to *the public.*

Justification

Date relating to fishing fleets should be made publicly available in order to address the notoriously opaque nature of this information. The most effective medium to do so is electronically.

Amendment 45
Article 17, paragraph 1

1. Community fishing vessels shall have equal access to waters and resources in ***all*** Community waters other than those referred to in ***paragraph 2***, subject to the measures adopted under Chapter II.

1. Community fishing vessels shall have equal access to waters and resources in Community waters other than those referred to in ***paragraphs 2 and 3 below and Articles 18 and 19***, subject to the measures adopted under Chapter II.

Justification

The zone of restricted access to resources should be extended to 50 nautical miles in the case of the outermost regions, taking account of the specific problems they face.

Amendment 46
Article 17, paragraph 2

2. Member States shall be authorised to restrict fishing in ***the*** waters up to 12 nautical miles from baselines under their sovereignty or jurisdiction to fishing vessels that traditionally fish in those waters from ports on the adjacent coast, without prejudice to the arrangements for Community fishing vessels flying the flag of other Member States under existing neighbourhood relations between Member States and the arrangements contained in Annex I, fixing for each Member State the geographical zones within the coastal bands of other Member States where fishing activities are pursued and the species

2. Member States shall be authorised to restrict fishing in ***territorial*** waters up to 12 nautical miles from baselines under their sovereignty or jurisdiction to fishing vessels that traditionally fish in those waters from ports on the adjacent coast, without prejudice to the arrangements for Community fishing vessels flying the flag of other Member States under existing neighbourhood relations between Member States and the arrangements contained in Annex I, fixing for each Member State the geographical zones within the coastal bands of other Member States where fishing activities are pursued and the species

concerned.

concerned.

Amendment 47
Article 17, paragraph 2 a (new)

2a. The zone defined in paragraph 2 shall be extended to 50 nautical miles in the case of the outermost regions.

Justification

The zone of restricted access to resources should be extended to 50 nautical miles in the case of the outermost regions, taking account of the specific problems they face.

Amendment 48
Article 18, paragraph 1

1. In the region defined in Annex II, fishing activity by Community fishing vessels of a length between the perpendiculars of not less than 26 metres, for demersal species other than Norway pout and blue whiting, shall be governed by a system of prior authorisation in accordance with the conditions laid down in this Regulation and, in particular, in Annex II.

1. In the region defined in Annex II, ***for species of special importance in that region which are biologically sensitive by reason of their exploitation characteristics***, fishing activity by Community fishing vessels of a length between the perpendiculars of not less than 26 metres, for demersal species other than Norway pout and blue whiting, shall be governed by a system of prior authorisation in accordance with the conditions laid down in this Regulation and, in particular, in Annex II.

Justification

This inserted phrase was included in the relevant articles of Regulation (EEC) No 170/83 and Regulation (EEC) No 3760/92, the previous CFP regulations relating to the Shetland Box. The justifications for the retention of the Shetland Box remain the same and accordingly the inserted phrase should be included in the new regulation.

Amendment 49
Article 20, paragraph 2

2. When the Community establishes new fishing opportunities the Council shall decide on the method of allocating those

2. When the Community establishes new fishing opportunities the Council shall decide on the method of allocating those opportunities, taking into account the

opportunities, taking into account the interests of each Member State.

interests of each Member State, ***with particular emphasis on those coastal areas which are heavily dependant on fisheries.***

Justification

The coastal areas dependant on fisheries, in many cases, are deprived and disadvantaged. The social and economic fabric must be protected.

Amendment 50
Article 20, paragraph 2 a (new)

2a. An environmental impact assessment shall be required prior to any decision to exploit a Community fisheries opportunity not previously exploited. Measures relating to such assessments shall be established no later than 1 July 2004. Until such measures are in force, there shall be no exploitation of Community fisheries opportunities not previously exploited. Once such measures are in force, any decision on whether and how to exploit a particular opportunity shall be based on the findings of the relevant environmental impact assessment.

Justification

With the projected increase in exploitation of so-called 'new' fisheries it is essential that there should be a provision allowing for the scientific assessment of the environmental impact of new fisheries. This should be a minimum requirement in view of serious impacts of certain recently developed fisheries such as the cetacean by-catch incurred by pair-trawling for bass, damage to seabed communities by deepwater trawling, etc. This does not preclude development of a new fishery, but will make their introduction more sensitive to the environment. This would accord with recital 7 of the Regulation on Structural Aid allowing for financial aid to small-scale coastal fisheries providing they do not damage sensitive habitats.

Amendment 51
Article 22, paragraph 2, point (a)

(a) the master shall only sell fisheries products to a registered buyer or at a

(a) ***with the exception of small-scale sales from the trawler itself,*** the master shall only

registered auction;

sell fisheries products to a registered buyer
or at a registered auction;

Justification

The marketing obligations should not cover small-scale sales from the trawler itself.

Amendment 52

Article 23, paragraph 1

1. Unless otherwise provided for in Community law, Member States shall **ensure** effective control, inspection and enforcement of the rules of the Common Fisheries Policy.

1. Unless otherwise provided for in Community law, Member States shall **cooperate in** effective control, inspection and enforcement of the rules of the Common Fisheries Policy ***within the scope of their responsibilities and shall cooperate with the Commission in areas falling within the responsibility of regional fisheries organisations.***

Justification

See justification to amendment 53.

Amendment 53

Article 23, paragraph 2

2. Member States shall control the activities carried out within the scope of the Common Fisheries Policy on their territory or in the waters subject to their sovereignty or jurisdiction. They shall also **control** access to waters and resources and fishing activities outside Community waters by Community fishing vessels flying their flag and of their nationals.

2. Member States shall control the activities carried out within the scope of the Common Fisheries Policy on their territory or in the waters subject to their sovereignty or jurisdiction. They shall also **cooperate in controlling** access to waters and resources and fishing activities outside Community waters by Community fishing vessels, ***including fish transport vessels,*** flying their flag and of their nationals.

Justification

The proposal does not take account of Community competence as regards control in waters managed by international bodies. Community inspection and control activities must be stepped up. The proposed wording would contradict Articles 26 and 27.

Amendment 54
Article 24, point (c)

(c) investigation, legal pursuit of infringements and sanctions in accordance with Article 25;

(c) investigation, legal pursuit of ***the authors of*** infringements and sanctions in accordance with Article 25;

Justification

Self-explanatory.

Amendment 55
Article 24, third paragraph

The measures taken shall be properly documented. They shall be effective, dissuasive and proportionate.

The measures taken shall be properly documented ***and shall be published without delay***. They shall be effective, dissuasive and proportionate.

Justification

It is only through greater transparency that the measures taken can be genuinely effective and dissuasive and European citizens can be given the opportunity to influence developments through informed choices.

Amendment 56
Article 25, paragraph 3

3. The sanctions arising from the proceedings referred to in paragraph 2 shall

3. The sanctions arising from the proceedings referred to in paragraph 2 shall

include, in particular, depending on the gravity of the offence:

include, in particular, depending on the gravity of the offence ***and in accordance with the relevant provisions of national law***:

Justification

Sanctions applied for serious infringements of the Common Fisheries Policy are subject to the provisions of national law.

Amendment 57
Article 25, paragraph 4

4. Without prejudice to the obligations referred to in paragraphs 1, 2 and 3, the Council shall decide on the level of sanctions to be applied by the Member States for behaviour which constitutes a serious infringement, as defined in Regulation (EC) No 1447/1999.

4. Without prejudice to the obligations referred to in paragraphs 1, 2 and 3, the Council shall decide on the level of ***minimum*** sanctions to be applied ***across the Community*** by the Member States for behaviour which constitutes a serious infringement, as defined in Regulation (EC) No 1447/1999.

Justification

Existing sanctions for serious infringements of the Common Fisheries Policy vary widely across the Community. Whilst the precise level and nature of sanctions are dependent on the provisions of national law, the application of a Community-wide regime of harmonised minimum sanctions would do much to improve the legitimacy of the policy.

Amendment 58
Article 26, paragraph 1

1. ***Without prejudice to the*** responsibilities of the Commission under the Treaty, the Commission shall evaluate and control the application of the rules of the Common Fisheries Policy by the Member States, and facilitate co-ordination and co-operation between them.

1. ***In accordance with its*** responsibilities of the Commission under the Treaty, the Commission shall evaluate and control the application of the rules of the Common Fisheries Policy by the Member States, and facilitate co-ordination and co-operation between them.

Justification

Self-explanatory.

Amendment 59 Article 26, paragraph 2

2. If the Commission finds that there are indications that rules on conservation, control, inspection or enforcement under the Common Fisheries Policy are not being complied with and that this may have a negative impact on living aquatic resources or the effective operation of the Community control and enforcement system necessitating urgent action, it shall set the Member State concerned a deadline of no less than 10 working days to demonstrate compliance and to give its comments.

2. If the Commission finds that there are indications that rules on conservation, control, inspection or enforcement under the Common Fisheries Policy are not being complied with and that this may have a negative impact on living aquatic resources, ***including habitats and populations of non-target species***, or the effective operation of the Community control and enforcement system necessitating urgent action, it shall set the Member State concerned a deadline of no less than 10 working days to demonstrate compliance and to give its comments.

Justification

The term ‘aquatic resources’ is in need of further clarification in order to avoid the risk of identifying living aquatic resources as simply resources that are available for human exploitation under the Common Fisheries Policy. These resources often take the form of neglected ecosystem components that are essential in supporting the existence of fisheries but are not directly exploitable. In addition to these components many non-target species survive in harmony with those species fishers seek to target. Although it is not essential to amend this term throughout the Regulation, it is necessary to send a clear message to the Commission that these living resources must be conserved.

Amendment 60 Article 26, paragraph 3

3. If, after the deadline referred to in paragraph 2 has expired, the Commission finds that doubts as to compliance remain, it shall suspend, in whole or in part, fishing activities or landings of catches by certain categories of vessel or in certain ports, regions or areas. The decision shall be

3. If, after the deadline referred to in paragraph 2 has expired, the Commission finds that doubts as to compliance remain, it shall suspend, in whole or in part, fishing activities or landings of catches by certain categories of vessel or in certain ports, regions or areas. The decision shall be

proportionate to the risk which non-compliance with the rules would bring for the conservation of living aquatic resources.

proportionate to the risk which non-compliance with the rules would bring for the conservation of living aquatic resources ***including habitats and populations of non-target species.***

Justification

The term 'aquatic resources' is in need of further clarification in order to avoid the risk of identifying living aquatic resources as simply resources that are available for human exploitation under the Common Fisheries Policy. These resources often take the form of neglected ecosystem components that are essential in supporting the existence of fisheries but are not directly exploitable. In addition to these components many non-target species survive in harmony with those species fishers seek to target. Although it is not essential to amend this term throughout the Regulation, it is necessary to send a clear message to the Commission that these living resources must be conserved.

Amendment 61 Article 27, paragraph 3

3. Every three years the Commission shall draw up an evaluation report on the application of the Common Fisheries Policy rules by the Member States to be submitted to the European Parliament and the Council.

3. Every three years the Commission shall draw up an evaluation report on the application of the Common Fisheries Policy rules by the Member States to be submitted to the European Parliament and the Council. ***The report shall be made available to the public without delay.***

Justification

It is only through greater transparency that the measures taken can be genuinely effective and European citizens can be given the opportunity to influence developments through informed choices.

Amendment 62 Article 28, paragraph 5

5. Inspection and surveillance reports drawn up by Community inspectors or inspectors of another Member State or

5. Inspection and surveillance reports drawn up by Community inspectors or inspectors of another Member State or

Commission inspectors shall constitute admissible evidence in administrative or judicial proceedings of any Member State. They shall have the same value for establishing facts as inspection and surveillance reports of the Member States.

Commission inspectors shall ***be published without delay and*** constitute admissible evidence in administrative or judicial proceedings of any Member State. They shall have the same value for establishing facts as inspection and surveillance reports of the Member States.

Justification

It is only through greater transparency that the measures taken can be genuinely effective and European citizens can be given the opportunity to influence developments through informed choices.

Amendment 63 Article 31

Committee for fisheries and aquaculture

1. The Commission shall be assisted by a Committee for Fisheries and Aquaculture, (hereinafter referred to as “the Committee”).
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply. ***The period referred to in Article 4 (3) of Decision 1999/468/EC shall be set at 20 working days.***
3. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply. The period provided for in Article 5(6) of Decision 1999/468/EC shall be set at 60 working days.

Committee for fisheries and aquaculture

1. The Commission shall be assisted by a Committee for Fisheries and Aquaculture, (hereinafter referred to as “the Committee”).
2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply.
3. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply. The period provided for in Article 4(3) of Decision 1999/468/EC shall be set at 60 working days.

Justification

The draftsman considers that the legislative proposal should comply with the traditional approach of the Committee on Budgets as regards Commitology. The second sentence of paragraph 2 is deleted, because it does not apply to the advisory procedure.

Amendment 64 Article 32, paragraph 1

1. Regional Advisory Councils shall be established to contribute to the achievement of the objectives of Article 2 (1) and in particular to advise the Commission on matters of fisheries management in respect of certain sea areas or fishing zones.

1. Regional Advisory Councils shall be established to contribute to the achievement of the objectives of Article 2 (1) and in particular to advise the Commission on matters of fisheries management in respect of certain sea areas or fishing zones. ***The Commission shall encourage third countries with which the Community has concluded fisheries agreements to set up regional advisory councils with equivalent responsibilities.***

Justification

The fishing activities pursued by the Community's or Member States' fishing fleets outside Community waters pursuant to fisheries agreements constitute a corresponding threat to the marine environment and fish stocks in third countries' waters. These third countries should therefore be encouraged to set up their own regional advisory councils.

Amendment 65 Article 32, paragraph 3

3. Regional Advisory Councils ***may*** be consulted by the Commission in respect of proposals for measures to be adopted on the basis of Article 37 of the Treaty that it intends to present and that relate specifically to fish stocks in the area concerned. They ***may*** also be consulted by the Commission and by the Member States in respect of other measures.

3. Regional Advisory Councils ***shall*** be consulted by the Commission in respect of proposals for measures to be adopted on the basis of Article 37 of the Treaty that it intends to present and that relate specifically to fish stocks in the area concerned. They ***shall*** also be consulted by the Commission and by the Member States in respect of other measures ***that relate to fish stocks in the area concerned. Their opinions shall be communicated directly to the Commission, Member States and the European Parliament.***

Justification

If the proposed Regional Advisory Councils are to gain the necessary legitimacy, the European institutions must be obliged to listen to their opinion on matters pertaining to the areas concerned and it is essential that a direct link is made between the Councils and each of the European institutions.

Amendment 66

Article 32, paragraph 4, point (b)

(b) inform the **Commission** or the Member **State** concerned about problems relating to the implementation of Community rules in the area they **cover** and submit recommendations and suggestions addressing such problems to the **Commission** or the Member **State** concerned;

(b) inform the **Community institutions** or the Member **States** concerned about problems relating to the implementation of Community rules in the area they **are concerned by** and submit recommendations and suggestions addressing such problems to the **Community institutions** or the Member **States** concerned;

Justification

It is not reasonable to establish subordinate relationships between the regional advisory councils and a single institution or Member State. It is inappropriate to refer to responsibilities for which there is no regulatory definition and which may contradict the provisions regarding comitology. It is unnecessary for a Council regulation to regulate matters which are to be defined in the statutes of certain associations subject to private law. If the intention is to create bodies under public law, a Council regulation would need to provide a precise definition of their composition, obligations, responsibilities, internal rules and working method.

Amendment 67

Article 34, paragraph 1

1. A Scientific, Technical and Economic Committee for Fisheries (STECF) shall be established. The STECF shall be consulted **as necessary** on matters pertaining to the conservation and management of living aquatic resources, including biological, economic, environmental, social and technical considerations.

1. A Scientific, Technical and Economic Committee for Fisheries (STECF) shall be established. The STECF shall be consulted on matters pertaining to the conservation and management of living aquatic resources, including biological, economic, environmental, social and technical considerations, **and on the conclusion of**

***fisheries agreements between the
Community and third countries.***

Justification

The fishing activities pursued by the Community's or Member States' fishing fleets outside Community waters pursuant to fisheries agreements constitute a corresponding threat to the marine environment and fish stocks in third countries' waters. Negotiations on fisheries agreements should therefore also fall within the committee's sphere of activities to ensure that the environmental implications of the agreements are duly taken into account.

Amendment 68
Article 34, paragraph 2

2. The Commission shall take into account the advice from the STECF when presenting proposals on fisheries management under this Regulation.

2. The Commission shall take into account the advice from the STECF when presenting proposals on fisheries management under this Regulation ***and when negotiating fisheries agreements with third countries on behalf of the Community.***

Justification

The fishing activities pursued by the Community's or Member States' fishing fleets outside Community waters pursuant to fisheries agreements constitute a corresponding threat to the marine environment and fish stocks in third countries' waters. The Commission should therefore take account of the committee's advice to ensure that the environmental implications of the agreements are not overlooked during negotiations.

Amendment 69
Article 35, paragraph 1

Council ***Regulations*** (EEC) No 3760/92 ***and (EEC) No 101/76 are*** hereby repealed.

Council ***Regulation*** (EEC) No 3760/92 ***is*** hereby repealed.

Justification

Council Regulation (EEC) No 101/76 lays down the basic principles of the common fisheries policy and should not be repealed.

EXPLANATORY STATEMENT

The Commission proposal is based on the principle of sustainable development and the poor state of fishery resources. The starting point is indisputable, but views may differ as to the quantification of the state of stocks. In terms of sustainable development, the sustainability of resources is guaranteed if there is no development at all. An approach based on sustainable development must seek to preserve both resources and fishing activity at an optimum level. Nevertheless, the Commission appears to have paid much less attention to fishing activities and their social and economic repercussions than to the rapid recovery of fishery resources.

This approach found a precedent in the inadequacy of the socio-economic report required under Article 14 of Council Regulation 3760/92. The argument that it has been replaced by the Green Paper is inadmissible given its very scant treatment of socio-economic issues. The inadequacy of the socio-economic report and the excessive prominence and generalisation of the issue of fisheries resources illustrate the notion of sustainable development underlying the proposal.

The basis of the proposal is that account is taken exclusively of scientific reports as regards management measures. Nevertheless, even though the shortcomings in this area are recognised, no measures are proposed to improve scientific knowledge. Moreover, the tasks of the Scientific, Technical and Economic Committee for Fisheries are to be cut back. Taking exclusive account of scientific reports as part of a theoretical approach appears to amount to an instrument which could change the interinstitutional balance.

It is not acceptable that the management of fisheries resources should rest exclusively on scientific reports. For stocks to recover rapidly, the best thing would be for fishing activity to disappear altogether. The decisions and objectives of the recovery plans cannot disregard the social and economic consequences which they may have. Recovery plans must seek a balance between the recovery or conservation of stocks and measures to limit the impact on the fishing industry. To this end, the responsibilities and tasks of the Scientific, Technical and Economic Committee for Fisheries should be strengthened.

The Commission proposal gives pride of place to the full recovery of stocks in the very short term and pays little account to the survival of the fishing industry. The need to allow fishery resources to recover is clear, but it is also necessary to ensure that, when they do recover, a fishing fleet still exists. The decisive factor here is the speed of recovery. The gradual recovery of resources would make it possible to minimise the impact on fishing activity. Rapid recovery would bring with it the loss of large numbers of jobs and a worsening in the situation as regards cohesion in regions which already face a multitude of problems. Sustainable development must relate to both fishery resources and human activity. In this sense, given that the speed of the recovery of resources will be the chief parameter in the sustainability of fishing activity, it is not possible to conclude that its definition is no more than an implementing power.

According to the Commission proposal, fishing opportunities in the multiannual management plans would be set by the Commission. However, the power to adopt new rules on fisheries

rests with the Council, and the Commission is responsible only for adopting implementing measures. This power has been exercised by the Council ever since the CFP was created. On these grounds, and given the need to take account of other factors as well as scientific ones, it is difficult to accept that the annual setting of fishing opportunities should merely be an implementing power. There are serious doubts as to whether the setting of fishing opportunities can indeed be considered to be an implementing power, and whether making the Commission responsible for setting them would be permissible under Articles 37, 202 and 211 of the EC Treaty.

The Commission proposal shows a clear tendency towards the decommunitarisation of the CFP. Articles 8 and 9 would grant the Member States powers as regards the adoption of conservation measures, which would merely need to be authorised by the Commission. Coastal states can already adopt conservation measures applicable to their nationals. If these measures are to be applied to the remaining Member States, their neutrality should be guaranteed and they should therefore be adopted by the Community through the usual procedures.

There is already a procedure for the Commission to adopt short-term emergency measures following ratification by the Council. In the absence of a prior mandate from the Council, they cannot be considered to fall under the implementing powers of the Commission, much less those of the Member States. Consequently, such measures can scarcely be considered to be consistent with the Treaties.

Article 30 of the draft regulation concerning the adoption of measures at Community level to implement international commitments entered into by the Community poses the same problem, Article 30 of the draft regulation lays down that measures adopted under international agreements to which the Community is a party and which become binding on the Community will be incorporated into Community law in accordance with the management committee procedure. There will be cases where fulfilling international commitments entered into by the Community in the field of fisheries will merely involve implementing measures which can be adopted by the Commission. In other cases, however, general regulatory provisions will have to be adopted, which fall exclusively within the Council's competence. This also gives rise to doubts as to conformity with Article 7 of the EC Treaty.

The characteristics, legal bases, responsibilities and status of the Regional Advisory Councils are not clear. The procedure to be followed for their creation by the Council is not specified, and a degree of autonomy is maintained as regards defining their objectives once they have been set up. Moreover, there are no precedents whatever and there may be clashes with the responsibilities of other committees, for which there is also no demarcation of competence. Even though they have advisory functions, these Regional Advisory Councils cannot be classed as advisory committees within the terms of Article 3 of Decision 1999/468/EC. To add to the confusion, under Article 34 of the proposal there would also be a scientific committee, which is to be granted advisory functions and which does fall under the cases listed in Article 3 of the committee decision, but whose functions and responsibilities are to be cut back by comparison with those which it has held since 1992. Furthermore, the Commission proposal seeks to place the advisory regional councils on the same footing as the Member States as regards the adoption of emergency measures.

Given the exclusive nature of community competence as regards the conservation and management of fishery resources, it is not logical to distinguish between Member States according to whether or not they have vessels in a zone in order to allow their experts or stakeholders to form part of these councils, quite apart from the fact that inconsistencies might arise given that completely different measures might be proposed in adjacent zones. The setting-up of Regional Advisory Councils is an extremely confused proposal which raises problems of conformity and compatibility with the Cosmetology Decision.

The Commission proposal addresses the delicate matter of derogations from free access to Community waters. The derogations from the general principle of free access flowing from the successive Accession Treaties were subject to a time limit, and the Council was to decide on subsequent provisions after the expiry of that period. However, the Commission proposal does not set any time limits. It is scarcely acceptable for an act of secondary law such as a Council regulation to contradict the content of the Treaty or Accession Treaties. In any event, in terms of the European Union's respect for commitments given in earlier Accession Treaties, this would not be a very edifying practice to follow in the midst of a fresh enlargement process.

The legal and institutional consequences of the proposal pose serious problems as regards consistency with the CFP's character as a common policy. The Commission proposal involves a series of legal questions, which have wide-ranging implications for the interinstitutional balance. Consequently, on 16 July 2002, Parliament's legal services were asked to deliver an opinion on these issues. Regrettably the deadlines imposed on the rapporteur by the procedure are shorter than those required by Parliament's services. The fact that the legal opinion could not be delivered in time will doubtless hinder the procedure and may detract from the quality of Parliament's report.

The Commission appears to envisage a CFP which is geared more to the short-term interests of the Member States than to fishermen. It is time that the CFP was geared towards keeping alive regions which depend on fishing, rather than making it a battlefield between States. Fishermen share common interests; they all need fishery resources to carry on their activity. It may be necessary to move away from a state approach and instead favour certain segments of the fleet or types of fishing in order to guarantee sustainable development with a maximum level of economic activity in all regions dependant on fishing in all the Member States. A change of focus is not easy, but the interests of fishermen must be put before short-term political and economic needs.

12 September 2002

OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Fisheries

on the proposal for a Council regulation on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy
(COM(2002) 185 – C5-0313/2002 – 2002/0114(CNS))

Draftsperson: Bárbara Dührkop Dührkop

PROCEDURE

The Committee on Budgets appointed Bárbara Dührkop Dührkop draftsperson at its meeting of 20 June 2002.

It considered the draft opinion at its meeting of 11 September 2002.

At the last meeting it adopted the following amendment unanimously.

The following were present for the vote: Terence Wynn, chairman; Reimer Böge, vice-chairman; Anne Elisabet Jensen, vice-chairman; Francesco Turchi, vice-chairman; Den Dover, Salvador Garriga Polledo, María Esther Herranz García, Juan Andrés Naranjo Escobar, Joaquim Píscarreta, Joan Colom i Naval, Bárbara Dührkop Dührkop, Göran Färm, Catherine Guy-Quint, Jutta D. Haug, Constanze Angela Krehl, Giovanni Pittella, Ralf Walter, Jan Mulder, Kathalijne Maria Buitenweg.

SHORT JUSTIFICATION

Council Regulation (EEC) No 3760/92 of 20 December 1992 foresees the review of the Common Fisheries Policy (CFP) in the course of 2002. The review is the more urgent as under the current CFP the state of many fish stocks has become alarming. Stock sizes and landings have declined dramatically over the last 25 years.

The fishing capacity of the Community fleets far exceeds that required harvesting the available fishery resources in a sustainable manner. Recent scientific advice suggests that the level of fishing mortality of the main Community fish stocks needs to be reduced by between one-third and one-half, in order to ensure sustainable fishing. Ineffective programmes to manage fleet capacity as well as inappropriate aid schemes have led to this over-capacity and hence to dwindling stocks.

Most of the Community fisheries sector faces economic fragility, poor financial profitability and steadily declining employment. Over the period 1990-1998, there has been a loss of 66,000 jobs in the catching sector, an overall decrease of 22%. Employment in the processing sector has declined by 14%. Current control and enforcement arrangements have been insufficient to ensure a level-playing field across the Union undermining the credibility of the policy. Stakeholders have not been sufficiently involved in policy shaping. This lack of involvement undermines support for and compliance with the conservation measures adopted. Also, there are significant gaps and weaknesses in scientific advice and information.

The Community needs a new framework which provides a basis for coherent multi-annual fisheries management measures moving away from the current practice of deciding on the management of fish stocks on annual basis and foresees a set of measures to help the adjustment of fishing capacity with a view to ensure a better balance between Member State's fishing fleets and Community fishing opportunities. Responsibilities at Community, national and local level should be clear and coherence with other Community policies ensured. Finally, a new legal basis for a Community control and enforcement system is foreseen with a view to ensure better control of and compliance with the CFP rules, backed by a system of sanctions.

In order to achieve these objectives, a number of concrete actions are proposed by the Commission:

- (1) Preparatory work leading to the establishment, by mid-2004 of a Community Joint Inspection Structure providing for pooling of national and Community means of inspection and surveillance. This action will be implemented through externalisation. Commission will present a separate proposal on this action in the course of 2002.
- (2) Progressive establishment of Regional Advisory Councils to ensure greater stakeholder involvement in the development of fisheries management at regional and local level. Community financing and subsidies will be involved in the implementation of this action.
- (3) Support for scientific work in scientific advisory bodies, reinforcement of Community structures for scientific advice, and development of scientific networks. This action

will involve Community subsidy for which the Commission also presents a separate proposal.

- (4) Community measure for scrapping fishing vessels. This emergency measure is aimed at balancing the widening gap between fleet size and available resources as quickly as possible. Therefore, additional funding for scrapping in 2003 will be proposed as well as re-programming initially of the FIFG and later of the other Structural Funds for 2004 to 2006 following the mid-term review. Therewith, sufficient financial aid will be mobilised to meet the needs of more rapid decommissioning of fishing vessels.

The concrete measures based on financial interventions through the EU budget are not laid down in this framework regulation, but will be presented in separate proposals as indicated above. However, the financial statement to the framework regulation contains already the breakdown for the budgetary needs arising from the reform proposal from 2003 on. Small amounts are foreseen for the setting up of the Joint inspection structure and Regional Advisory Councils and € 4 million will be necessary for the improvement of the scientific advice. These three actions are integrated in chapter B2-90 (Support measures for the Common Fisheries Policy). As a first assessment, your rapporteur estimates these three actions are useful elements of the CFP reform, which could be supported by Parliament. However, Parliament should have a close look at the detailed proposals which the Commission presents on each of the actions taking also into account the impact on human resources (8 permanent posts) and on other administrative expenditure such as missions and Commitology meetings. The administrative costs will amount to about € 1.2 million annually. The operational expenditure for the three actions need to be entered in the reserve in the 2003 budget as long as the corresponding legal bases are not adopted.

The fourth actions - also reflected in the table below - is more significant and requires an additional funding of € 32 million in 2003 and a reprogramming of the structural funds for 2004 to 2006. This measure is assessed in detail in the opinion presented in parallel to the present document.

Commitments (in € million to three decimal places)

Breakdown	2003	2004	2005	2006	2007	2008 and subs. Years	Total
Action 1 – Joint inspection structure (B2-902)	1,000	Autonom ous body	Autonom ous body	Autonom ous body	Autonom ous body	Autonom ous body	1,000
Action 2 – Regional Advisory Councils (B2-903)	0,400	0,500	0,600	0,700	-	-	2,200
Action 3 – Improvement of scientific advice (B2-904)	4,000	4,000	4,000	4,000	-	-	16,000
Action 4 – Fleet scrapping (title B2-2)	32,000	-	-	-	-	-	32,000
TOTAL	37,400	4,500	4,600	4,700	-	-	51,200

AMENDMENT

The Committee on Budgets calls on the Committee on Fisheries, as the committee responsible, to incorporate the following amendment in its report:

Text proposed by the Commission ¹	Amendments by Parliament
<hr/>	
Amendment 1 Article 31	
<i>Committee for fisheries and aquaculture</i>	<i>Committee for fisheries and aquaculture</i>
1. The Commission shall be assisted by a Committee for Fisheries and Aquaculture, (hereinafter referred to as “the Committee”).	1. The Commission shall be assisted by a Committee for Fisheries and Aquaculture, (hereinafter referred to as “the Committee”).
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply. <i>The period referred to in Article 4 (3) of Decision 1999/468/EC shall be set at 20 working days.</i>	2. Where reference is made to this paragraph, Articles 3 and 7 of Decision 1999/468/EC shall apply.
3. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply. The period provided for in Article 5(6) of Decision 1999/468/EC shall be set at 60 working days.	3. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply. The period provided for in Article 4(3) of Decision 1999/468/EC shall be set at 60 working days.

Justification

The draftsman considers that the legislative proposal should comply with the traditional approach of the Committee on Budgets as regards Commitology. The second sentence of paragraph 2 is deleted, because it does not apply to the advisory procedure.

¹ OJ C (not yet published).

4 October 2002

OPINION OF THE COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH AND CONSUMER POLICY

for the Committee on Fisheries

on the proposal for a Council regulation on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy

(COM (2002) 185 – C5-0313/2002 – 2002/0114(CNS))

Draftsman: Marit Paulsen

PROCEDURE

The Committee on the Environment, Public Health and Consumer Policy appointed Marit Paulsen draftsman at its meeting of 17 June 2002.

It considered the draft opinion at its meetings of 11 September 2002 and 3 October 2002.

At the last meeting it adopted the following amendments unanimously.

The following were present for the vote: Mauro Nobilia, acting chairman; Alexander de Roo, vice-chairman; Anneli Hulthén, vice-chairman; Marit Paulsen, draftsman; John Bowis, Jillian Evans (for Hiltrud Breyer), Paul A.A.J.G. Lannoye (for Patricia McKenna), Giuseppe Nisticò, Dagmar Roth-Behrendt, Guido Sacconi, Karin Scheele, Jonas Sjöstedt, Robert William Sturdy (for Per-Arne Arvidsson), Astrid Thors, Phillip Whitehead.

SHORT JUSTIFICATION

Without fish, no fishermen - and no fisheries policy. It is as simple as that. The situation in our seas is now such that forceful measures must be taken immediately. The Commission's proposal is a sound step in the right direction but it does not go far enough. It must be ensured, however, that its provisions are not diluted, particularly those concerning the multi-annual management plans (Article 5) and the new reference levels for fishing capacity (Article 11(2)). The Commission must be able to act as a genuine 'fisheries FBI' through its inspections under Article 27 to control the controllers. Moreover, the 'financial and human resources' to be allocated by the Member States pursuant to Article 23(3) must be sufficient in practice to carry out effective control, inspection and enforcement. There is also a need, however, for more stringent provisions in the proposal.

An end to overfishing

The greatest single threat to fish stocks and biological diversity is the overfishing of our seas. The current common fisheries policy has allowed the Member States far too much scope for circumventing EU provisions.

The Member States must take effective measures without delay to reduce their fishing capacity (amendment 10), and more detailed rules on fishing gear, minimum sizes, periods and closed areas must be laid down (amendment 8). The definition of the term fishing capacity should also be amended (amendment 7), since small vessels fishing in sensitive areas can also cause considerable damage. As a precautionary measure, the new regulation should also be reviewed at a much earlier stage (amendment 21).

Greater focus on environmental aspects

According to the Commission, the purpose of the common fisheries policy is to provide 'sustainable environmental, economic and social conditions.' It would be appropriate for this valid objective to be reflected in the regulation by way of a (supplementary) reference to the EU Treaty rules concerning the environment (amendments 1 and 17). The environmental implications of the decisions taken must always be taken into account (amendment 11), together with the international principles and guidelines adopted in this field (amendment 5).

The Community's fisheries agreements with third countries

The fishing activities pursued by the Community's or Member States' fishing fleets outside Community waters pursuant to fisheries agreements constitute a threat to the marine environment and fish stocks in third countries' waters. It would therefore be appropriate if the aims, objectives and measures set out in the regulation, together with its rules on compensation and damages (amendments 2, 4, 12, 13, 18, 19 and 20) also applied to those countries.

Transparency and scrutiny empower the people

Finally, the Commission's proposal is marked by a lack of transparency and opportunities for

scrutiny. That situation must be remedied so that the measures taken are genuinely effective and European citizens are able to influence developments by making informed choices (amendments 14, 15 and 16).

AMENDMENTS

The Committee on the Environment, Public Health and Consumer Policy calls on the Committee on Fisheries, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission ¹	Amendments by Parliament
Amendment 1 First citation	
Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,	Having regard to the Treaty establishing the European Community, and in particular Article 37 and Article 175(1) thereof,
Justification <i>According to the Commission, the purpose of the common fisheries policy is to provide 'sustainable environmental, economic and social conditions.' It would be appropriate for this valid objective to be reflected in the very first citation of the regulation by way of a supplementary reference to the environmental rules of the EU Treaty.</i>	
Amendment 2 Recital 3	
(3) The objective of the Common Fisheries Policy should therefore be to provide for sustainable exploitation of living aquatic resources and of aquaculture in the context of sustainable development, taking account	(3) The objective of the Common Fisheries Policy should therefore be to provide for sustainable exploitation of living aquatic resources and of aquaculture in the context of sustainable development, taking account of the environmental, economic and social aspects in a balanced manner; this

¹ OJ C Not yet published in OJ..

of the environmental, economic and social aspects in a balanced manner.

coherence of Community action should guarantee the development of sustainable economic activity and the maintenance of the jobs and living conditions of those working in the sector.

Justification

The protection and conservation of marine resources and the rational and responsible exploitation of such resources must constitute an essential element of fisheries management and are fundamental to the sector's vitality.

Or. it

Amendment 3
Recital 3 a (new)

(3a) The implementation plan adopted at Johannesburg within the World Summit on Sustainable Development stipulates, in the section on protecting and managing natural resources, that an ecosystemic approach to the protection of biodiversity should be applied and provides for stocks to be maintained or restored to maximum sustainable levels not later than 2015.

Justification

It is important to highlight one of the results achieved at the World Summit on Sustainable Development.

Or. it

Amendment 4
Recital 3 b (new)

(3b) The rational and responsible exploitation of marine resources on a

sustainable basis is fundamental to ensuring the vitality of the Community fishery sector.

Justification

Self-explanatory.

Amendment 5
Recital 17

(17) The Community should be able to seek reparation in the form of quota deductions from Member States when the rules of the Common Fisheries Policy have been violated resulting in losses to the common resource. Where such a quota deduction is not possible, the compensation may take the form of a quota equivalent value. Where it is established that another Member State has suffered prejudice as a result of the violation of the rules, part or all of the reparation or compensation should be allocated to that Member State.

(17) The Community should be able to seek reparation in the form of quota deductions from Member States when the rules of the Common Fisheries Policy have been violated resulting in losses to the common resource. Where such a quota deduction is not possible, the compensation may take the form of a quota equivalent value. Where it is established that another Member State ***or a third country*** has suffered prejudice as a result of the violation of the rules, part or all of the reparation or compensation should be allocated to that Member State ***or that country***.

Justification

The fishing activities pursued by the Community's or Member States' fishing fleets outside Community waters pursuant to fisheries agreements constitute a threat to the marine environment and fish stocks in third countries' waters. It would therefore be appropriate for the regulation's rules on compensation also to apply to those countries.

Amendment 6
Article 2, paragraph 1, second subparagraph

For this purpose, the Community shall apply the precautionary principle in taking measures designed to protect and conserve living aquatic resources, to provide for their sustainable exploitation and to ***minimise the impact of fishing activities*** on marine eco-systems. It shall ***aim at a progressive implementation of*** an eco-system-based approach to fisheries management. It shall aim to contribute to efficient fishing activities within an economically viable and competitive fisheries and aquaculture industry, providing a fair standard of living for those who depend on fishing activities and taking account of the interest of consumers.

For this purpose, the Community shall apply the precautionary principle in taking measures designed to protect and conserve living aquatic resources, ***and*** to provide for their sustainable exploitation ***in a way that does not have a negative*** impact on marine eco-systems ***and does not reduce biological diversity***. It shall ***immediately implement*** an eco-system-based approach to fisheries management. It shall aim to contribute to efficient fishing activities within an economically viable and competitive fisheries and aquaculture industry, providing a fair standard of living for those who depend on fishing activities and taking account of the interest of consumers.

Justification

Rewording to bring it more into line with the substance and sense of the definition of 'sustainable exploitation' in Article 3(d).

Amendment 7
Article 2, paragraph 1a (new)

1a. The same objectives, aims and measures shall apply to fishing activities pursued under the Community's fisheries agreements with third countries.

Justification

The fishing activities pursued by the Community's or Member States' fishing fleets outside Community waters pursuant to fisheries agreements constitute a threat to the marine environment and fish stocks in third countries' waters. The objectives, aims and measures of the regulation should therefore also apply expressly to such fishing activities.

Amendment 8

Article 2, paragraph 2, point (da) (new)

(da) observance of international principles and guidelines for sustainable fisheries management.

Justification

The common fisheries policy should logically also be governed by the international principles and guidelines adopted in the sector, such as the Lysekil guidelines for the application of the precautionary principle (1995) and the Bergen Declaration on coordination of environmental and fisheries policies (1997).

Amendment 9

Article 3, point (j)

(j) 'precautionary approach to fisheries management' means management action based on the principle that ***absence of adequate scientific information should not be used as a reason for postponing or failing to take*** measures to conserve target species, associated or dependent species and non-target species and their environment.

(j) 'precautionary approach to fisheries management' means management action based on the principle that measures to conserve target species, ***including their genetic diversity***, associated or dependent species and non-target species and their environment ***may be taken despite the absence of adequate scientific information if there are grounds for***

suspecting that those species are under threat.

Justification

Article 3(j) should include protection for intra-species variation (genetic diversity) as all species are dependent on such variation for their long-term survival.

Amendment 10
Article 3, point (m)

(m) ‘fishing capacity’ means a vessel’s tonnage in GT and its power in kW, as defined in Council Regulation (EC) N° 2930/86. ***For certain types of fishing activity, capacity may be defined in terms of the amount and/or the size of a vessel’s fishing gear;***

(m) ‘fishing capacity’ means ***the amount and/or the size of a vessel’s fishing gear having regard to the vessel’s*** tonnage in GT and its power in kW, as defined in Council Regulation (EC) N° 2930/86.

Justification

Small vessels fishing in sensitive areas can also cause considerable damage. The type of fishing activity and fishing gear should therefore be the principal determining factors, not simply the vessel's size.

Amendment 11
Article 8, paragraph 1

1. In the event of a serious ***and unforeseen*** threat to the conservation of resources, or to the ecosystem resulting from fishing activities, in waters falling under its sovereignty or jurisdiction ***where any undue delay would result in damage that***

1. In the event of a serious threat to the conservation of resources, or to the ecosystem resulting from fishing activities, in waters falling under its sovereignty or jurisdiction, a Member State may take emergency measures the duration of which

would be difficult to repair, a Member State may take emergency measures the duration of which shall not exceed three months.

shall not exceed three months.

Justification

As a precautionary measure and with due regard for subsidiarity, the same principles should apply to the Member States' emergency measures as to those taken by the Commission (see Article 7(1)).

Amendment 12 Article 10, paragraph 1

1. Member States shall put in place measures to reduce the fishing capacity of their fleets in order to achieve a stable and enduring balance between such fishing capacity and Community fishing opportunities and taking into account the measures adopted pursuant to Article 6.

1. Member States shall ***without delay*** put in place ***effective*** measures to reduce the fishing capacity of their fleets in order to achieve a stable and enduring balance between such fishing capacity and Community fishing opportunities and taking into account the measures adopted pursuant to Article 6

Justification

Self-explanatory.

Amendment 13 Article 20, paragraph 2

2. When the Community establishes new fishing opportunities the Council shall decide on the method of allocating those opportunities, taking into account the

2. When the Community establishes new fishing opportunities the Council shall decide on the method of allocating those opportunities, taking into account the

interests of each Member State.

interests of each Member State ***and the implications of the decision for the marine environment.***

Justification

Self-explanatory.

Amendment 14
Article 23, paragraph 4, first subparagraph

4. Any loss to the common living aquatic resources resulting from a violation of the rules of the Common Fisheries Policy attributable to any activity or omission by the Member State shall be made good by the Member State. The reparation shall take the form of a deduction in the quota allocated to the Member State. This deduction may be made during the year in which the prejudice occurred or in the succeeding year or years. If a quota deduction is not possible, the Commission shall establish the quota equivalent value as compensation by the Member State.

4. Any loss to the common living aquatic resources resulting from a violation of the rules of the Common Fisheries Policy attributable to any activity or omission by the Member State shall be made good by the Member State. The reparation shall take the form of a deduction in the quota allocated to the Member State. This deduction may be made during the year in which the prejudice occurred or in the succeeding year or years. If a quota deduction is not possible ***or the prejudice has been suffered by a third country***, the Commission shall establish the quota equivalent value as compensation by the Member State ***to the Member State or third country affected.***

Justification

The fishing activities pursued by the Community's or Member States' fishing fleets outside Community waters pursuant to fisheries agreements constitute a threat to the marine environment and fish stocks in third countries' waters. It would therefore be appropriate for the regulation's rules on compensation also to apply to those countries (see amendment 2 above).

Amendment 15
Article 23, paragraph 4, third subparagraph

If no specific Member State has suffered prejudice, the quota equivalent value shall be an assigned revenue of the Community under Article 4 of the Financial Regulation¹, to be used for the strengthening of control and enforcement measures in the Common Fisheries Policy.

If no specific Member State ***or third country*** has suffered prejudice, the quota equivalent value shall be an assigned revenue of the Community under Article 4 of the Financial Regulation², to be used for the strengthening of control and enforcement measures in the Common Fisheries Policy.

Justification

See justification for amendment 12 above.

Amendment 16
Article 24, third paragraph

The measures taken shall be properly documented. They shall be effective, dissuasive and proportionate.

The measures taken shall be properly documented ***and shall be published without delay***. They shall be effective, dissuasive and proportionate.

Justification

It is only through greater transparency that the measures taken can be genuinely effective and dissuasive and European citizens can be given the opportunity to influence developments through informed choices.

¹ Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities, as amended, OJ L 356, 31.12.1977, p. 1

² Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities, as amended, OJ L 356, 31.12.1977, p. 1

Amendment 17
Article 27, paragraph 3

3. Every three years the Commission shall draw up an evaluation report on the application of the Common Fisheries Policy rules by the Member States to be submitted to the European Parliament and the Council.

3. Every three years the Commission shall draw up an evaluation report on the application of the Common Fisheries Policy rules by the Member States to be submitted to the European Parliament and the Council. ***The report shall be made available to the public without delay.***

Justification

It is only through greater transparency that the measures taken can be genuinely effective and European citizens can be given the opportunity to influence developments through informed choices.

Amendment 18
Article 28, paragraph 5

5. Inspection and surveillance reports drawn up by Community inspectors or inspectors of another Member State or Commission inspectors shall constitute admissible evidence in administrative or judicial proceedings of any Member State. They shall have the same value for establishing facts as inspection and surveillance reports of the Member States.

5. Inspection and surveillance reports drawn up by Community inspectors or inspectors of another Member State or Commission inspectors shall ***be published without delay and*** constitute admissible evidence in administrative or judicial proceedings of any Member State. They shall have the same value for establishing facts as inspection and surveillance reports of the Member States.

Justification

It is only through greater transparency that the measures taken can be genuinely effective and European citizens can be given the opportunity to influence developments through informed choices.

Amendment 19
Article 29

Except where otherwise provided for in this regulation, the Council shall act in accordance with the procedure laid down in Article 37 of the Treaty.

Except where otherwise provided for in this regulation, the Council shall act in accordance with the procedure laid down in Article **175(1)** of the Treaty.

Justification

According to the Commission, the purpose of the common fisheries policy is to provide 'sustainable environmental, economic and social conditions.' In the light of this statement, the Council should principally act in accordance with the procedure laid down in the section of the EU Treaty concerning the environment.

Amendment 20
Article 32(1)

1. Regional Advisory Councils shall be established to contribute to the achievement of the objectives of Article 2 (1) and in particular to advise the Commission on matters of fisheries management in respect of certain sea areas or fishing zones.

1. Regional Advisory Councils shall be established to contribute to the achievement of the objectives of Article 2 (1) and in particular to advise the Commission on matters of fisheries management in respect of certain sea areas or fishing zones. ***The Commission shall encourage third countries with which the Community has concluded fisheries***

agreements to set up regional advisory councils with equivalent responsibilities.

Justification

The fishing activities pursued by the Community's or Member States' fishing fleets outside Community waters pursuant to fisheries agreements constitute a corresponding threat to the marine environment and fish stocks in third countries' waters. These third countries should therefore be encouraged to set up their own regional advisory councils.

Amendment 21
Article 34(1)

1. A Scientific, Technical and Economic Committee for Fisheries (STECF) shall be established. The STECF shall be consulted ***as necessary*** on matters pertaining to the conservation and management of living aquatic resources, including biological, economic, environmental, social and technical considerations.

1. A Scientific, Technical and Economic Committee for Fisheries (STECF) shall be established. The STECF shall be consulted on matters pertaining to the conservation and management of living aquatic resources, including biological, economic, environmental, social and technical considerations, ***and on the conclusion of fisheries agreements between the Community and third countries.***

Justification

The fishing activities pursued by the Community's or Member States' fishing fleets outside Community waters pursuant to fisheries agreements constitute a corresponding threat to the marine environment and fish stocks in third countries' waters. Negotiations on fisheries agreements should therefore also fall within the committee's sphere of activities to ensure that the environmental implications of the agreements are duly taken into account.

Amendment 22
Article 34(2)

2. The Commission shall take into account the advice from the STECF when presenting proposals on fisheries management under this Regulation.

2. The Commission shall take into account the advice from the STECF when presenting proposals on fisheries management under this Regulation ***and when negotiating fisheries agreements with third countries on behalf of the Community.***

Justification

The fishing activities pursued by the Community's or Member States' fishing fleets outside Community waters pursuant to fisheries agreements constitute a corresponding threat to the marine environment and fish stocks in third countries' waters. The Commission should therefore take account of the committee's advice to ensure that the environmental implications of the agreements are not overlooked during negotiations.

Amendment 23
Article 36

The provisions of chapters II and III shall be reviewed before the end of the year ***2008***

The provisions of chapters II and III shall be reviewed before the end of the year ***2006.***

Justification

The acutely serious situation in our seas makes it impossible to wait until 2008 to carry out a review of the provisions.

EUROPEAN PARLIAMENT

1999



2004

*Committee on Legal Affairs and the Internal Market
The Chairman*

Mr Struan Stevenson
Chairman
Committee on Fisheries
BRUSSELS

Subject: Legal basis of the proposal for a Council regulation on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy
COM(2002) 185 - 2002/0114(CNS), 9361/2002 - C5-0313/2002

Dear Mr Stevenson,

By letter of 4 September 2002 you asked the Committee on Legal Affairs and the Internal Market to verify the legal basis for the above proposal.

In accordance with the procedure laid down in Rule 63 of the Rules of Procedure, the Committee on Legal Affairs was asked for its opinion on the legal situation ensuing from the adoption by the Committee on the Environment of an amendment relating to the legal basis of the proposal for a Council regulation on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy, which has been referred to the Committee on Fisheries as the committee responsible.

On a proposal from its draftsman, the Committee on the Environment, which had been asked for its opinion, decided at its meeting of 3 October 2002 to adopt Article 175 of the EC Treaty as the legal basis for the above regulation alongside Article 37 of the EC Treaty, which the Council takes as its basis.

The Committee on the Environment takes the view that, if the goal of the common fisheries policy is indeed to create the conditions for sustainable environmental, economic and social development, this objective should be strengthened by means of an additional reference to the rules laid down by the Treaty in the field of the environment.

Apart from this consideration, the vote by the Committee on the Environment raises a

procedural problem in that Article 175 of the EC Treaty requires the codecision procedure, whilst Article 37 merely requires Parliament to be consulted.

There are therefore two questions which need to be answered:

- Can Articles 37 and 175 of the EC Treaty be adopted as the joint legal basis for the proposal for a regulation, as the Committee on the Environment proposes?
- If not, which of the two articles constitutes the appropriate legal basis?

The reply to the first question is conditioned by the fact that the two articles of the Treaty involve two different and incompatible procedures.

The Court of Justice clearly established its case-law in its judgment of 11 June 1991 (Commission v Council), when it ruled that a cumulation of legal bases would divest one or other of the corresponding procedures of its very substance. This solution makes good sense.

Given that using both of the legal bases adopted by the Committee on the Environment must therefore be ruled out, it is necessary to consider whether Article 37, as chosen by the Council, is indeed the appropriate legal basis for the proposal for a regulation.

It is settled case-law that 'the legal basis on which an act must be adopted should be determined according to its main object', and that this choice must be based 'on objective factors which are amenable to judicial review'. Those factors include in particular the aim and the content of the measure (see, in particular, the judgment of 23 February 1999 in Case C-42/97 *Parliament v Council*, paragraph 36 and the judgment of 9 October 2001 in Case C-377/98 *Netherlands v Parliament and Council*, paragraphs 27 and 28).

In the present case, the proposal for a Council regulation on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy provides for:

- measures to ensure responsible and sustainable fishing and aquaculture activities that contribute to healthy marine ecosystems;
- an economically viable and competitive fisheries and aquaculture industry which will benefit the consumer;
- a fair standard of living for those who depend on fishing activities.

The communication announces that the new common fisheries policy must be aimed at guaranteeing coherence with other Community policies, in particular environment and development policies, through a cross-sectoral approach.

Article 37 of the EC Treaty, which concerns agricultural policy, must be read in conjunction with Article 32, paragraph 1 of which specifies that 'agricultural products' means the products of the soil, of stockfarming and of fisheries and products of first-stage processing directly related to these products.

Article 32(4) adds that the operation and development of the common market for agricultural products must be accompanied by the establishment of a common policy.

In the light of these texts, the Court of Justice has ruled that Article 37 is the appropriate legal basis for any legislation concerning the production and marketing of agricultural products listed in Annex II to the Treaty which contributes to the achievement of one or more of the objectives of the common agricultural policy set out in Article 33 of the Treaty (see in particular the judgment of 23 February 1988 in Case C-68/86 *United Kingdom v Council* and the judgment of 23 February 1998 in Case C-131/86 *United Kingdom v Council*).

According to the case-law of the Court, the articles of the Treaty intended to confer powers on the Community to undertake specific action on environmental matters (Article 130r EC, now Article 174 EC) 'leave intact the powers held by the Community under other provisions of the Treaty, even if the measures to be taken under the latter provisions pursue at the same time any of the objectives of environmental protection' (judgment of 23 March 1990 *Hellenic Republic v Council*, paragraph 19, and the very recent judgment of 19 September 2002 *Republic of Austria v Martin Huber*, paragraph 33).

Furthermore, Article 6 of the Treaty provides that environmental protection requirements are to be a component of the Community's other policies, so that a Community measure cannot be part of Community action on environmental matters merely because it takes account of those requirements.

It thus follows from the texts and the settled case-law of the Court of Justice that Article 37 is the appropriate legal basis for the Council Regulation on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy.

On 8 October, in the light of the above considerations and the case-law of the Court of Justice of the European Communities, the Committee on Legal Affairs and the Internal Market decided that the proposal for a regulation must be based on Article 37 of the EC Treaty¹.

Yours sincerely,

(sgd) Giuseppe Gargani

¹ The following were present for the vote: Giuseppe Gargani, chairman; Willi Rothley and Ioannis Koukiadis, vice-chairmen; Paolo Bartolozzi, Luis Berenguer Fuster, Maria Berger, Ward Beysen, Michel J.M. Dary, Bert Doorn, Enrico Ferri, Janelly Fourtou, Marie-Françoise Garaud, Fiorella Ghilardotti, José María Gil-Robles Gil-Delgado, Neil McCormick, Toine Manders, Arlene McCarthy, Manuel Medina Ortega, Anne-Marie Schaffner, Francesco Enrico Speroni, Diana Wallis, Joachim Wuermeling and François Zimeray.