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REPORT

on the amended proposal for a Council Regulation amending Regulation (EC) No 1936/2001 of 27 September 2001 laying down control measures applicable to fishing for certain stocks of highly migratory fish (COM(2002) 421 – C5-0406/2002 – 2002/0186(CNS)) (COM(2003) 417 – C5-0479/2003 – 2002/0186(CNS))

Committee on Fisheries

Rapporteur: Patricia McKenna

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 3 September 2002 the Council consulted Parliament, pursuant to Article 37 of the EC Treaty, on the proposal for a Council Regulation amending Regulation (EC) No 1936/2001 of 27 September 2001 laying down control measures applicable to fishing for certain stocks of highly migratory fish (COM(2002) 421 – 2002/0186(CNS)).

At the sitting of 5 September the President of Parliament announced that he had referred the proposal to the Committee on Fisheries as the committee responsible (C5-0406/2002).

The Committee on Fisheries appointed Patricia McKenna rapporteur at its meeting of 30 September 2002.

By letter of 14 July 2003, the Commission forwarded to Parliament an amended proposal (COM(2003) 417), presented by the Commission pursuant to Article 250(2) of the EC Treaty.

At the sitting of 20 October 2003, the President of Parliament announced that he had referred the amended proposal to the Committee on Fisheries as the committee responsible (C5-0479/2003).

It considered the Commission amended proposal and draft report at its meetings of 23 January, 2 October and 25 November 2003.

At the last meeting it adopted the draft legislative resolution by 13 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), Patricia McKenna (rapporteur), Niels Busk, Heinz Kindermann, Giorgio Lisi, Ioannis Marinos, Camilo Nogueira Román (for Ian Stewart Hudghton), Juan Ojeda Sanz (for Manuel Pérez Álvarez), Seán Ó Neachtain, Joaquim Píscarreta, Catherine Stihler and Daniel Varela Suanzes-Carpegna.

The report was tabled on 1 December 2003.

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the amended proposal for a Council Regulation amending Regulation (EC) No 1936/2001 of 27 September 2001 laying down control measures applicable to fishing for certain stocks of highly migratory fish

(COM(2002) 421 – C5-0406/2002 – 2002/0186(CNS))

(COM(2003) 417 – C5-0479/2003 – 2002/0186(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2002) 421)¹ and the amended proposal (COM(2003) 417)²,
 - having regard to Article 37 of the EC Treaty, pursuant to which the Council consulted Parliament (C5-0479/2003),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Fisheries (A5-0438/2003),
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.

Text proposed by the Commission

Amendments by Parliament

Amendment 1
ARTICLE 1, PARAGRAPH 10
Chapter II of Council Regulation (EC) No 1936/2001

Article 21a

Control measures for fishing activities
Article 18 shall apply mutatis mutandis.

Article 21a

Control measures for fishing activities
Articles 18 *and* 19 shall apply mutatis mutandis.

¹ OJ C 291, 26.11.2002, p. 212.

² Not yet published in OJ..

mutandis.

Justification

The current Regulation has an article (Article 19) requiring Member States to attempt to deter their nationals from participating in IUU activities on board non-Contracting Parties. At present, this article only applies to the ICCAT area, but there is no reason why this should not apply to the IOCT area as well.

EXPLANATORY STATEMENT

This proposal from the Commission is an updating of Regulation 1936/2001, which collected all of the various control measures agreed by three tuna regional fisheries organizations (RFOs) - ICCAT (International Commission for the Conservation of Atlantic Tuna), IOTC (Indian Ocean Tuna Commission) and I-ATTC (Inter-American Tropical Tuna Commission). Since the Regulation was adopted, these RFOs have agreed further measures and these must be transcribed into Community law.

Most of the Regulation and the proposed amendments concern ICCAT, which is understandable as it is the most important one for the EU fleets. In fact, it is measures attempting to deal with IUU (Illegal, Unregulated and Unreported) fishing that figure particularly prominently among recent ICCAT resolutions. For about a decade now, beginning with the establishment of a statistical tracking system for bluefin tuna and culminating with a series of import bans for tuna originating from countries that have been identified as fishing in a manner undermining ICCAT's conservation and management measures, ICCAT has been spear-heading ways to discourage IUU fishing. Indeed, there is now a very impressive and progressive package of measures dealing with this destructive practice, concentrating on fishing by vessels flying Flags of Convenience. The IOTC is beginning to follow the same path.

These measures have had some effect, as certain FOC states appear to have acted to clean up their registry and others are joining RFOs, although not necessarily acting any more responsibly. However, the ease with which a ship can change flags means that the net has to be cast ever more widely to include all of the newly appearing FOCs. While it is clear that this campaign must continue, it is also clear that it is not the final answer to controlling activities of tuna vessels at sea.

Within the ICCAT zone, many of the most valuable stocks are in a poor state. The eastern stock of bluefin is being fished unsustainably, bigeye and swordfish are below the MSY level, blue marlin is far below the MSY level. All of these assessments are uncertain due to the very poor quality of the data available to scientists, and the scientific committee of ICCAT (SCRS, or Standing Committee on Research and Statistics) has complained in very strong terms about the quality of the data being submitted. This situation must be rectified, for the timely submission of accurate data on catches is among the most fundamental of obligations of a flag state.

However, it is clear that the poor state of these stocks is not only the fault of the FOC vessels. Much of the blame rests with the Contracting parties to ICCAT. As the Community fleets are among the largest exploiters of these stocks, the EU must accept its responsibilities. If the EU, with all its resources, is unwilling or unable to accept its legally binding obligations, how can it expect to persuade the non-Contracting Parties, especially the FOCs, to do so?

Consider two examples.

It is widely recognized that the minimum landing sizes for yellowfin, bigeye and bluefin tuna in the Atlantic are largely ignored by the fleets. Over the past ten years, more than half of the bigeye caught has been below the legal size of 3.2 kg, despite the fact that vessels are only

supposed to have 15% of their catch below this size. Large and sustained catches of juvenile fish seriously affect the status of the stock, as the SCRS has said for years. Yet how many vessels have ever been charged with respect to this? How many patrol vessels are sent to the ICCAT fishing grounds to ensure that the various control measures are observed? It is true that the ocean is vast, but information is available on fishing zones and vessel location, especially given the recent adoption of requirements for VMS systems. This is one area in which the Community should push for more important and extensive control and surveillance activities.

Another example pertains to submission of data. There are specific requirements in ICCAT for submission of data with respect to the bluefin, swordfish and bigeye fisheries. According to the report of the SCRS for 2002, and taking as an example the swordfish fishery, no country submitted all the required data on time. Morocco and Japan submitted what was required but at least some was late. EU Member States were prominent among those countries submitting data either late, or not at all. The situation was similarly deplorable for the bluefin and bigeye fisheries. Considering the importance of accurate data for scientific assessments, one wonders if the withholding of catch data is deliberate, in order to undermine the assessments made by the scientific committee of ICCAT.

Thus, at the 2002 ICCAT meeting the EU submitted a proposal for an eastern bluefin tuna TAC of 32,000 tonnes. Yet the SCRS report stated clearly that "catch levels of 26,000 MT or more are not sustainable over the long-term". Yet, as the poor quality of the data available to the SCRS did not allow it to make specific recommendations on suitable catch levels, the EU proposal was eventually accepted by ICCAT, and not for one year but for four years. This appears to be a case of a Contracting Party relying on scientific uncertainty to push for higher catch levels than are sustainable. The contrast with the fine rhetoric of the Commission about precaution and responsible fishing following the reform of the CFP is evident, not to mention being in contravention of the requirements of the UN Fish Stocks Agreement, which the EU has not yet ratified (as of September 2003).

In conclusion, your rapporteur wishes to congratulate ICCAT for the prolonged and intensive effort that has been made to tackle Flags of Convenience and IUU fishing within its regulatory area. The measures taken have inspired both other RFOs as well as other international developments such as FAO's Plan of Action on IUU Fishing.

On the other hand, the Contracting Parties, including the EU, must live up to their responsibilities for fisheries management, including appropriate control and enforcement measures.

Given all of the above, your rapporteur has only one amendment to propose. The current Regulation has an article (Article 19) requiring Member States to attempt to deter their nationals from participating in IUU activities on board non-Contracting Parties. At present, this article only applies to the ICCAT area, but there is no reason why this should not apply to the IOTC area as well.