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REPORT

on the proposal for a Council Regulation concerning the conclusion of the Fisheries Partnership Agreement between the European Community and the Republic of Seychelles
(COM(2006)0097 – C6-0102/2006 – 2006/0029(CNS))

Committee on Fisheries

Rapporteur: Carmen Fraga Estévez

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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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council Regulation concerning the conclusion of the Fisheries Partnership Agreement between the European Community and the Republic of Seychelles

(COM(2006)0097 – C6-0102/2006 – 2006/0029(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the proposal for a Council Regulation (COM(2006)0097)¹,
 - having regard to Article 37 and Article 300(2) of the EC Treaty,
 - having regard to Article 300(3), first subparagraph, of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0102/2006),
 - having regard to Rules 51 and 83(7) of its Rules of Procedure,
 - having regard to the report of the Committee on Fisheries and the opinion of the Committee on Development (A6-0241/2006),
1. Approves conclusion of the agreement;
 2. Instructs its President to forward its position to the Council and Commission, and the governments and parliaments of the Member States and the Republic of Seychelles.

¹ Not yet published in OJ.

EXPLANATORY STATEMENT

In July 2004 the Fisheries Council adopted its conclusions on the new Community approach to fisheries agreements concluded by the European Union with third countries.

The new approach replaces that most commonly used in international fisheries relations, namely payment to third countries of financial compensation established by common consent in return for the right to fish for surplus marine resources, by a system based on greater cooperation in economic, technical and scientific matters aimed at ensuring greater sustainability and a more effective use of resources.

New EU fisheries agreements are thus no longer purely (and legitimately) commercial agreements under the fisheries policy. The existing cooperation component is enhanced and the agreements take on a development cooperation policy dimension.

In connection with the strengthening of the existing cooperation mechanisms, the new partnership agreements seek to take over schemes that have been a firm success in fisheries sector development aid for a large number of countries, such as mixed companies, which, absurdly, were discontinued and whose reinstatement is to be welcomed and should be echoed in the future European Fisheries Fund, as Parliament has called for it to be.

Similarly, the new agreements require much greater involvement by third-country authorities in the protection and surveillance of their resources and urge those authorities to invest part of the Community contribution in scientific research, fishing controls and the establishment of new domestic fisheries policies which, in the view of the Commission, which is to approve them, are more environment-friendly.

When the Council conclusions were adopted, a considerable number of agreements were in force. Furthermore, negotiations were in progress on both protocols to various agreements coming to an end and new agreements, such as those recently concluded with some Pacific and Indian Ocean countries.

The existing agreements therefore need to be brought into line with the new approach laid down in the conclusions issued by the Fisheries Council in 2004. This is the purpose of this proposal concerning the fisheries agreement with the Seychelles, which dates back to 1987¹.

The rapporteur therefore recommends that the Commission proposal be adopted, but has a number of remarks to make.

Duplication of legal instruments

The latest fisheries protocol with the Seychelles was initialled on 23 September 2004, and the agreement covered by this proposal, in March 2005. This means that the negotiations on the protocol and the agreement were conducted at practically the same time, which prompts the question of why advantage was not taken of this situation to adopt both documents together,

¹ Council Regulation (EEC) No 1708/87, OJ L 119 of 7 May 1987.

thus avoiding duplication of effort by the Commission, Parliament and the Council.

The Commission has explained that the protocol was given priority so as to avoid a break in its applicability, which might have meant that fishermen would have to stop fishing in the meantime. However, given both the Council's failure to adopt the protocol until 8 December 2005 (one year and three months after it had been initialled) and the series of legal sleights of hand (extensions, provisional application and, lastly, the possibility for the third country to issue licences without waiting for the Council to adopt the protocols) dreamed up by the Commission precisely in order to prevent its exasperating bureaucratic sluggishness from resulting in a suspension of fishing, one may well wonder whether it would not have been better to deal with both legal acts at the same time and thus save the institutions half the workload (at the very least).

Whenever a protocol is renewed, Parliament states - with ever increasing force - its dismay at the slowness of the Commission's procedures. In this instance, one may well wonder whether the Commission is in fact capable of doing two things at once.

Matching the terminology used to the substance of the agreement

Firstly, Article 4 is headed 'Statistical cooperation' but in fact focuses exclusively on scientific cooperation, which is a totally different and much broader subject area. It is patently obvious that fishing data must be shared. What is important is to establish the aims and the results of scientific cooperation and this is exactly what the Council expects from the new partnership agreements. The agreement should therefore deal specifically with this issue, because were the Seychelles to fail to cooperate on scientific research aimed at ensuring the sustainability of resources, could they be held accountable if they argued that they had sent in fishing statistics?

The Commission says that the Seychelles maintain that scientific research comes within their exclusive jurisdiction. Was nobody in the Commission able to explain to the Seychelles authorities that nobody was questioning this and that the aim was simply to offer resources and funding to help boost research in the Seychelles?

In the rapporteur's view, the Commission's justification fails to hold water: it is difficult to believe that Community officials who are able to oblige a third country to pay the necessary financial contribution in areas which, in many cases, are not a priority for their weak economies - and this is something that should be recognised and understood - are somehow unable to argue that the Community executive is itself accountable to its Parliament and to Community citizens, who expect transparency and to know what they are paying for.

The other terminological issue concerns Article 12, the Spanish version of which uses the term 'expiración' to translate 'termination'. The rapporteur considers that 'denuncia' should be used instead. The Commission has said that this might simply be an inaccurate translation of the English original and that it will ensure consistency between all the language versions. The rapporteur hopes that it will in fact do so.

Exclusivity clause

There has been much debate about such a clause within the EU since the inception of

Community external policy. The aim is to ensure that Community ship-owners fishing on the basis of the conditions laid down by the EU and the third country are not exposed to unfair competition from other ship-owners who, on a private basis and under conditions of which the Community authorities have no knowledge, fish in the same areas without being subject to any of the control commitments imposed by the EU under the agreement.

This clause is of vital importance to the EU's commitment to ensuring the sustainability of resources at international level. The rapporteur therefore considers that such a clause should be included in the agreement itself and not - or not just - in the protocols.

The Commission has argued with some vigour that the clause appears in all protocols. However, anyone reading the new agreements with Morocco and Tanzania will see that it does not.

Conclusions

1. The Fisheries Council conclusions of July 2004 established a new framework for fisheries agreements with third countries, shifting the focus away from commercial issues and more on to development cooperation issues. Existing agreements accordingly need to be brought into line with the new model for partnership agreements. Suitable adjustments should thus be made to the 1987 fisheries agreement with the Seychelles, and Parliament endorses the Commission's proposal to replace the 1987 agreement with that initialled in March 2005.
2. Although this will not always be possible, Parliament urges the Commission to attempt to make the date of renewal of protocols coincide with the date of initialling of new agreements. The agreement with the Republic of Seychelles is a case in point, given that the new protocol was adopted by the Council in December 2005 and the negotiations on its renewal and on the new agreement were conducted in parallel. Such an arrangement would avoid duplication of effort and further bureaucratic and financial complexities which slow down an already intolerably slow process, about which the Committee on Fisheries has complained on numerous occasions.
3. Parliament calls on the Commission to ensure that the wording used reflects the true substance of the agreement, both with a view to ensuring transparency and in order to guard against disputes and misunderstandings in the implementation and control of the agreement, which could be damaging both to the Community fleet and to fisheries relations between the EU and third countries.

Parliament takes the view that an exclusivity clause ensuring good practice on board Community vessels and an EU commitment to ensuring the sustainability of resources in non-Community waters, while guarding against unfair competition among Community operators, should be included in fisheries agreements and not just in protocols. It therefore calls for such a clause to be inserted in new agreements initialled by the Commission and for the Commission to ensure that one is inserted in those already concluded.

26.4.2006

OPINION OF THE COMMITTEE ON DEVELOPMENT

for the Committee on Fisheries

on the proposal for a Council regulation concerning the conclusion of the Fisheries Partnership Agreement between the European Community and the Republic of Seychelles (COM(2006)0097 – C6-0102/2006 – 2006/0029(CNS))

Draftswoman: Luisa Morgantini

SHORT JUSTIFICATION

Under Article 178 of the European Community Treaty the Common Fisheries Policy (CFP) must take into account the development objectives set out in Article 177 of the Treaty, mainly the fight against poverty and the sustainable development of local populations.

The European Parliament's Development Committee has called the attention of the Council and the Commission to that obligation when drafting successive opinions on the old fisheries agreements and new fisheries partnership agreements submitted to it by the European Commission.

This new proposal for a Fisheries Partnership Agreement with the Seychelles could have been a good opportunity for the Commission to propose to Council to take on board our committee's views, thereby observing the Treaty obligations.

The committee considers the reference made at the end of article 1 of the Fisheries Partnership Agreement to "related activities" insufficient when seen in terms of these development objectives.

Article 1 and Article 7 of the Fisheries Partnership Agreement should clearly state that the scope and the financial contribution under the agreement should address projects aimed at the development of coastal populations living on fisheries.

It is time for Commission and Council to observe what the European Community Treaty clearly states. Union institutions must be the first to respect the Treaty.

This proposal for a Council regulation was submitted to Parliament only two months after the publication of Regulation (EC) n° 115/2006, of 23 January 2006, whereby European boats can fish in Seychelles waters until 17 January 2011.

In our opinion to the European Parliament's Fisheries Committee of September 2005, we clearly said that the Commission should have observed the "integrated framework for fisheries partnership agreements with third countries".

The Commission preferred to follow the negotiations under the old fisheries agreements system and the submission of the present legal text is a confirmation that Parliament's Development Committee was right.

What Parliament is now being asked to do is to accept the replacement of the existing legal text by a new one renegotiated according to the new framework for fisheries partnership agreements.

We have no objections to that replacement, we simply regret that, having failed to listen to us, the Commission has spent time and money that could have been saved.

AMENDMENTS

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

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1 Recital 3

(3) The Fisheries Partnership Agreement provides for improved economic, financial, technical and scientific cooperation in the fisheries sector with a view to guaranteeing the conservation and sustainable exploitation of resources, as well as partnerships between undertakings aimed at developing economic activities in the fisheries sector and *related activities in the common interest*.

(3) The Fisheries Partnership Agreement provides for improved economic, financial, technical and scientific cooperation in the fisheries sector with a view to guaranteeing the conservation and sustainable exploitation of resources, as well as partnerships between undertakings aimed at developing economic activities in the fisheries sector and ***the development of coastal populations living on fisheries, mainly through support for the creation of small local fish canning and processing industries and the marketing of fish.***

¹ Not yet published in OJ.

PROCEDURE

Title	Proposal for a Council regulation concerning the conclusion of the Fisheries Partnership Agreement between the European Community and the Republic of Seychelles
References	COM(2006)0097 – C6-0102/2006 – 2006/0029(CNS)
Committee responsible	PECH
Opinion by Date announced in plenary	DEVE 3.4.2006
Enhanced cooperation – date announced in plenary	
Draftswoman Date appointed	Luisa Morgantini 21.3.2006
Previous drafts(wo)man	
Discussed in committee	25.4.2006
Date adopted	25.4.2006
Result of final vote	+: 20 -: 0 0: 0
Members present for the final vote	Margrietus van den Berg, Danutė Budreikaitė, Marie-Arlette Carlotti, Thierry Cornillet, Nirj Deva, Fernando Fernández Martín, Michael Gahler, Filip Andrzej Kaczmarek, Ģirts Valdis Kristovskis, Maria Martens, Luisa Morgantini, Toomas Savi, Frithjof Schmidt, Jürgen Schröder, Jan Zahradil
Substitute(s) present for the final vote	Milan Gaľa, Jan Jerzy Kułakowski, Linda McAvan, Manolis Mavrommatis, Zbigniew Zaleski
Substitute(s) under Rule 178(2) present for the final vote	
Comments (available in one language only)	

PROCEDURE

Title	Proposal for a Council Regulation concerning the conclusion of the Fisheries Partnership Agreement between the European Community and the Republic of Seychelles	
References	COM(2006)0097 – C6-0102/2006 – 2006/0029(CNS)	
Date of consulting Parliament	27.3.2006	
Committee responsible Date announced in plenary	PECH 3.4.2006	
Committee(s) asked for opinion(s) Date announced in plenary	BUDG 3.4.2006	DEVE 3.4.2006
Not delivering opinion(s) Date of decision	BUDG 30.5.2006	
Enhanced cooperation Date announced in plenary		
Rapporteur(s) Date appointed	Carmen Fraga Estévez 5.4.2006	
Previous rapporteur(s)		
Simplified procedure – date of decision Date of decision		
Legal basis disputed Date of JURI opinion	/	
Financial endowment amended Date of BUDG opinion	/	
Parliament to consult European Economic and Social Committee – date decided in plenary		
Parliament to consult Committee of the Regions – date decided in plenary		
Discussed in committee	18.4.2006	20.6.2006
Date adopted	12.7.2006	
Result of final vote	+: 15 -: 1 0: 2	
Members present for the final vote	Stavros Arnautakis, Elspeth Attwooll, Iles Braghetto, Niels Busk, David Casa, Paulo Casaca, Zdzisław Kazimierz Chmielewski, Carmen Fraga Estévez, Ioannis Gklavakis, Alfred Gomolka, Heinz Kindermann, Albert Jan Maat, Rosa Miguélez Ramos, Willi Piecyk, Struan Stevenson, Daniel Varela Suanzes-Carpegna	
Substitute(s) present for the final vote	Francesco Musotto, Helga Trüpel	
Substitute(s) under Rule 178(2) present for the final vote		
Date tabled	13.7.2006	
Comments (available in one language only)	...	