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Committee on Fisheries

2015/0001(NLE)

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DRAFT RECOMMENDATION

on the draft Council decision on the approval, on behalf of the European Union, of the declaration on the granting of fishing opportunities in EU waters to fishing vessels flying the flag of the Bolivarian Republic of Venezuela in the exclusive economic zone off the coast of French Guiana (05420/2015 – C8–0043/2015 – 2015/0001(NLE))

Committee on Fisheries

Rapporteur: João Ferreira

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the draft Council decision on the approval, on behalf of the European Union, of the declaration on the granting of fishing opportunities in EU waters to fishing vessels flying the flag of the Bolivarian Republic of Venezuela in the exclusive economic zone off the coast of French Guiana

(COM05420/2015 – C8–0043/2015 – 2015/0001(NLE))

(Consent)

The European Parliament,

- having regard to the proposal for a Council decision (COM05420/2015),
 - having regard to the Declaration on the granting of fishing opportunities in EU waters to fishing vessels flying the flag of the Bolivarian Republic of Venezuela in the exclusive economic zone off the coast of French Guiana (05420/2015),
 - having regard to the request for consent submitted by the Council in accordance with Article 43(2) and Article 218(6), second subparagraph, point (a), of the Treaty on the Functioning of the European Union (C8–0043/2015),
 - having regard to Rule 99(1), first and third subparagraphs, and paragraph 2, and Rule 108(7) of its Rules of Procedure,
 - having regard to the recommendation of the Committee on Fisheries (A8–0000/2015),
1. Gives its consent to conclusion of the agreement;
 2. Instructs its President to forward its position to the Council and the Commission, and the governments and parliaments of the Member States and the Bolivarian Republic of Venezuela.

SHORT JUSTIFICATION

The processing industry based in French Guiana depends in part on the exploitation of living natural resources in its Exclusive Economic Zone (EEZ) by Venezuelan vessels. Given the economic and social importance of this activity in the region, fishing has been authorised for these vessels for decades, with the proviso that part of the catch is landed in local ports.

The landing and processing of fishery products therefore represent an important source of income and jobs for French Guiana.

However, as there is no international agreement between the EU and Venezuela on fisheries, cooperation with this country is not in line with the requirements of Community law. In practice, however, fishing by Venezuelan vessels is allowed.

Accordingly, the Commission made a proposal for an EU commitment on the transfer of fishing rights to Venezuelan vessels. The legal solution found - a declaration to be made by the Council, with the approval of the European Parliament, which aligned the agreement with Union legislation, in particular with the Common Fisheries Policy (CFP), for the conservation and management of fishing stocks, as well as other legislation affected - is appropriate for the small-scale fishing in question.

This declaration took shape in Decision 2012/19/EU, by which the Council - changing the legal basis of the declaration - regarded Parliament as an advisory body, rather than the body from which it needed to request approval.¹

As a result, Parliament and the Commission brought proceedings before the European Court of Justice (ECJ) in order to annul the decision of the Council approving the declaration on fishing permission in the EEZ of French Guiana for Venezuelan vessels, and both cases were heard jointly by the ECJ.

In its judgment, the ECJ interpreted the declaration as an ‘international agreement’, and considered the term ‘agreement’ (Article 218 TFEU) in its broadest sense, although the declaration was unilateral and does not allocate or explain the conditions under which Venezuelan vessels may exploit the fishery resources of the EEZ of French Guiana².

The Court clearly confirmed that decisions relating to the conclusion of external fisheries agreements are fully covered by Article 43(2) TFEU, namely that Parliament’s decision is not only advisory but binding, in the sense that its approval is required.

Consequently, as the judgment of the ECJ was in favour of the position of the Commission and the European Parliament, the Commission submitted a new proposal to the Council and Parliament, maintaining the effects of the Council’s decision until the entry into force of the new decision.

Now that this institutional conflict is resolved, which was based solely on a disagreement over the correct legal basis, the rapporteur is of the opinion that the approval procedure for this

¹ See Articles 43 and 218 of the TFEU.

² These conditions were later explained through TACs and quotas, taking into account the objectives of the CFP and other Community legislation pertaining to fisheries.

proposal should be completed as soon as possible. This will thereby provide the fishing carried on in this area – and whose regular activity was not affected by this delay – with the appropriate framework.

It should be noted that Venezuela has come to respect the trade-offs associated with this proposal, in particular as regards acting in accordance with European regulations, in relation for example to fish stocks that may be targeted, type of fishing gear, vessel monitoring devices, reporting of catches, the maximum number of authorised fishing vessels and the proportion of catches to be landed at French Guiana ports.