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REPORT

on the proposal for a Council regulation adapting the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in Council instruments adopted in accordance with the consultation procedure (qualified majority)
(COM(2001) 789 – C5-0091/2002 – 2001/0315(CNS))

Committee on Constitutional Affairs

Rapporteur: Monica Frassoni

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.

CONTENTS

	Page
PROCEDURAL PAGE	4
DRAFT LEGISLATIVE RESOLUTION.....	5
EXPLANATORY STATEMENT	6
OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS	9
OPINION OF THE COMMITTEE ON LEGAL AFFAIRS AND THE INTERNAL MARKET	14
OPINION OF THE COMMITTEE ON FISHERIES	16

PROCEDURAL PAGE

By letter of 26 February 2002 the Commission consulted Parliament, pursuant to Articles 36, 37 and 133 of the EC Treaty, on the proposal for a Council regulation adapting the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in Council instruments adopted in accordance with the consultation procedure (qualified majority) (COM(2001) 789 - 2001/0315(CNS)).

At the sitting of 11 March 2002 the President of Parliament announced that he had referred this proposal to the Committee on Constitutional Affairs as the committee responsible and all the committees concerned for their opinions (C5-0091/2002).

At its meeting of 26 March 2002 the Committee on Constitutional Affairs appointed Monica Frassoni rapporteur.

It considered the Commission proposal and the draft report at its meetings of 11 November 2002 and 17 February 2003.

At the latter meeting it adopted the draft legislative resolution unopposed, with 2 abstentions.

The following were present for the vote: Giorgio Napolitano, chairman; Jo Leinen, Ursula Schleicher and William Abitbol, vice-chairmen; Monica Frassoni, rapporteur; Enrique Barón Crespo, Georges Berthu, Jens-Peter Bonde, Jean-Louis Bourlanges, Richard Corbett, Armando Cossutta, Jean-Maurice Dehousse, Giorgos Dimitrakopoulos, Lone Dybkjær, Gerhard Hager, Sylvia-Yvonne Kaufmann, Hans-Peter Martin, Hans-Peter Mayer (for Teresa Almeida Garrett, pursuant to Article 153(2)), Iñigo Méndez de Vigo, Jacques F. Poos (for Carlos Carnero González), Reinhard Rack (for Luigi Ciriaco De Mita), Dimitris Tsatsos and Paavo Väyrynen (for Paolo Costa).

The opinions of the Committee on Economic and Monetary Affairs, the Committee on Legal Affairs and the Internal Market and the Committee on Fisheries are attached.

The report was tabled on 19 February 2003.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council regulation adapting the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in Council instruments adopted in accordance with the consultation procedure (qualified majority) (COM(2001) 789 – C5-0091/2002 – 2001/0315(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2001) 789¹),
 - having regard to Articles 36, 37 and 133 of the EC Treaty, pursuant to which it was consulted by the Council (C5-0091/2002),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Constitutional Affairs and the opinions of the Committee on Economic and Monetary Affairs and the Committee on Legal Affairs and the Internal Market and Committee on Fisheries (A5-0031/2003),
1. Approves the Commission proposal;
 2. Calls on the Council to notify Parliament should it intend to depart from the text approved by Parliament;
 3. Asks to be consulted again should the Council intend to make substantial changes to the Commission proposal;
 4. Instructs its President to forward this opinion to the Council and Commission.

¹ OJ C 75 E, 26.3.2002, p. 425.

EXPLANATORY STATEMENT

1. Council Decision 1999/468/EC¹ of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ('comitology' decision) replaced Decision 87/373/EEC² of 13 July 1987 on the same subject. The Council and Commission Declaration No 2³ accompanying Decision 1999/468/EC sets out how and on what basis the committee procedures are to be adapted: the current *procedure I* would be turned into the new *advisory procedure*; the current *procedures II(a) and II(b)* would be turned into the new *management procedure*; the current *procedures III(a) and III(b)* would be turned into the new *regulatory procedure*. The declaration stipulates, further, that the provisions relating to the committees assisting the Commission in the exercise of implementing powers provided for in application of the former comitology decision should be adjusted without delay in order to align them with the new provisions.

With a view to carrying out that adjustment, the Commission has submitted four proposals for Council regulations seeking to replace the provisions relating to the instruments in force which provide for referrals to the various committees. These four proposals have been drawn up in accordance with the type of procedure to be employed to adopt the amended basic acts providing for the implementation of the various committee procedures. The annex to each of the proposals for a regulation sets out a list of the instruments to be modified.

These proposals are highly technical and, as the explanatory memorandum to each proposal makes clear, the proposed regulations do not affect either the substantive provisions of the amended legislative acts or their application.

2. Despite some grounds for dissatisfaction, Parliament took the view that the new 'comitology' decision represented a step forward and ratified it by means of its resolution of 17 February 2000⁴ in which it accepted the interinstitutional agreement between Parliament and the Commission on procedures for implementing the new 'comitology' decision. In that resolution, Parliament also endorsed the above-mentioned Declaration No 2, taking the view that 'all the "committees" which existed before the Decision of 28 June 1999 should be modified in accordance with the new procedures'.

Parliament has thus given its agreement in principle to the adjustment of the committee procedures which the Commission is now proposing to put into practice. Nevertheless, the proposals will be scrutinised closely in order to check that they do no more than adjust the committee procedures and that they do so correctly. With that aim in view, all the competent parliamentary committees in each area concerned by the proposals have been asked for their opinions. Only the Committee on Fisheries, the Committee on Legal Affairs and the Internal Market and the Committee on

¹ OJ L 184, 17.7.1999, p. 23.

² OJ L 197, 18.7.1987, p. 33.

³ OJ C 203, 17.7.1999, p. 1.

⁴ OJ C 339, 29.11.2000, p. 269.

Economic and Monetary Affairs have delivered opinions, all of which advocate the adoption of the proposals.

Moreover, the Committee on Economic and Monetary Affairs alone has tabled amendments in its two opinions. Those amendments seek to ensure that in future the committee procedures will be more transparent. Without calling into question the relevance of those amendments, this is not the time and place to revive that debate, given that the proposals under consideration merely adjust the committee procedures in the light of the existing rules.

The Committee on Constitutional Affairs thus takes the view that the plenary should be urged to adopt the four proposals for regulations.

3. It should be emphasised, however, that adoption of the proposals would in no way imply that Parliament has given up its efforts to gain acceptance for its outstanding policy calls concerning comitology. Parliament must continue to fight to eliminate the distortions in the current system, defending the key concerns reflected in its standpoint.

In particular, Parliament wishes to see the legislative procedure and its prerogatives as co-legislator observed to the full, so as to ensure that no legislative act is adopted outside the codecision procedure under the pretext that it is an implementing measure (this signifies, in particular, that Parliament regards it as unacceptable that implementing measures should amend, update or supplement the basic elements of legislative acts). In addition, it wishes to safeguard the institutional balance by guaranteeing effective parity between Parliament and the Council as regards both the form in which implementing powers are delegated to the Commission and scrutiny of the provisions adopted by the Commission with a view to implementing legislative acts adopted under the codecision procedure.

This should in no way be taken to mean that Parliament wishes to appropriate implementing powers for itself. The aim is rather to establish a system which enables it to exercise proper scrutiny and, where necessary, to challenge an implementing measure with which it is not in agreement if that measure relates to an act adopted under the codecision procedure. That procedure should lay down a deadline by which Parliament might express its opposition to the implementing measure in question. The Commission would then be required to withdraw/amend the proposal for an implementing measure or to submit a legislative proposal (as it would should the Council express its opposition in the same way).

It should be borne in mind, moreover, that during the discussions concerning the financial markets Parliament also called for the bestowal on the co-legislators, Parliament and the Council, of the right to revise the scope of the delegation granted to the Commission by restricting its period of validity through the incorporation in the basic legislative acts of a clause suspending the delegation.

In keeping with that philosophy, Parliament has consistently called for the abolition of the procedure involving the regulatory committees and is in principle also opposed to the management committees, since these two types of procedure give the Council the power to block Commission decisions, a power not enjoyed by Parliament. In fundamental terms, Parliament would like to see provision made only for advisory committees.

Moreover, Parliament has always argued that a clearer definition in the basic legislative act of the nature of the implementing powers delegated to the Commission would help to increase the degree of independence enjoyed by the Commission, particularly vis-à-vis the Member States, in connection with the implementation of legislative acts. After all, it is incumbent on the legislator, and thus on Parliament and the Council in the case of all acts adopted under the codecision procedure, to specify, when each legislative act is adopted, the nature and scope of the powers which it intends to delegate to the executive. Proper use of that prerogative would also make it possible to draw a clearer distinction between substantive legislation and implementing provisions.

Parliament's other main concern regarding comitology is to ensure the transparency of the system, in particular by means of the forwarding to Parliament of the agendas for and summary records of committee meetings, lists of participants, draft implementing measures submitted to the committees, provisional calendars of meetings and details of the outcome of votes. All the committee documents, with the exception of confidential documents, should be accessible to the public.

Of course, the fundamental issue which must be resolved first is the amendment of Article 202 of the EC Treaty to incorporate a stipulation placing Parliament and the Council on an entirely equal footing. The procedures governing the exercise of executive responsibilities and implementing powers by the Commission should be drawn up by Parliament and the Council in accordance with the codecision procedure, and not by means of a Council decision on which Parliament is merely consulted.

However, these matters should not be raised in connection with the procedure under consideration here. Instead, they will have to be dealt with when the Commission submits new proposals on comitology or by the Convention which is preparing the forthcoming revision of the Treaties. Nevertheless, given that they will resolve all the outstanding problems relating to the implementation of the 1999 decision, the prompt adoption of the proposals under consideration here will enable Parliament to focus its efforts on these fundamental issues, thereby helping it to ensure that the European institutions operate in an effective, democratic manner.

27 August 2002

OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS

for the Committee on Constitutional Affairs

on the proposal for a regulation of the European Parliament and of the Council adapting the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in European Parliament and Council instruments adopted in accordance with the procedure laid down in Article 251 of the Treaty (COM(2001) 789 – C5-0004/2002 – 2001/0314(COD))

and on the proposal for a Council regulation adapting the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in Council instruments adopted in accordance with the consultation procedure (qualified majority) (COM(2001) 789 – C5-0091/2002 – 2001/0315(CNS))

Draftsman: Theresa Villiers

PROCEDURE

The Committee on Economic and Monetary Affairs appointed Theresa Villiers draftsman at its meeting of 19 March 2002.

It considered the draft opinion at its meetings of 4 June, 9 July and 27 August 2002.

At the last meeting it adopted the following conclusions unanimously.

The following were present for the vote: Christa Randzio-Plath, chairwoman; José Manuel García-Margallo y Marfil, Philippe A.R. Herzog and John Purvis, vice-chairmen; Theresa Villiers, draftsman; Generoso Andria, Luis Berenguer Fuster (for Pervenche Berès), Hans Blokland, Renato Brunetta, Hans Udo Bullmann, Jonathan Evans, Lisbeth Grönfeldt Bergman, Mary Honeyball, Christopher Huhne, Pierre Jonckheer (for Alain Lipietz), Othmar Karas, Giorgos Katiforis, Christoph Werner Konrad, Wilfried Kuckelkorn (for David W. Martin), Werner Langen (for Ingo Friedrich), Astrid Lulling, Helmuth Markov (for Armonia Bordes), Ioannis Patakis, Fernando Pérez Royo, Mikko Pesälä (for Karin Riis-Jørgensen), Alexander Radwan, Bernhard Rapkay, Olle Schmidt, Peter William Skinner, Charles Tannock (for Hans-Peter Mayer), Helena Torres Marques and Jaime Valdivielso de Cué (for Mónica Ridruejo).

SHORT JUSTIFICATION

Background

The two proposals for a regulation of the European Parliament and of the Council (2001/0314 co-decision) and for a Council Regulation (2001/0315 consultation/qualified majority) are part of a package of four proposals which adapt all legislative acts concerned to the reform of the comitology procedure introduced by Council Decision 1999/468/EC of 28 June 1999. The two other proposals (2001/0313 assent procedure and 2001/0316 consultation/unanimity) are the subject of a separate opinion. The Council Decision 'laying down the procedures for the exercise of implementing powers conferred' repealed Decision 87/373/EEC. Its purposes were to provide for (non-binding) criteria relating to the choice of committee procedures in order to enhance consistency and predictability, to simplify the comitology procedures and improve where required, the involvement of and in general the information to the European Parliament and the public on the committee procedures. Declaration No 2 of the Council and of the Commission which accompanies the decision and which the European Parliament endorsed in its resolution of 17 February 2000 (Agreement on Comitology) lays down that the *type I committee procedure* should be replaced by the new *advisory procedure*, the previous *type II(a) and II(b) committee procedures* should be replaced by the *management procedure* and the previous *III(a) and III(b) committee procedures* should be replaced by the new *regulatory procedure*. The statement furthermore stipulates that the provisions relating to committees assisting the Commission in the exercise of its implementing powers provided for in the 'old comitology decision' should be adjusted without *delay* to the new provisions. Consequently - three years after the relevant Council Decision- the Commission undertakes to adapt the relevant articles of all legislative acts concerned to bring them in line with these new provisions.

In the explanatory memorandum the Commission states clearly that these Regulations do 'not affect either the substantive provisions of the amended legislative acts or the application of the latter' and that 'they do not apply to the legislative acts which have already been brought into line by an act amending the basic act'.

Evaluation

Comitology has been in the focus of public attention in the context of the discussion on the Lamfalussy process (EP resolution on Financial services legislation of 5 February 2002). The involvement of the European Parliament in comitology and the transparency of the whole comitology procedures are the main topics of the debate. The Commission published a list of the committees which assist it in the exercise of implementing powers, by sector of activity in August 2000 (OJ C 225 p.2 of 8 August 2000) in compliance with Article 7(4) of Decision 1999/468/EC. This is already quite a useful source of information, but it is not sufficient to provide a clear, comprehensive and up to date overview over comitology in the EU. The elaboration of such an overview should therefore be considered a priority in this area.

The current proposals however are not the place to continue the debate; the politics of comitology should be part of the discussions at the convention. Here we are simply dealing with draft legislation that intends to adapt schematically specific provisions in existing legislative acts to the provisions adopted in 1999. It is a simple exercise of technical adjustment and should be completed as fast as possible.

As regards the legislative acts that fall within the competencies of this committee it is only almost exclusively in the first proposal (2001/0314) that we find relevant acts. Annex I (advisory procedure) of this proposal lists 26 amended instruments, dealing mainly with the approximation of laws in the fields of public health and safety, internal market issues, transport, consumer protection and training. Annex II (management procedure) lists 34 amended instruments in fields such as education, environment, trade, aid and statistics/surveys in different areas. The latter includes also relevant legislative acts on economic statistics. But the amendments of the provision are - as mentioned above - always mere technical adjustments to the new provisions and no changes in substance.

Annex III ((Regulatory procedure) contains 92 amended instruments in fields ranging from agriculture and fisheries to environmental issues, development policy, transport and energy. It is here that several legislative acts in the field of financial services are to be found:

- First Council Directive 79/267/EEC of 5 March 1979 on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct life assurance (OJ L 63 of 13.3.1979, p. 1).
- Council Directive 79/279/EEC of 5 March 1979 co-ordinating the conditions for the admission of securities to official stock exchange listing (OJ L 66 of 16.3.1979, p. 21).
- Council Directive 91/675/EEC of 19 December 1991 setting up an insurance committee (OJ L 374 of 31.12.1991, p. 32).
- Council Regulation (EC) No 448/98 of 16 February 1998 completing and amending Regulation (EC) No 2223/96 with respect to the allocation of financial intermediation services indirectly measured (FISIM) within the European system of national and regional accounts (ESA) (OJ L 58 of 27.2.1998, p. 1).

Other relevant acts in Annex III concern again statistics.

In the second proposal (2001/0315) Annex I (advisory procedure) lists 3 amended instruments, Annex II (management procedure) lists 25 instruments and Annex III (regulatory procedure) lists 50 amended instruments. None of these fall into the competence of this committee.

In conclusion your rapporteur proposes that the Committee approve the proposals in order to allow the Commission to conclude this adjustment process as soon as possible.

CONCLUSIONS

The Committee on Economic and Monetary Affairs calls on the Committee on Constitutional Affairs, as the committee responsible, to incorporate the following points in its motion for a resolution:

Proposal for a regulation of the European Parliament and of the Council adapting the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in European Parliament and Council instruments adopted in accordance with the procedure laid down in Article 251 of the Treaty (COM(2001) 789 – C5-0004/2002 – 2001/0314(COD))

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1
Recital 7 a (new)

A comprehensive overview of all committees laid down in the respective instruments which assist the Commission in the exercise of its implementing powers is necessary to guarantee the transparency of the procedure.

Justification

If the transparency of the comitology procedure is to be guaranteed, such a comprehensive overview will be essential.

Amendment 2
Article 4 a (new)

The Commission shall, not later than 31 December 2003, compile a register that shall contain particulars of all existing committees, the instrument on the basis of which each committee was set up, the procedure used and drafts of all implementing measures, and that shall be continuously updated.

Justification

If the transparency of the comitology procedure is to be guaranteed, such a comprehensive overview will be essential.

¹ OJ C 75 E, 26.3.2002, p. 385.

Proposal for a Council regulation adapting the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in Council instruments adopted in accordance with the consultation procedure (qualified majority)

(COM(2001) 789 – C5-0091/2002 – 2001/0315 (CNS))

Text proposed by the Commission¹

Amendments by Parliament

Amendment 3
Recital 4 a (new)

A comprehensive overview of all committees laid down in the respective instruments which assist the Commission in the exercise of its implementing powers is necessary to guarantee the transparency of the procedure.

Justification

If the transparency of the comitology procedure is to be guaranteed, such a comprehensive overview will be essential.

Amendment 4
Article 4 a (new)

The Commission shall, not later than 31 December 2003, compile a register that shall contain particulars of all existing committees, the instrument on the basis of which each committee was set up, the procedure used and drafts of all implementing measures, and that shall be continuously updated.

Justification

If the transparency of the comitology procedure is to be guaranteed, such a comprehensive overview will be essential.

¹ OJ C 75 E, 26.3.2002, p. 425.

11 September 2002

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS AND THE INTERNAL MARKET

for the Committee on Constitutional Affairs
on the proposal for a Council regulation adapting the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in Council instruments adopted in accordance with the consultation procedure (qualified majority) (COM(2001) 789 – C5-0091/2002 – 2001/0315 (CNS))

Draftsman: Diana Wallis

PROCEDURE

The Committee on Legal Affairs and the Internal Market appointed Diana Wallis draftsman at its meeting of 26 February 2002.

It considered the draft opinion at its meetings of 11 July and 10 September 2002.

At the latter meeting it adopted the following conclusions unanimously.

The following were present for the vote: Giuseppe Gargani, chairman; Willi Rothley, Ioannis Koukiadis and Bill Miller, vice-chairmen; Diana Wallis, draftsman; Paolo Bartolozzi, Maria Berger, Ward Beysen, Michel J.M. Dary, Enrico Ferri, Francesco Fiori (for Rainer Wieland, pursuant to Rule 153(2)), Janelly Fourtou, Marie-Françoise Garaud, Evelyne Gebhardt, Fiorella Ghilardotti, José María Gil-Robles Gil-Delgado, Malcolm Harbour, The Lord Inglewood, Hans Karlsson (for Carlos Candal), Piia-Noora Kauppi, Kurt Lechner, Klaus-Heiner Lehne, Neil MacCormick, Toine Manders, Hans-Peter Mayer, Arlene McCarthy, Manuel Medina Ortega, Pasqualina Napoletano (for François Zimeray, pursuant to Rule 153(2)), Angelika Niebler, Anne-Marie Schaffner, Marianne L.P. Thyssen and Stefano Zappalà.

SHORT JUSTIFICATION

Council Decision of 28 June 1999 laying down procedures for the exercise of implementing powers conferred on the Commission (Comitology Decision) repealed Decision, on the same issue, of 13 July 1987.

Statement No 2 of the Council and Commission on Council Decision 1999/468/EC establishes that the committees assisting the Commission in application of Decision 87/373/EEC, should be adapted in order to bring them into line with the new Decision, especially with articles 3,4,5 and 6.

Statement No 2 indicates the methods and conditions for adapting the committee procedures. It provides that all procedures, except the safeguard procedure, should be automatically brought into line.

The four proposals for a Council regulation submitted to the Parliament (Committee on Constitutional Affairs, leading committee, all the other for opinion) aim to the replacement of the pertinent provisions of the instruments providing for recourse to the different committees.

The annex of the Regulations establishes the list of the instruments to be amended.

The nature of the proposals is a technical one and, as said at the Explanatory Memorandum of all of them, the regulations do not affect either the substantive provisions of the amended legislative acts or the application of the later.

I therefore consider that the Legal Affairs Committee should approve the proposed regulation without amendments.

CONCLUSIONS

The Committee on Legal Affairs and the Internal Market calls on the Committee on Constitutional Affairs, as the committee responsible, to adopt the proposal for a regulation.

23 May 2002

OPINION OF THE COMMITTEE ON FISHERIES

for the Committee on Constitutional Affairs

on the proposal for a Council Regulation on adapting the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in Council instruments adopted in accordance with the consultation procedure (qualified majority) (COM(2001) 789 – C5-0091/2002 – 2001/0315(CNS))

Draftsman: Struan Stevenson

PROCEDURE

The Committee on Fisheries appointed Struan Stevenson draftsman at its meeting of 24 January 2002.

The committee considered the draft opinion at its meetings of 21 March, 15 April and 22 May 2002.

At the last meeting it adopted the following conclusions unanimously.

The following were present for the vote: Struan Stevenson, chairman and draftsman; Elspeth Attwooll, Brian Crowley (for Nello Musumeci), Arlindo Cunha, Michael John Holmes, Ian Stewart Hudghton, Salvador Jové Peres, Heinz Kindermann, Carlos Lage, Patricia McKenna, James Nicholson (for Brigitte Langenhagen), Neil Parish (for Hugues Martin), Manuel Pérez Álvarez, Catherine Stihler and Daniel Varela Suanzes-Carpegna.

SHORT JUSTIFICATION

Article 9 of Council Decision 1999/468/EC of 28.6.99 laying down the procedures for the exercise of implementing powers conferred on the Commission¹ repealed Decision 87/373/EEC².

In accordance with the Declaration No 2 of the Council and of the Commission³ on Decision 1999/468/EC, the provisions relating to committees which assist the Commission in the exercise of its implementing powers, pursuant to Decision 87/373/EEC, should be adapted in order to bring them into line with the provisions of Articles 3, 4 and 5 of Decision 1999/468/EC.

Notably, the aforesaid statement lays down that the *type I committee procedure* should be replaced by the new *advisory procedure* pursuant to Article 3 of Decision 1999/468/EC and that the previous *type II(a) and II(b) committee procedures* should be replaced by the *management procedure* provided for in Article 4 of Decision 1999/468/EC.

The Agreement between the EP and the Commission on procedures for implementing Council Decision 1999/468/EC⁴ stated that the "European Parliament supports the aim and the procedures set out in Declaration No 2 of the Council and the Commission". In its resolution of 17.2.00 on this Agreement⁵, the EP endorsed the above mentioned Declaration.

The proposed Regulations are mainly procedural and do not affect either the substantive provisions of the amended legislative acts or the application of the latter. They do not apply to the legislative acts which have already been brought into line by an act amending the basic act.

In compliance with Article 7 (4) of Decision 1999/468/EC, the Commission published the list of the committees which assist it in the exercise of implementing powers⁶, by sector of activity.

In the fisheries sector, according to the list mentioned, these committees are the following⁷:

- Management Committee for Fisheries Products
- Committee for the Fisheries and Aquaculture sector
- Management Committee for the Fisheries and Aquaculture sector

The **Management Committee for Fisheries Products (MCFP)** was set up under the Council

¹ OJ L184, of 17.7.99, p. 23

² OJ L197, of 18.7.87, p. 33

³ OJ C203, of 17.7.99, p. 1

⁴ OJ L256, of 10.10.00, p. 19

⁵ OJ C339, of 29.11.00, p. 269

⁶ OJ C225, of 8.8.00, p. 2

⁷ It is important to distinguish between the comitology committees and the "consultative committees", which are sometimes referred to as non-obligatory committees. In the fisheries sector, it should be mentioned the *Scientific, Technical and Economic Committee for Fisheries (STECF)*, set up under Article 16 of Regulation (EEC) No 3760/92 and the *Advisory Committee on fisheries (ACF)*, set up by Commission Decision (EEC) No 128/71. The essential features shared by the comitology committees as opposed to other types of committee and expert group are described in the Report from the Commission on the working of the committees during 2000, COM (2001) 783 final, pp 4 and 5.

Regulation (EEC) No 3759/92⁸. Article 32 of this Regulation provided for recourse to *type II variant a* management procedure established by Decision 87/373/EEC. This Regulation was repealed and replaced by the Council Regulation (EC) No 104/2000 of 17.12.99 on the common organisation of the markets in fishery and aquaculture products¹.

Article 38 of Regulation No 104/2000 states that the Commission is assisted by the Management Committee for Fishery Products and that where reference is made to paragraph 2, Articles 4 and 7 of Decision 1999/468/EC shall apply. The time limit set in Article 38 (2) is the same as was stipulated by the previous Regulation.

Consequently, the legislative act establishing the MCFP has already been brought into line with the provisions of Decision 1999/468/EC.

The **Committee for the Fisheries and Aquaculture Sector (CFAS)** was established by the Council Regulation N° 1260/1999². The procedures concerning the CFAS are brought into line with Decision 1999/468/EC by Annexes I and II of the *Proposal for a Council Regulation adapting the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in Council instruments adopted under the assent procedure*.

The **Management Committee for the Fisheries and Aquaculture Sector (MCFAS)** was established under the Council Regulation No 3760/1992³. Article 18 of this Regulation provided for recourse to *type II variant a* management procedure established by Decision 87/373/EEC.

The Annex II (10) of the *Proposal for a Council Regulation adapting the provisions relating to committees which assist the Commission in the exercise of its implementing powers laid down in Council instruments adopted in accordance with the consultation procedure (qualified majority)* states that Article 18 of the Regulation 3760/92 should be modified in order to replace that procedure by the management procedure provided for in Article 4 of Decision 1999/468/EC. The proposed time limit is the same as was stipulated in the basic act.

The Annex II (12) of the current proposal adapts Article 36 of the Council Regulation (EC) No 2847/93 of 12.10.93 establishing a control system applicable to the common fisheries policy in order to replace the old type II variant a management procedure by the management procedure laid down in Article 4 of Decision 1999/468/EC. The time limit set in the adapted provision remains in force.

All the mentioned provisions include the need to observe compliance of Article 7 of Decision 1999/468/EC, which puts in place measures designed to improve the transparency of the working of the comitology committees.

⁸ OJ L388 of 31.12.92, p. 1

¹ OJ L017, of 21.01.00, p.22

² OJ L161, of 26.06.99, p. 1

³ OJ L389, of 31.12.92, p. 1

It can therefore be concluded that, in the fisheries sector, the current proposals correctly align the above mentioned committee procedures under Decision 87/373/EEC with the new

provisions under Decision 1999/468/EC.

The current opinion confines itself to the described procedural aspects¹.

CONCLUSIONS

The Committee on Fisheries calls on the Committee on Constitutional Affairs, as the committee responsible, to approve the current proposal for a Council Regulation.

¹ The views of the Committee on Fisheries on the substance of Decision 1999/468/EC have been already expressed (see the opinions of the Committee on Fisheries adopted at its meetings of 24.06.98 and 29.10.98, annexed to the report A4-0169/1999 of the Committee on Constitutional Affairs, pp 51 and 114). These views can be further developed in the future, in the framework of the assessment of the operation of the current provisions and in the context of the general debate on the reform of the comitology system.