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REPORT

on the proposal for a Council regulation amending Regulations (EC)
No 894/97, (EC) No 812/2004 and (EC) No 2187/2005 as concerns drift nets
(COM(2006)0511 – C6-0327/2006 – 2006/0169(CNS))

Committee on Fisheries

Rapporteur: Rosa Miguelez Ramos

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 amending Regulations (EC) No 894/97, (EC) No 812/2004 and (EC) No 2187/2005 as concerns drift nets
(COM(2006)0511 – C6-0327/2006 – 2006/0169(CNS))**

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2006)0511)¹,
 - having regard to Article 37 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0327/2006),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Fisheries (A6-0000/2006),
1. Approves the Commission proposal;
 2. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 3. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 4. Instructs its President to forward its position to the Council and Commission.

¹ Not yet published in OJ.

EXPLANATORY STATEMENT

THE COMMISSION PROPOSAL

There are no existing provisions as regards a definition of drift nets, but the following regulations restrict their use:

- Council Regulation (EC) No 894/97 laying down certain technical measures for the conservation of fishery resources, as amended by Council Regulation (EC) No 1239/98 of 8 June 1998;
- Council Regulation (EC) No 812/2004 of 26 April 2004 laying down measures concerning incidental catches of cetaceans in fisheries and amending Regulation (EC) No 88/98;
- Council Regulation (EC) No 2187/2005 of 21 December 2005 for the conservation of fishery resources through technical measures in the Baltic Sea, the Belts and the Sound, amending Regulation 1434/98 and repealing Regulation (EC) No 88/98.

The Commission proposal aims to introduce a uniform definition of drift nets in these three regulations in order to facilitate the control and enforcement of the restrictions on the use of drift nets implemented via these instruments.

The proposed definition of 'drift net' is as follows: *any gillnet held on the sea surface or at a certain distance below it by floating devices, drifting with the current either independently or with the boat to which it may be attached. It may be equipped with devices aiming to stabilise the net and/or to limit its drifting.*

BRIEF HISTORICAL BACKGROUND

Concerns over the use of drift gillnets and their impact intensified in the late 1980s and early 1990s on the international and Community stage, particularly owing to the uncontrolled expansion and growth in the use of this gear, its lack of selectivity, its impact on the marine environment and the large number of by-catches, especially mammals and seabirds, caused by such nets.

On 11 July 1989 in Tarawa (Kiribati), the 20th South Pacific Forum adopted the Tarawa Declaration, which opposed the use of drift nets. On 24 November 1989, the Convention for the Prohibition of Fishing with Long Drift Nets in the South Pacific was adopted by the States and Territories of the South Pacific in Wellington. The United Nations General Assembly Resolutions 44/225 of 22 December 1989, 45/197 of 21 December 1990 and 46/215 of 20 December 1991 expressed opposition to the use of such nets. Indeed, the last of these resolutions proposed introducing a general moratorium on the use of these nets on 31 December 1992, when all large-scale high-sea drift-net fishing was to be suspended. ICCAT (the International Commission for the Conservation of Atlantic Tuna) adopted a resolution aimed at preventing the expansion of drift-net fishing in the Atlantic and Mediterranean in November 1990.

At Community level, Regulation (EEC) No 345/92 of 27 January 1992 (amending for the 11th

time Regulation (EEC) No 3094/86 laying down certain technical measures for the conservation of fishery resources) introduced a temporary derogation, applicable until 31 December 1993, to enable a limited number of vessels (i.e. those that had used this gear to fish for long-finned Albacore tuna in the North-East Atlantic during at least the two years preceding the entry into force of the new regulation) to use nets up to 5 kilometres long to catch this species (the maximum authorised length being 2.5 kilometres for the remainder of the Community fleet).

In April 1994, the Commission submitted a proposal for a Council regulation amending for the 16th time Regulation (EEC) No 3094/86 (COM(1994)0131). It proposed to ban drift gillnets of any length from 31 December 1997. However, the Member States were not ready to accept such a proposal. Finally, in June 1998, Regulation 1239/98 was adopted by the Council. Amending Regulation No 894/97, it banned the use of drift nets intended for the capture of species listed in Annex VIII from 1 January 2002 in all waters falling within the sovereignty or jurisdiction of the Member States, with the exception of the Baltic Sea, the Belts and the Sound. Outside those waters, the restrictions apply to all Community fishing vessels.

The European Parliament took up a position on the issue of drift gillnets in its resolution of 11 October 1991¹ on the Commission proposal amending for the 11th time Regulation (EEC) No 3094/86, and in its resolution of 17 December 1993², in which it opposed the use of this gear and called for a total ban, whilst accepting that the Commission, at the request of a Member State, might authorise its use inside the 12-mile zone. This position was reaffirmed by the legislative resolution of 28 September 1994³ on the proposal for a regulation amending for the 16th time Regulation (EEC) No 3094/86. In that resolution, the EP called for a ban from 31 December 1994 (rather than 1997) on the keeping on board and the use of this gear intended for the capture of certain highly migratory species, and for compensation and restructuring aid for the fishermen affected.

Council Regulation (EC) No 812/2004 of 26 April 2004, laying down measures concerning incidental catches of cetaceans in fisheries and amending Regulation (EC) No 88/98, extended the ban on the keeping on board or use of drift nets, irrespective of their length and the target species, to the Baltic Sea, the Belts and the Sound. Furthermore, Council Regulation (EC) No 812/2004 laid down measures aimed at limiting the volume of incidental catches of cetaceans by banning vessels of 12 metres or over in overall length from using certain types of fishing gear, including drift nets, in certain areas and during certain periods, without the simultaneous use of active acoustic deterrent devices. The Member States were obliged to implement programmes to monitor incidental catches of cetaceans.

In its resolution of 10 February 2004⁴, the European Parliament supported this proposal for a regulation (COM(2003)451 of 24 July 2003) whilst tabling a number of amendments chiefly concerning the need to draw up a long-term strategy to combat cetacean by-catches, the need to study and update alternative gear and fishing methods aimed at preventing the incidental

¹ OJ C 280, 28.10.1991, pp. 181-182; A3-0244/91, rapporteur: Mr Garcia.

² B3-1791/93 and B3-1793/93, OJ C 20, 24.1.1994, p. 543.

³ OJ C 305, 31.10.1994, p. 83; A4-0009/94, rapporteur: Mrs Carmen Fraga Estevez.

⁴ OJ C 972, 22.4.2004, p. 30-74; A5-0020/2004, rapporteur: Mr Heinz Kindermann.

killing of these species, and the destruction of banned drift nets to prevent any exporting of such nets to third countries.

The ban which is to apply from 2008, pursuant to Council Regulation (EC) No 812/2004, along with provisional arrangements for the implementation of this ban, are included in Council Regulation (EC) No 2187/2005 of 21 December 2005 for the conservation of fishery resources through technical measures in the Baltic Sea, the Belts and the Sound, amending Regulation (EC) No 1434/98 and repealing Regulation (EC) No 88/98.

In its legislative resolution of 13 October 2005¹, the EP supported the Commission proposal (COM(2005)0086 of 14 March 2005) and tabled a set of amendments aimed in particular at clarifying and completing certain provisions on fishing gear. For example, it proposed introducing a definition of 'extension piece', a definition of T90 type trawls and permission to use them, and an assessment of the impact of the use of drift nets and other entangling gear on the sea mammal population by 1 January 2008.

RAPPORTEUR'S COMMENTS AND CONCLUSIONS

The rapporteur would point out that a definition similar to the definition which is the subject of this draft report was already included in the Commission's initial proposal referred to in the previous paragraph (Article 2(m)) but was deleted in the final text adopted by the Council. Regulation No 2187/2005 was accompanied by a joint statement by the Council and Commission in which the Council called on the Commission to submit a proposal in 2006 concerning a uniform definition of the term 'drift net' which would apply to all Community waters.

Furthermore, a similar definition was also included in the proposal for a Council regulation concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean (COM(2003)589 of 9 October 2003, Article 2(10)). In the current parliamentary term, following lengthy debates, Parliament set out its position on this proposal as a whole in its resolution of 9 June 2005². The rapporteur would have preferred it if such a definition had been upheld in the text of this future regulation as part of the political agreement reached within the Agriculture and Fisheries Council of 20 and 21 November 2006. Nevertheless, she notes the joint statement by the Council and Commission of 23 November 2006 in which the Council undertakes to consider the present proposal for a regulation in the course of 2007 and to take a decision on this subject. The rapporteur hopes that the definition contained in the proposal under review will be swiftly added to Article 11 of Regulation (EC) No 894/97 as amended by Council Regulation (EC) No 1239/98 and that it will thus also apply in the Mediterranean.

The definition of drift net in the present Commission proposal tallies with the definition used by the FAO³, among others, and does not extend the scope of the restrictions and conditions on the use of such nets under Community legislation.

¹ OJ C 233, 28.9.2006, p. 17-92 E; A2-0265/2005, rapporteur: Mr Chmielewski.

² OJ C124, 25.5.2006, p.421-527, A6-0112/2005, rapporteur: Mrs Carmen Fraga Estevez. See also, for the previous parliamentary term, the minutes of the sitting of 1 April 2004, item 4.21, and report A5-0159/2004, rapporteur: Mr Giorgio Lisi.

³ FAO 'Fisheries Technical Paper', 222 (rev 1), 1990.

The rapporteur takes the view that the introduction of a uniform definition of drift net in the above three regulations is crucial, given that it will help facilitate the implementation and enforcement of Community legislation in this field and prevent any circumvention of that legislation through varying interpretations at national level.

She therefore welcomes this initiative, which aims to bring about a greater degree of homogeneity in monitoring practices among the Member States whilst ensuring a common understanding of the term among stakeholders. Moreover, this proposal forms part of the process of simplifying and improving the common fisheries policy, in particular as regards the clarification and reform of existing legislation on technical measures.

For these reasons, the rapporteur recommends that this Commission proposal be approved.

PROCEDURE

Title	Proposal for a Council regulation amending Regulations (EC) No 894/97, (EC) No 812/2004 and (EC) No 2187/2005 as concerns drift nets
References	COM(2006)0511 – C6-0327/2006 – 2006/0169(CNS)
Date of consulting Parliament	4.10.2006
Committee responsible Date announced in plenary	PECH 12.10.2006
Committee(s) asked for opinion(s) Date announced in plenary	ENVI 12.10.2006
Not delivering opinion(s) Date of decision	ENVI 30.10.2006
Enhanced cooperation Date announced in plenary	
Rapporteur(s) Date appointed	Rosa Miguélez Ramos 24.10.2006
Previous rapporteur(s)	
Simplified procedure – 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	21.12.2006
Date adopted	25.1.2007
Result of final vote	+ : 24 - : 0 0 : 1
Members present for the final vote	James Hugh Allister, Stavros Arnaoutakis, Elspeth Attwooll, Marie-Hélène Aubert, Iles Braghetto, Niels Busk, Luis Manuel Capoulas Santos, David Casa, Zdzisław Kazimierz Chmielewski, Carmen Fraga Estévez, Ioannis Gklavakis, Pedro Guerreiro, Ian Hudghton, Heinz Kindermann, Albert Jan Maat, Rosa Miguélez Ramos, Philippe Morillon, Seán Ó Neachtain, Willi Piecyk, Dirk Sterckx, Catherine Stihler, Daniel Varela Suanzes-Carpegna
Substitute(s) present for the final vote	Duarte Freitas, James Nicholson
Substitute(s) under Rule 178(2) present for the final vote	Thomas Wise
Date tabled	26.1.2007
Comments (available in one language only)	...