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REPORT

on the proposal for a Council regulation on the conclusion of a Fisheries Partnership Agreement between the Democratic Republic of São Tomé and Príncipe and the European Community
(COM(2007)0085 – C6-0098/2007 – 2007/0034(CNS))

Committee on Fisheries

Rapporteur: Luis Manuel Capoulas Santos

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 on the conclusion of a Fisheries Partnership Agreement between the Democratic Republic of São Tomé and Príncipe and the European Community
(COM(2007)0085 – COM(2007)0085 – C6-0098/2007 – 2007/0034(CNS))**

(Consultation procedure)

The European Parliament,

- having regard to the proposal for a Council regulation (COM(2007)0085)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 (C6-0098/2007),
 - 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 opinions of the Committee on Development and the Committee on Budgets (A6-0231/2007),
1. Approves the proposal for a Council regulation as amended and 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 Democratic Republic of São Tomé and Príncipe.

Text proposed by the Commission

Amendments by Parliament

Amendment 1
Recital 1 a (new)

(1a) Evaluation of the previous agreement revealed problems concerning the control and surveillance of the activities of certain vessels operating under the terms of that agreement, especially as regards reporting of activities and catches.

Amendment 2

¹ Not yet published in OJ.

Article 3, paragraph 1 a (new)

The Commission shall verify each year that Member States whose vessels operate under the protocol are complying with reporting requirements. If not, the Commission shall withhold requests for fishing licences for those vessels for the following year.

Amendment 3
Article 3 a (new)

Article 3a

During the final year of the protocol's validity and before any new agreement is concluded or the current agreement is extended, the Commission shall submit to the European Parliament and the Council a report on the application of the agreement and the conditions under which it was implemented, including a cost-benefit analysis.

Justification

Parliament and the Council should be informed by the Commission regarding the general assessment report for the agreement in question. Only after this should steps be taken towards negotiating a new fisheries agreement or extending the current agreement.

Amendment 4
Article 3 b (new)

Article 3b

The Commission shall report annually to the European Parliament and the Council on the results of the multiannual sectoral programme described in Article 7(2) of the protocol.

Justification

In order to evaluate whether the compensation paid by the EU is properly accounted for and does in fact promote the sustainable use of fishery resources in the Democratic Republic of

São Tomé and Príncipe, the Commission should report annually to Parliament.

EXPLANATORY STATEMENT

1. In the 1970s the Member States decided to transfer their competence in the field of fisheries to the Community. Since then, fisheries agreements have figured among the Community's exclusive competencies¹.

2. The various Community policies, particularly fisheries and cooperation policies, must be better coordinated so that they contribute to improving global governance with regard to fisheries issues and reconcile the Community's interests as regards maintaining and safeguarding its distant-water fleet through access to surplus fish stocks in the EEZs of third countries, in return for fair contributions, with support being provided for developing countries to foster the sustainable exploitation of their marine resources, improve their local economies and promote regional cooperation mechanisms².

3. This agreement repeals and replaces the Fisheries Agreement between the European Community and the Democratic Republic of São Tomé and Príncipe on fishing off the coast of São Tomé and Príncipe which entered into force in 1984.

Since then, cooperation between the parties has been updated through the renewal of successive protocols fixing the fishing opportunities provided by the third country and the financial contributions granted by the EU.

The agreement concluded for the period 2002-2005 provided for access to the waters of São Tomé and Príncipe's EEZ, offering fishing opportunities for the EU fleet and passage through to adjacent fishing grounds.

The most recent partnership agreement, accompanied by a protocol and an annex thereto, was signed for a period of four years from 1 June 2006 and is renewable.

The fishing opportunities provided for have been laid down according to two categories: for the fishing category 'freezer tuna seiners': 25 vessels; for the fishing category 'surface longliners': 18 vessels.

¹ Council resolution of 3 November 1976.

² Within the framework of the common fisheries policy, 2002.

Comparative table

Fishing possibilities			
Duration	1.6.99 - 31.5.2002	1.6.2002 - 31.5.2005	1.6.2006 - 31.5.2010
Vessels	37 tuna seiners 33 surface longliners 7 pole-and-line tuna vessels	36 tuna seiners 25 surface longliners 2 pole-and line tuna vessels 3 vessels < 250 tonnes for deep-sea fishing (12 months as pilot project)	25 freezer tuna seiners 18 surface longliners
Authorised catches	8500 tonnes	8500 tonnes	8500 tonnes of tuna and related species
Total financial contribution	1 912 500 euros	2 250 000 euros	2 652 000 euros
Shipowners' contribution	25 euros per tonne of tuna caught in the EEZ	25 euros per tonne of tuna caught in the EEZ	35 euros per tonne of tuna caught in the EEZ
Licences	3750 euros/year/seiner 1375 euros/year/longliner > 150 tonnes 1000 euros/year/longliner < 150 tonnes 625 euros/pole-and-line vessel	3750 euros/year/seiner 1375 euros/year/longliner > 150 tonnes 625 euros/pole-and-line vessel 42 euros/GRT for deep-sea crab fishing/quarterly licence	5250 euros/year/tuna seiner 1925 euros/year/surface longliner
Other conditions	Observer	Observer on request. Systematically observer on deep-sea crab vessels	Observer on request
Local seamen	6 maximum	6 maximum	For tuna seiners: at least 20% of seamen embarked must be of ACP origin. For surface longliners: at least 20% of seamen embarked must be of ACP origin.
Fishing zone	beyond 12 miles	beyond 12 miles	beyond 12 miles

In this new Partnership Agreement, the EU is offering the São Tomé Government a financial contribution of EUR 663 000 per year: 50% of this amount will be earmarked for annual financial support for defining and implementing a sectoral fisheries policy in São Tomé and Príncipe and will be based on annual and multiannual programming.

Shipowners' fees have been fixed for each category and, overall, could create an additional annual income of around EUR 165 900 for São Tomé and Príncipe.

The extension of this agreement will enable Community shipowners to continue their fishing activities in the exclusive economic zone of São Tomé and Príncipe.

The objective of the agreement is to strengthen cooperation between the European

Community and the Democratic Republic of São Tomé and Príncipe, thereby creating a partnership framework within which to develop a sustainable fisheries policy, in the interests of both parties.

As has already been mentioned, this agreement was initialled on 25 June 2006. Parliament was consulted on the Commission proposal on 7 March 2007. The first payment under the agreement is scheduled for 15 May 2007.

Parliament was not informed of the agreement until several months after it had been signed, which demonstrates an institutional relationship that leaves much to be desired.

The rapporteur believes that this type of procedure cannot continue.

4. As a final note alongside the substance of the agreement itself and the resources allocated to it, the rapporteur would draw attention to what appears to be a clear disproportion between the volume of financial resources allocated to its implementation and the amount of administrative expenditure, to be met by the relevant DG, which its application will involve.

6.6.2007

OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Fisheries

on the proposal for a Council regulation on the conclusion of a Fisheries Partnership Agreement between the Democratic Republic of Sao Tomé and Príncipe and the European Community
(COM(2007)0085 – C6-0098/2007 – 2007/0034(CNS))

Draftswoman: Helga Trüpel

SHORT JUSTIFICATION

The proposal is for a new fisheries partnership agreement with São Tomé and Príncipe. The previous fisheries agreement expired on 31 May 2006 but was extended for a period of one year, to give more time to the government of São Tomé and Príncipe to prepare for negotiating a new partnership agreement. This was discussed in the previous Committee on Budgets opinion (PE 371.722).

The new agreement provides access, for a period of four years beginning 1 June 2006, for 43 EU vessels to fish in the waters of São Tomé and Príncipe:

	2002-2005 agreement		2006-2010 agreement	
Purse seiners	36	FR, ES	25	FR, ES
Surface longliners	25	ES, PT	18	ES, PT
Pole-and-line vessels	2	PT	-	

In exchange for the right to fish, the EU will pay the São Tomé and Príncipe Government a total of €663 000 per year, comprising €552 500 as compensation for the reference tonnage of 8 500 tonnes of tuna and per year and a specific amount of €110 500 per year "for the support and implementation of São Tomé and Príncipe's sectoral fisheries policy". This is a slight increase compared to the previous agreement - €637 500 per year.

In addition to the EU contribution, the ship-owners must pay licence fees, and the Commission calculates that these could amount to a further €165 900 for São Tomé and Príncipe. Again in keeping with its commitment to increase the industry's share of the cost of these agreements, the fee that the ship-owners pay per tonne of tuna declared caught has been increased to €35 from €25 under the previous protocol, while the Community contribution has

decreased from €75 to €65 per tonne.

As usual, a consultant did a thorough evaluation of the previous agreement in 2004, some elements of which were mentioned in my previous opinion. The principal problem areas associated with the execution of the protocol from a budgetary point of view include:

- extremely weak capacity on the part of the São Tomé authorities to absorb targeted action funds, implement measures and account for expenditure;
- lack of proper budgetary controls relating to the financial contributions.

The consultant makes a number of recommendations, including ones of a budgetary nature:

- providing technical assistance for institutional strengthening;
- making the entire financial payment under the next protocol as financial compensation rather than including targeted measures.

For a few years now, the Commission has been in the process of transforming the old-style fisheries agreements into new fisheries *partnership* agreements. Among other differences, the partnership agreements aim to strengthen the institutions in the third country and otherwise contribute to sustainable and rational management of fisheries there. The recommendations of the consultant referred to above show just how necessary such aid is in many cases. As your draftsman has noted before, however, this development dates only from 2004, and it is therefore still too early to judge whether the new approach will prove any more useful than the previous concept of targeted actions, which is why the Commission is asked to provide annual reports.

The consultant also noted the poor catch reporting by the surface longline fleet and recommended that it be either reduced in size or eliminated (although he warned against simply eliminating the fleet from São Tomé waters and displacing it elsewhere). The new agreement reduces the size of the longline fleet but the purse seine fleet is reduced by a similar amount, so this is not due to any concerns about the activity or impact of the longline fleet. Considering the poor reporting record of this fleet (a phenomenon observed in many other agreements as well) it is difficult to see why they should benefit from the considerable Community subsidy provided by this agreement, so the standard amendment is proposed to prevent those vessels which do not report their catches from continuing to receive licences.

AMENDMENTS

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

Amendment 1
Article 3, paragraph 1 a (new)

The Commission shall evaluate each year whether Member States whose vessels operate under this Protocol have complied with reporting requirements. Where this is not the case, the Commission shall

withhold their requests for fishing licences for the following year.

Justification

Vessels that do not comply with the most basic requirement, reporting what they catch, should not benefit from financial support from the EU.

Amendment 2
Article 3 a (new)

Article 3a

The Commission shall report annually to the European Parliament and the Council on the results of the multiannual sectoral programme described in Article 7 of the Protocol.

Justification

In order to evaluate whether the compensation paid by the EU is properly accounted for and does in fact promote the sustainable use of fishery resources in Sao Tomé, the Commission should report annually to Parliament.

Amendment 3
Article 3 b (new)

Article 3b

Prior to expiry of the Protocol and before the beginning of new negotiations for a possible renewal, the Commission shall submit to the European Parliament and the Council an ex post evaluation of the Protocol, including a cost-benefit analysis.

Justification

An evaluation of the current protocol is necessary before new negotiations begin in order to know what changes, if any, should be included in any possible renewal.

PROCEDURE

Title	Fisheries Partnership Agreement between São Tomé and Príncipe and the European Community
References	COM(2007)0085 - C6-0098/2007 - 2007/0034(CNS)
Committee responsible	PECH
Opinion by Date announced in plenary	BUDG 29.3.2007
Drafts(wo)man Date appointed	Helga Trüpel 20.9.2004
Date adopted	5.6.2007
Result of final vote	+: 19 -: 0:
Members present for the final vote	Richard James Ashworth, Reimer Böge, Simon Busuttil, Göran Färm, Salvador Garriga Polledo, Louis Grech, Catherine Guy-Quint, Jutta Haug, Monica Maria Iacob-Ridzi, Anne E. Jensen, Vladimír Maňka, Mario Mauro, Gérard Onesta, Petre Popeangă, Nina Škottová, László Surján, Helga Trüpel, Ralf Walter
Substitute(s) present for the final vote	Richard Corbett

3.5.2007

OPINION OF THE COMMITTEE ON DEVELOPMENT

for the Committee on Fisheries

on the proposal for a Council regulation on the conclusion of a Fisheries Partnership Agreement between the Democratic Republic of São Tomé and Príncipe and the European Community
(COM(2007)0085 – C6-0098/2007 – 2007/0034(CNS))

Draftsman: Josep Borrell Fontelles

SHORT JUSTIFICATION

The European Union's development co-operation policy and the common fisheries policy (CFP) must be consistent, complementary and co-ordinated, contributing, as a whole, to poverty reduction and the sustainable development of the countries concerned.

The EU has committed itself to ensuring the sustainability of fisheries worldwide, as defined at the United Nations 2002 summit in Johannesburg, maintaining or restoring stock levels with a view to producing the maximum sustainable yield.

The EU has accepted the UN's Food and Agricultural Organization's "Code of Conduct for Responsible Fisheries", to promote long-term sustainable fisheries and to affirm that the right to fish carries with it the obligation to do so in a responsible manner so as to ensure effective conservation and management of the living aquatic resources.

The EU's presence in distant fishing grounds is a legitimate objective, but it must be recalled that the interest of European Union's fisheries ought to be protected alongside the interest in developing the nations with which fisheries agreements are signed.

The European Parliament's Development Committee welcomes the ACP-EU Joint Parliamentary Assembly resolution of 22 June 2006 on "Fisheries and their social and environmental aspects in developing countries", in particular in so far as it considers that the protection of EU and ACP fishing interests must be coordinated with the sustainable management of fishery resources in economic, social and environmental terms on the one hand, and with the livelihoods of coastal communities dependent on fisheries on the other.

The European Parliament's Development Committee further stresses the reference made in the ACP-EU Fisheries Partnership Agreement to the observation of the Cotonou Agreement;

insists that full account must be taken of Article 9 of the Cotonou Agreement on human rights, democratic principles, good governance and the rule of law, and welcomes the guarantees given by the Commission services to the effect that they shall take into consideration the content of Article 9 when negotiating agreements with developing countries, including non-ACP developing countries.

The proposed agreement will repeal and replace the Agreement between the European Community and the Republic of São Tomé and Príncipe which entered into force in 1984.

The Protocol and the Annex have been concluded for a period of four years from the date on which the appropriate adoption procedures are completed. It shall be tacitly renewed for a further four year period.

The Protocol to the proposed agreement grants fishing possibilities for 25 freezer tuna seiners, from Spain and France, and 18 surface longliners, from Spain and Portugal, subject to a total of 43 licences.

The financial contribution is fixed at EUR 663 000 per year against a reference tonnage of 8 500 tonnes. A specific amount of EUR 110 500 per year is aimed at supporting and implementing initiatives taken in the context of São Tomé and Príncipe sectoral fisheries policy.

If the overall quantity of catches exceeds 8 500 tonnes per year, the financial contribution shall be increased by EUR 65 for each additional tonne caught.

However, the total annual amount paid by the Community shall not be more than twice the amount equivalent to the reference tonnage (i.e. EUR 1 105 000). Where the quantities caught by Community vessels exceed the quantities corresponding to twice the total annual amount (17 000 tonnes), the amount due for the quantity exceeding that limit shall be paid the following year.

Ship-owners' fees could create an additional annual income of around EUR 165 900 for São Tomé and Príncipe.

The European Parliament's Development Committee welcomes the referred link to national initiatives and hope that they may include the financing to local infrastructure projects of processing and marketing of the fish, thus allowing local populations to go beyond subsistence fisheries.

The European Parliament's Development Committee also welcomes the fact that the agreement is partly based on an evaluation of local fisheries and that it fosters scientific and technical cooperation with local authorities. The above mentioned ACP-EU resolution considers that scientific resource assessment must be a precondition for access to fishing, and that an annual evaluation of resources must be a condition for obtaining further fishing permits.

The European Parliament's Development Committee do not endorse the procedure adopted for this agreement because the European Parliament should have played a part in the negotiation mandate, which the Council would have given to the Commission, and should be

informed of the development of the negotiations.

Parliament has been consulted about the proposed agreement only in March 2007, eight months and half after the agreement was initialled, with the aim of coming into effect on 1 June 2006. Parliament should object and should assert that this procedure is not acceptable.

The Commission and the Council must reach an agreement on the conditions that would give the Parliament a real opportunity to be consulted. In the absence of such circumstance, the Committee on Fisheries should lead Parliament's reaction to the present status quo, including the option of voting against fisheries agreements submitted under present procedure.

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 1 a (new)

(1a) Evaluation of the previous Agreement revealed problems concerning the control and surveillance of the activities of certain vessels operating under the terms of that Agreement, especially as regards reporting of activities and catches.

Amendment 2
Recital 2 a (new)

(2a) The Community's financial contribution should be used for the development of coastal populations living on fisheries and the creation of small local fish freezing and processing industries;

Amendment 3
Article 3, paragraph 1 a (new)

The Commission shall evaluate each year

¹ Not yet published in OJ.

whether Member States whose vessels operate under the Protocol to this Agreement have complied with reporting requirements; if not, the Commission shall withhold requests for fishing licences for those vessels for the following year.

PROCEDURE

Title	Fisheries Partnership Agreement between São Tomé and Príncipe and the European Community
References	COM(2007)0085 - C6-0098/2007 - 2007/0034(CNS)
Committee responsible	PECH
Opinion by Date announced in plenary	DEVE 29.3.2007
Drafts(wo)man Date appointed	Josep Borrell Fontelles 27.3.2007
Discussed in committee	11.4.2007
Date adopted	3.5.2007
Result of final vote	+: 23 -: 0 0: 0
Members present for the final vote	Josep Borrell Fontelles, Danutė Budreikaitė, Thierry Cornillet, Ryszard Czarnecki, Fernando Fernández Martín, Filip Kaczmarek, Maria Martens, Miguel Portas, José Ribeiro e Castro, Toomas Savi, Frithjof Schmidt, Felekna Uca, Margrietus van den Berg, Anna Záborská, Jan Zahradil
Substitute(s) present for the final vote	Milan Gaľa, Ana Maria Gomes, Alain Hutchinson, Manolis Mavrommatis, Ralf Walter, Anders Wijkman, Gabriele Zimmer
Substitute(s) under Rule 178(2) present for the final vote	Michael Gahler

PROCEDURE

Title	Fisheries Partnership Agreement between São Tomé and Príncipe and the European Community	
References	COM(2007)0085 - C6-0098/2007 - 2007/0034(CNS)	
Date of consulting Parliament	22.3.2007	
Committee responsible Date announced in plenary	PECH 29.3.2007	
Committee(s) asked for opinion(s) Date announced in plenary	DEVE 29.3.2007	BUDG 29.3.2007
Rapporteur(s) Date appointed	Luis Manuel Capoulas Santos 27.3.2007	
Discussed in committee	10.4.2007	5.6.2007
Date adopted	11.6.2007	
Result of final vote	+: 18 -: 2 0: 2	
Members present for the final vote	Jim Allister, Alfonso Andria, Elspeth Attwooll, Iles Braghetto, Luis Manuel Capoulas Santos, David Casa, Paulo Casaca, Zdzisław Kazimierz Chmielewski, Emanuel Jardim Fernandes, Carmen Fraga Estévez, Alfred Gomolka, Pedro Guerreiro, Heinz Kindermann, Rosa Miguélez Ramos, Philippe Morillon, Joop Post, Luca Romagnoli, Struan Stevenson, Margie Sudre	
Substitute(s) present for the final vote	Jan Mulder, Carl Schlyter, Thomas Wise	
Date tabled	12.6.2007	