

Opinion of the European Economic and Social Committee on the Proposal for a Council Regulation concerning the conservation of fisheries resources through technical measures

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(2009/C 218/09)

On 16 July 2008, the Council decided to consult the European Economic and Social Committee, under Article 37 of the Treaty establishing the European Community, on the

'Proposal for a Council Regulation concerning the conservation of fisheries resources through technical measures'

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 28 January 2009. The rapporteur was Mr SARRÓ IPARRAGUIRRE.

At its 451st plenary session, held on 25 and 26 February 2009 (meeting of 25 February 2009), the European Economic and Social Committee adopted the following opinion by 170 votes to one, with four abstentions.

1. Conclusions

1.1 The Committee believes that the simplification outlined in the Proposal for a Regulation is necessary. The Committee recognises however that this is not purely a simplification process: the Commission is also changing existing technical measures with a view to harmonisation.

1.2 The EESC considers that as some technical measures will need to be modified in the harmonisation process, biological and socio-economic scientific assessments should be carried out beforehand.

1.3 Given the highly technical nature of the measures set out in the Proposal for a Regulation, the EESC believes that these assessments should be carried out before the Committee expresses a view on the proposed changes. The new technical measures should also be tested beforehand by fishing professionals on board ship and in the fishing grounds.

1.4 The Committee believes that all the technical measures should be included in this Council Regulation to avoid having to deal with them in subsequent Commission Regulations.

1.5 The EESC fully supports the proposal that the technical measures put forward by the Commission should be evaluated on a regular basis.

2. Introduction

2.1 The proposal sets out to simplify and regionalise the existing regulatory framework for the conservation of fisheries resources through the use of technical measures.

2.2 The simplification process will involve replacing Council Regulations (EC) No 850/98 and No 2549/2000 with the Proposal for a Council Regulation under discussion here.

2.2.1 Council Regulation (EC) No 850/98 of 30 March 1998 sets out legislation for the conservation of fisheries resources

through technical measures to protect juveniles of marine organisms.

2.2.2 Council Regulation (EC) No 2549/2000 of 17 November 2000 establishes additional technical measures for the recovery of the stock of cod in the Irish Sea.

2.2.3 The proposal also affects five other Regulations: No 2056/2001, No 254/2002, No 494/2002, No 2015/2006 and No 40/2008, and will no doubt affect Annex III of the annual TAC and quota regulation.

2.3 The new Proposal for a Council Regulation presented by the Commission sets out:

2.3.1 The Council's request to the Commission in June 2004 to revise the technical measures for the conservation of fisheries resources in the Atlantic and the North Sea in order to simplify them and take into account specific regional circumstances, and

2.3.2 The Commission's Action Plan for simplifying Community legislation, endorsed by the Council in April 2006, stating that all the existing technical measures disseminated in various Regulations, including the annual Regulation on fishing opportunities and the recovery plans for certain stocks, should be brought together in one Regulation.

2.4 The Proposal for a Council Regulation presented by the Commission sets out the technical measures for the North East Atlantic, Eastern Central Atlantic and waters off the coasts of the French departments of Guiana, Martinique, Guadeloupe and Réunion that come under the exclusive sovereignty or jurisdiction of France. Technical measures for the Baltic Sea and the Mediterranean are excluded from this Proposal for a Regulation as these are established in Council Regulation (EC) No 2187/2005 for the Baltic Sea and Regulation No 1967/2006 for the Mediterranean Sea.

2.5 The Proposal for a Council Regulation will apply to commercial and recreational fishing, the retention on board, the transshipment, and the landing of fishery resources where such activities are pursued in Community waters and in international waters in the different fishing zones established in the Atlantic Ocean, by Community fishing vessels and by nationals of Member States, without prejudice to the primary responsibility of the flag State.

2.6 The Regulation also applies to the storage, display or offer for sale of fishery products caught in these fishing zones, and to the import of fishery products caught outside the fishing zones by a third-country fishing vessel that do not comply with the minimum landing size of living aquatic resources established in the Council's Proposal for a Regulation.

2.7 In addition to the technical measures for the conservation of fisheries resources provided in Regulation (EC) No 850/98, the Proposal for a Council Regulation sets out all the recovery, management and long-term plans concerning fisheries resources of interest to the Community, specifically, most stocks of cod in Community waters, two stocks of hake, two stocks of nephrops, two stocks of sole, as well as plaice and sole stocks in the North Sea, whereby the conditions laid down in Regulation (EC) No 850/98 have been amended and/or augmented.

3. General comments

3.1 The EESC considers that this Proposal for a Regulation is highly technical. Simplification is clearly necessary, in line with the measures approved by the Committee in its opinion on the Action Plan simplifying Community legislation. However, it is not just a case of simplification, as the Commission is bringing in changes to harmonise current legislation and states that regional differences will be taken into account by establishing specific measures for each of the Regional Advisory Council Areas. Adopting this regional approach will also involve changing existing legislation.

3.2 The Commission's intention is that this Proposal for a Regulation should define the common guiding principles for all fishing zones and that a series of subsequent Commission Regulations will govern the purely technical aspects affecting the regions, through the comitology procedure.

3.3 The Committee believes that while it is certainly necessary to take into account the individual characteristics of the different regions of the EU when setting out technical measures, the approach suggested is not wholly appropriate, and it would be better if this Council Regulation dealt with all the technical measures, rather than looking at them separately in subsequent Commission Regulations.

3.4 The EESC believes that if this approach was taken, the technical measures would be more in line with the new

Common Fisheries Policy adopted in 2002, especially in terms of the Regional Advisory Councils (RACs) which were established by Council Decision on 19 July 2004, and with the inclusion of environmental considerations such as protecting marine habitats and reducing discards, measures which are applicable specifically on a regional basis as defined by the Regional Advisory Council (RAC) Areas.

3.5 The Committee believes that before the proposed technical measures are adopted they should be tested by fishing professionals on board ship and in the fishing grounds to avoid repeating past mistakes.

3.6 Given the complexity of the text and of the proposed technical measures, the EESC considers that an annex with illustrative diagrams should be included to make the Proposal for a Regulation easier to understand.

4. Specific comments

4.1 The technical measures set out in this Proposal for a Regulation cover a broad range of objectives including the protection of juvenile fish, essentially by limiting their capture through improving the selectivity of fishing gear or fixing certain closed seasons/areas. Other measures are intended to protect certain species or ecosystems by limiting fishing effort through the adoption of closures for example, and another set of measures focuses on reducing discards.

4.2 As well as defining the scope of the legislation, the Proposal for a Regulation brings together all the measures on minimum landing sizes of living aquatic species. With regard to the scope of the proposal and the inclusion of imports, the EESC would like clarification on what will happen when the legal minimum sizes of imported products are smaller than EU minimum sizes. The Committee considers a sensible approach would be to ensure that fisheries products from third countries which are smaller than the regulation Community size cannot be put on the market within the EU.

4.3 There is a long list of different types of fishing gear, and for each type the minimum size of the net and codend is set out, as is the maximum depth to which they can be deployed. The use of codends that are not of the stipulated size and shape is prohibited - i.e. when the number of equal sized meshes around any circumference of the codend increases from the front end to the rear end, or when the codend is not made with the authorised materials and twine thicknesses.

4.4 The Committee believes that the simplification process proposed by the European Commission is both necessary and appropriate. The EESC considers however that biological and socio-economic scientific assessments should be carried out prior to implementing the harmonisation process and the changes in some of the technical measures that this will entail.

4.5 Therefore, given the highly technical nature of the measures set out in the Proposal for a Regulation, the EESC believes that these assessments should be carried out before the Committee expresses a view on the proposed changes.

4.6 Undersized living aquatic resources cannot be retained on board or transhipped, landed, transported, stored, sold, displayed or offered for sale but must be returned immediately to the sea. The EESC would like to draw the Commission's attention to the potential effect of this measure on discards. It seems contradictory that the intention is to prohibit discards, yet at the same time it is prohibited to retain certain types of catches on board.

4.7 The EESC is concerned about the potential effects of the one net rule. The Commission should take into account the fact that, in multi-species fishing where more than one net is required, fishermen would have to return to port to change the fishing gear more frequently than is currently the case, incurring additional costs that would affect the fleet's already depleted profit margins.

4.8 The Council's Proposal for a Regulation states that when the quantity of undersized fish caught exceeds 10 % of the total quantity of the catches in any one haul, the vessel should move away to a distance of at least five or ten nautical miles from any position of the first haul, depending on the mesh size range admissible for that species, and throughout the next haul keep a minimum distance of five or ten nautical miles from any position of the previous haul.

4.9 The Committee is somewhat dubious about this measure as, generally speaking, the Commission has not taken into account the specific circumstances in different areas and fisheries, which could in some cases give rise to legal uncertainty, especially when it is not clear whether reference is being made to target catches or by-catches. The EESC considers that implementing different types of measures such as closed seasons/areas could have more positive effects than the Commission's proposal.

4.10 With the main aim being to protect the environment, the catching, retention on board, transhipment, storage, landing,

sale, display or offer for sale of marine organisms caught using methods incorporating the use of explosives, poisonous or stupefying substances, electric current or any kind of projectile is also prohibited. The carrying-out on board a fishing vessel of any physical or chemical processing of fish to produce fish-meal or fish-oil, or to tranship catches of fish for such purposes is prohibited.

4.11 The EESC welcomes the introduction of these environmentally-friendly measures, arising from the application of the new Common Fisheries Policy adopted in 2002, and urges the Commission to ensure that all these measures are strictly enforced throughout the Community fishing fleet.

4.12 The Committee endorses the procedures proposed by the Commission to approve urgent conservation measures adopted by the Member States that will affect all Community fishing vessels, or measures applying solely to fishing vessels flying their flag. To prevent abuses by certain Member States, however, stakeholders or independent bodies should be allowed to check whether these measures are suitable and necessary.

4.13 The EESC supports the fact that the Member States and/or the Regional Advisory Councils can make proposals to the Commission on developing plans to reduce or eliminate discards into the sea and improve the selectivity of fishing gear.

4.14 The Committee also welcomes the fact that the Council's Proposal for a Regulation does not apply to fishing operations conducted solely for the purpose of scientific research as long as an authorisation issued by the flag Member State is carried on board. However, the Committee does not believe it is necessary for an observer from the coastal Member State to be taken on board during fishing operations carried out for scientific research.

4.15 The EESC fully supports the inclusion of a new measure on the evaluation of the efficiency of technical measures. This evaluation will be carried out every five years and on the basis of the information contained in this evaluation report the Commission will propose to the Council any necessary amendments.

Brussels, 25 February 2009.

The President
of the European Economic and Social Committee
Mario SEPI
