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REPORT

on the proposal for a Council regulation establishing a tuna tracking and verification system
(COM(2001) 406 – C5-0408/2001 – 2001/0170(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 10 September 2001 the Council consulted Parliament, pursuant to Article 37 of the EC Treaty, on the proposal for a Council regulation establishing a tuna tracking and verification system (COM(2001) 406 – 2001/0170(CNS)).

At the sitting of 19 September 2001 the President of Parliament announced that he had referred this proposal to the Committee on Fisheries as the committee responsible and the Committee on the Environment, Public Health and Consumer Policy for its opinion (C5-0408/2001).

The Committee on Fisheries had appointed Salvador Jové Peres rapporteur at its meeting of 13 September 2001.

The committee considered the Commission proposal and the draft report at its meetings of 26 November 2001, 23 January 2003 and 20 February 2003.

At the last meeting it adopted the draft legislative resolution by 15 votes to 0, with 1 abstention.

The following were present for the vote: Struan Stevenson (chairman), Rosa Miguélez Ramos (vice-chairwoman), Brigitte Langenhagen (vice-chairwoman), Salvador Jové Peres (rapporteur), Elspeth Attwooll, Arlindo Cunha, Ian Stewart Hudghton, Heinz Kindermann, Ioannis Marinos, John Joseph McCartin (for Hugues Martin), Patricia McKenna, James Nicholson (for Giorgio Lisi), Manuel Pérez Álvarez, Fernando Pérez Royo (for Carlos Lage), Daniel Varela Suanzes-Carpegna and Herman Vermeer (for Niels Busk).

The Committee on the Environment, Public Health and Consumer Policy decided on 8 October 2001 not to deliver an opinion.

The report was tabled on 20 February 2003.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council regulation establishing a tuna tracking and verification system

(COM(2001) 406 – C5-0408/2001 – 2001/0170(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2001) 406¹),
 - having regard to Article 37 of the EC Treaty, pursuant to which the Council consulted Parliament (C5-408/2001),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Fisheries (A5-0045/2003),
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 if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 5. Instructs its President to forward its position to the Council and Commission.

¹ OJ C 304 E, 30.10.2001, p. 212.

Amendment 1
Recital 3

(3) In July 1999 the Contracting Parties to the AIDCP decided to establish a system to track and verify tuna caught in the Agreement's area of application, ***with a view to identifying tuna caught without any risk to dolphins.***

(3) In July 1999 the Contracting Parties to the AIDCP decided to establish a system to track and verify tuna caught in the Agreement's area of application.
Consequently, the Community will need to establish a system for tracking and verifying tuna caught in the Agreement's area of application by vessels fishing under the AIDCP. The objective of that system is to make it possible to differentiate between 'dolphin-safe tuna' and 'non-dolphin-safe tuna' from the time when it is caught until it is ready for retail sale. The system is based on the premise that 'dolphin-safe' tuna must be identified as soon as it is caught and continue to be identified as 'dolphin-safe tuna' during unloading, storage, transport and processing.

Justification

Self-explanatory.

Amendment 2
Recital 4 a (new)

(4a) The development of a genuine common fisheries policy demands that the powers of monitoring fishing activity must be assigned to the Commission.

Justification

In the interest of homogeneous controls, equal treatment for fishermen and logical coherence, monitoring powers should rest with the institutions which represent the Community in matters linked to the conservation of fishery resources.

Amendment 3
Recital 4 b (new)

(4b) The inspection schemes of regional fisheries organisations are adopted within a framework in which the Community is represented by the Commission on the basis of exclusive Community competence in the field of fisheries.

Justification

If the Member States were exclusively to exercise the monitoring obligations decided on within regional fisheries organisations, there would be no point in the Commission representing the Community in those organisations.

Amendment 4
Recital 4 c (new)

(4c) It is the Commission's role not only to represent the Community's interests and be responsible for fulfilment of the commitments entered into, but also to guide, coordinate and prepare the Community's position in international fora for cooperation in the fisheries sphere, as well as to monitor and coordinate the quality and accuracy of the data to be forwarded to the IATTC and AIDCP.

Justification

If the Member States were exclusively to exercise the monitoring obligations decided on within regional fisheries organisations, there would be no point in the Commission representing the Community in those organisations.

Amendment 5
Recital 4 d (new)

(4d) The Union's participation in international fisheries organisations is an exclusive sphere of competence of the Community and the common fisheries policy's principle of the adequacy of resources requires that the cost of taking part in these organisations be borne by the Community budget, including the cost of monitoring fisheries.

Justification

Self-explanatory.

Amendment 6
Recital 4 e (new)

(4e) It is the responsibility of the Commission to represent the Community in negotiations in the RFOs, and to coordinate and approve the databases whose creation has been agreed by the RFOs; it is also the responsibility of the Commission to ascertain that the information submitted to the RFOs meets the criteria of quality, accuracy and regularity, and to participate in scientific fora and meetings and in general act on behalf of the Community in regional fisheries organisations, including the monitoring of fisheries.

Justification

The Commission represents the Community as a contracting party in regional fisheries organisations. Consequently, the Commission must be the guarantor of compliance with the commitments which it has itself entered into on behalf of the Community.

Amendment 7 Recital 4 f (new)

(4f) It is the responsibility of the Commission to represent, negotiate, coordinate and approve databases, ascertain that the information submitted to the RFOs meets the criteria of quality, accuracy and regularity, participate in scientific fora and meetings and in general act on behalf of the Community in regional fisheries organisations, including the monitoring of fisheries.

Justification

The Commission represents the Community as a contracting party in regional fisheries organisations. Consequently, the Commission must be the guarantor of compliance with the commitments which it has itself entered into on behalf of the Community.

Amendment 8 Recital 4 g (new)

(4g) The lack of adequate human and material resources means that the Community's powers are delegated to the Member State governments in some instances, but this situation cannot become the norm or be extended indefinitely, and the Commission must be given all the resources needed to fulfil the duties deriving from its powers and, even in this transitional period, the Commission is not exempt from

exercising its supervisory and monitoring powers over the activities delegated to the Member States' services.

Justification

Self-explanatory.

Amendment 9

Recital 5

(5) Supervision of the unloading and transloading of the catch, at port, is the responsibility of each Member State, but it can, by administrative arrangement or agreement, delegate this responsibility to the State where unloading occurs.

(5) Supervision of the unloading and transloading of the catch, at port, ***corresponds to a Community decision and*** is the responsibility of each Member State, ***this responsibility being delegated from the Commission on a transitional basis,*** but it can, by administrative arrangement or agreement, delegate this responsibility to the State where unloading occurs.

Justification

The Commission is responsible for fulfilment of the commitments which it has entered into on behalf of the Community. Nevertheless, the lack of human, material and budgetary resources make it advisable for monitoring activities to be delegated to the Member States on a transitional basis.

Amendment 10

Article 2

This Regulation shall apply to ***Community*** fishing vessels, ***that is to say, fishing vessels flying*** the flag of a Member State and registered in the Community, fishing for tuna ***in the waters of the eastern Pacific as defined in Article 3 of the AIDCP.***

This Regulation shall also apply to ***"carriers", that is to say, vessels that carry tuna tracked by a tracking form, flying the flag of a Member State and registered in***

This Regulation shall apply to fishing vessels ***or carriers sailing under*** the flag of a Member State and registered in the Community, fishing for ***or carrying*** tuna ***from the Agreement Area tracked by a tracking form.***

This Regulation shall also apply to ***tuna caught in the Agreement Area and tracked by a tracking form which has been unloaded, stored, transported or processed***

the Community.

in the Community.

Justification

The wording should be simplified and the scope expanded to include all tuna from the Agreement Area circulating in the Community.

Amendment 11
Article 3, point 2 a (new)

(2a) 'Agreement Area' means the waters of the eastern Pacific as defined in Article 3 of the AIDCP;

Justification

Self-explanatory.

Amendment 12
Article 3, paragraph 5

(5) 'Observer' is the person assigned to the vessel by the Inter-American Tropical Tuna Commission (IATTC) or the contracting **party's national observer programme** to record the vessel's fishing activities;

(5) 'Observer' is the person assigned to the vessel by the Inter-American Tropical Tuna Commission (IATTC) or the contracting **party** to record the vessel's fishing activities;

Justification

Given that controls stem from a Community decision and commitment, and in order to ensure that such controls are homogeneous and effective, they should not be linked to the possible existence of national programmes.

Amendment 13
Article 4, paragraph 1

1. The Member States ***shall be responsible*** for tracking and verifying tuna caught, transported and unloaded by vessels flying their flag, and tuna for processing on their territory.

1. ***On a transitional basis, the Commission shall delegate to*** the Member States ***responsibility*** for tracking and verifying tuna caught, transported and unloaded by vessels flying their flag, and tuna for processing on their territory.

Justification

The Commission is responsible for fulfilment of the commitments which it has entered into on behalf of the Community. Nevertheless, the lack of human, material and budgetary resources make it advisable for monitoring activities to be delegated to the Member States on a transitional basis.

Amendment 14 Article 4, paragraph 3

3. The Member States shall provide the on-board observer with tracking forms for each of the vessels flying their flag and authorised to fish for tuna in the area referred to in Article 2.

3. The Member States, ***on a transitional basis and by way of delegation from the Commission***, shall provide the on-board observer with tracking forms for each of the vessels flying their flag and authorised to fish for tuna in the area referred to in Article 2.

Justification

The Commission is responsible for fulfilment of the commitments which it has entered into on behalf of the Community. Nevertheless, the lack of human, material and budgetary resources make it advisable for monitoring activities to be delegated to the Member States on a transitional basis.

Amendment 15 Article 4, paragraph 3 a (new)

3a. The Member States shall take the necessary measures to ensure that tuna caught in the Agreement Area which is stored, processed and marketed on their territory is clearly identified, as dolphin-safe or non-dolphin-safe as appropriate,

*until the time it is ready for retail sale.
These procedures shall include the
following requirements:*

*(a) any change in the ownership of
unprocessed tuna shall be subject to the
provisions of Article 6(4), (5) and (7);*

*(b) during processing, non-dolphin-safe
tuna and dolphin-safe tuna shall be
handled on separate production lines and
at separate times;*

*(c) those responsible for processing shall
keep a register which is sufficiently clear as
to allow the lot numbers of processed tuna
to be found under the corresponding
number of the tracking form.*

Justification

If the regulation is to be effective, its application must be guaranteed up to the time when tuna caught in the Agreement Area reaches the consumer.

Amendment 16
Article 5, title

Captain's obligations

Obligations ***during fishing or transport***

Justification

The obligations of the observer are defined as well as those of the captain. Transport vessels should be included in the scope of the regulation.

Amendment 17
Article 6, title

Unloading operation

Logistical, processing and marketing
operations

Justification

The scope of the article is wider than the title given in the draft regulation.

Amendment 18
Article 6, paragraph 9

9. The Member States may, ***under specific bilateral agreements***, delegate the supervision of unloading and transport to the national authorities of the port involved. That State accordingly becomes responsible for implementing the system in the case of the tuna unloaded and transported on its territory, regardless of the flag of the vessel that caught them.

9. ***By way of delegation from the Commission***, the Member States may ***in turn*** delegate the supervision of unloading and transport to the national authorities of the port involved, ***under specific bilateral agreements***. That State accordingly becomes responsible for implementing the system in the case of the tuna unloaded and transported on its territory, regardless of the flag of the vessel that caught them.

Justification

The Commission is responsible for fulfilment of the commitments which it has entered into on behalf of the Community. Nevertheless, the lack of human, material and budgetary resources make it advisable for monitoring activities to be delegated to the Member States on a transitional basis.

Amendment 19
Article 7, paragraph 1

1. For the implementation of this tuna tracking and verification system, the ***Member States*** shall create a computer database ***to which the Commission*** shall have computerised access.

1. For the implementation of this tuna tracking and verification system, the ***Commission*** shall create a computer database ***which shall be compiled from the data supplied by the Member States and to which the Member States and the AIDCP Secretariat*** shall have computerised access.

Justification

The effective exploitation of a database would be impossible if each Member State were to create a different database. Furthermore, it is the Commission's responsibility to ascertain that the information submitted to the international fisheries organisations to which it belongs or to which it has given commitments meets the criteria of quality, accuracy and regularity.

Amendment 20
Article 7, paragraph 2

2. Within 10 days of receipt of a tuna tracking form, the Member States shall send one copy, signed by the observer and captain, to the *AIDCP Secretariat, and a copy to the* Commission.

2. Within 10 days of receipt of a tuna tracking form, the Member States shall send one copy, signed by the observer and captain, to the Commission. ***After computer processing, the Commission shall send a copy of the tuna tracking form to the AIDCP Secretariat.***

Justification

It is the Commission's responsibility to ascertain that the information submitted to the international fisheries organisations to which it belongs or to which it has given commitments meets the criteria of quality, accuracy and regularity.

Amendment 21
Article 7, paragraph 3

3. Before 1 May each year, Member States shall send a report of their implementation of the tuna tracking and verification system to the Commission, which shall send a report on this basis to the AIDCP Secretariat before each annual meeting.

3. Before 1 May each year, Member States shall send a report of their implementation of the tuna tracking and verification system to the Commission, which shall send a report on this basis ***and on the basis of information gained from the database and the appropriate verifications*** to the AIDCP Secretariat before each annual meeting.

Justification

Given that the Commission is responsible for the quality, accuracy and regularity of the information which it supplies to the international fisheries organisations to which it belongs or to which it has given commitments, it cannot restrict itself to using the information supplied by the Member States but must make the appropriate checks.

Amendment 22
Article 9 a (new)

9a. Member States' expenditure on monitoring operations deriving from the application of this Regulation shall be reimbursed from the Community budget.

Justification

The Union's participation in international fisheries organisations is an exclusive sphere of competence of the Community and the common fisheries policy's principle of the adequacy of resources requires that the cost of taking part in these organisations be borne by the Community budget, including the cost of fisheries monitoring and surveillance.

Amendment 23
Article 9 b (new)

9b. The European Parliament shall be duly informed of the decisions taken in accordance with the procedure relating to regulatory and management committees, in accordance with the provisions laid down in Articles 3 to 9a and in the annexes to this Regulation.

Justification

To guarantee that the European Parliament is able to exercise the power of scrutiny over the Community executive, which is one of the tasks incumbent upon it.

EXPLANATORY STATEMENT

The Community has embarked on the procedure for joining the Inter-American Tropical Tuna Commission (IATTC) and has decided provisionally to apply the Agreement on the International Dolphin Conservation Programme (AIDCP). The proposal for a Council regulation on which Parliament is now being consulted is intended to incorporate into Community law the international obligations which the Community has entered into in line with the provisions of the AIDCP establishing a system to track and verify tuna caught without any risk to dolphins.

The provisions contained in the draft regulation are designed to establish a system to track and verify tuna caught in the agreement's area of application, with a view to identifying tuna caught without any risk to dolphins by observing the unloading and transloading of the catch at port, among other measures.

It should be borne in mind in this connection that the obligations entered into by the Community with regard to regional fisheries organisations stem from a commitment given by the Community as a contracting party. The inspection schemes of regional fisheries organisations are adopted within a framework in which the Community is represented by the Commission on the basis of exclusive Community competence in the field of fisheries.

Competence for adopting measures to conserve fishery resources rests with the Community, and the Member States are not entitled to exercise any power of their own in this matter, even in the waters under their jurisdiction. This has been recognised by the Court of Justice on many occasions, for example in Case 804/79, *Commission v United Kingdom*, judgment of 5 May 1981. Moreover, the Community has the power to enter into international commitments regarding both the objectives defined in the first part of the Treaty and those deriving from other acts adopted by the Community institutions. It follows that Community competence as regards the conservation of fish stocks may be exercised both autonomously and in the form of international commitments with third countries or within the framework of international organisations.

In its resolution of 15 November 2000¹ on Community participation in regional fisheries organisations, and in its resolution of 5 April 2001² on a financial contribution by the Community to control, inspection and surveillance systems applicable to the CFP, Parliament took the view that the Commission services should not restrict themselves to representing the Community as a contracting party and entering into international commitments. Carrying out this task should also oblige the Commission services to deal clearly and specifically with all aspects of the Community's participation in these regional fisheries organisations and the commitments entered into, in the field of representation, monitoring the transmission and verification of data, participation in scientific fora and in general guiding Community action, including monitoring the fishing carried out in the context of these organisations.

In the field of international organisations, the administration of monitoring and, gradually, its execution must be assigned to the Commission services and hence its cost be borne by the Community budget. This development is nothing new and in general meets the criteria which are currently applied in the NAFO area (North-West Atlantic Fisheries Organisation). When NAFO adopted an inspection scheme with control vessels, inspectors and observers on board fishing

¹ OJ C 223, 8.8.2001, p. 187.

² Pending publication in the OJ.

vessels, the Council decided that these requirements would be met by the Commission. Nevertheless, this has not prevented Member States from devoting additional human and material resources to these tasks.

The Commission report on the monitoring of the implementation of the control system applicable to the common fisheries policy by Member States (COM(2001) 526 final), citing considerations relating to the effective and homogeneous application of the rules, mainly agrees with the positions upheld by Parliament in previous resolutions. In particular, the Commission recognises in section 5 of its report that ***‘the examples of NEAFC [North-East Atlantic Fisheries Convention] and NAFO should be extended to other areas’***.

‘Flag Member States are attributing generally a low priority to monitoring the fishing activities of their vessels in these areas, with exception of the Regulatory Areas of NAFO and NEAFC. Inspection and surveillance beyond Community waters are confined to NAFO, NEAFC and driftnet fisheries.’

‘Systematic monitoring and inspection of landings from international and third country waters do not extend beyond specific obligations (NAFO, fishery agreements EU-Morocco and EU-Mauritania).’

The Commission nevertheless expresses some regret, since ***‘landing inspections in Member States have often required the presence of both Commission and national inspectors, and the immediate follow-up of cited infringements as well as their sanctioning involve various authorities. The Commission has not been assigned powers to guarantee adequate efficiency by each of the authorities concerned, whereas this would simplify the achievement of compliance with the Community’s international obligations throughout Community territory and to maintain a balance in terms of costs and benefits’*** (point 5.2 of the above report).

If the Member States alone were to exercise the monitoring obligations decided on in the context of regional fisheries organisations, there would be no point in the Commission’s representing the Community within those organisations. Consequently Parliament takes the view, as it has underlined in its recent reports concerning regional fisheries organisations, that powers of control and surveillance in regional fisheries organisations should fall exclusively within the Community’s sphere of competence and that the EU institutions, particularly the Commission, are responsible for adopting the measures necessary to tackle these obligations. It follows from this that these activities should be financed from the Community budget.

The present situation does not exactly tally with this model, given that the core of monitoring powers rests with the Member States, and a reasonable period is needed for structures to be adapted to the model outlined above. The Member States may continue to exercise these powers, representing the Community, on a transitional basis. However, this does not pose any obstacle to reimbursing the Member States, in full, for the expenditure incurred in connection with these Community obligations, and this expenditure should be reimbursed at the rate of 100%.

The Commission proposes that each Member State should forward its own statistical data directly in line with the Community’s obligations. The Commission even wants to stop acting as a letterbox; it would merely receive a copy of the information and would become involved subsequently only if problems arose in transmitting the data or if combined Community data had to be submitted. However, since the Community is the contracting party answerable to the other

parties, it must ascertain that the data submitted meet the criteria of quality, accuracy and regularity. Furthermore, it is up to the Community to ensure that the data to be collected are uniform as regards both quality and quantity, in order to ensure that they are compatible and respect the principle of equal treatment between the Member States.