

Opinion of the European Economic and Social Committee on the Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1007/2009 on trade in seal products

(COM(2015) 45 final — 2015/0028 (COD))

(2015/C 332/09)

Rapporteur: Thomas McDONOGH

On 12 February 2015 and 20 February 2015 the European Parliament and the Council respectively decided to consult the European Economic and Social Committee, under Article 114 of the Treaty on the Functioning of the European Union, on the:

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1007/2009 on trade in seal products

COM(2015) 45 final — 2015/0028 (COD).

The Section for Agriculture, Rural Development and Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 5 May 2015.

At its 508th plenary session, held on 27 and 28 May 2015 (meeting of 27 May), the European Economic and Social Committee adopted the following opinion by 161 votes with 9 abstentions.

1. Conclusions and recommendations

1.1 The amendment to the EU legislation must be adopted to comply with recommendations and rulings with regard to the Basic Regulation made on 18 June 2014 when the WTO Dispute Settlement Body (DSB) adopted the panel and appellate body reports.

1.2 Rules and regulations for humane slaughter should be rigorously enforced by the various authorities including the EU. All possible steps should be taken to eliminate unnecessary suffering of the seal population. For instance, the clubbing of young seals in the spring time in Canada could be best described as barbaric and is being continually fought by animal rights organisations throughout the world. The EESC abhors this method of slaughtering.

1.3 Realistic verifiable quotas including permissible killing methods must be put in place for the traditional hunting for subsistence purposes by Inuit communities. Animal welfare has to be respected simultaneously.

1.4 The quotas, hunting limits, other compliance issues, etc. should be properly monitored and policed.

1.5 The minimum requirements to a traceability scheme could be formulated as a set of requirements that economic operators looking to import into the EU must fulfil, including three key aspects⁽¹⁾:

1. identification requirements;
2. record and record-keeping requirements;
3. the ability to produce traceability reports (verification).

2. Introduction

2.1 Regulation (EC) No 1007/2009 of the European Parliament and of the Council of 16 September 2009 on trade in seal products (the 'Basic Regulation') sets out a general ban on placing these products on the Union's market.

⁽¹⁾ Commission funded study on implementing measures for trade in seal products conducted by consultancy COWI in cooperation with ECORYS.

2.2 The Basic Regulation contains an exception from the general ban for seal products derived from hunts traditionally conducted by Inuit and other indigenous communities that contribute to their subsistence (‘the IC exception’).

2.3 It also contains exceptions for the import of seal products derived from seals hunted for the sole purpose of the sustainable management of marine resources on a not for profit basis and not for commercial reasons (‘the MRM exception’) as well as for imports of an occasional nature and which consist exclusively of goods for the personal use of travellers or their families.

2.4 An Implementing Regulation, Commission Regulation (EU) No 737/2010 of 10 August 2010, lays down detailed rules for the implementation of the Basic Regulation.

2.5 Both acts (‘the EU seal regime’) were challenged by Canada and Norway in the World Trade Organisation (WTO) in the dispute on EC — Measures Prohibiting the Importation and Marketing of Seal Products (DS400 and DS401).

2.6 While the WTO reports concluded that the ban on seal products can, in principle, be justified for moral concerns regarding the welfare of seals, they took issue with the two exceptions, the IC exception and the MRM exception.

2.7 The MRM exception was found not to be justified as the possible difference in the commercial dimension of commercial hunts and MRM hunts (small scale, non-profit) was not sufficient to justify the distinction.

2.8 With regard to the IC exception, while in principle reflecting a legitimate distinction, the appellate body ruled, that some elements of its design and application amounted to ‘arbitrary and unjustifiable discrimination’.

2.9 On 10 July 2014 the European Union notified the DSB that it intends to implement the recommendations and rulings of the DSB in this dispute in a manner that respects its WTO obligations.

2.10 On 5 September 2014, the European Union, Canada and Norway agreed that the reasonable period for implementing the DSB recommendations and rulings would be 16 months. Accordingly, the reasonable period of time will expire on 18 October 2015.

2.11 The purpose of this legislative proposal is to implement the DSB recommendations and rulings with regard to the Basic Regulation. It also creates the legal basis for bringing Regulation (EU) No 737/2010 into compliance with the said rulings.

2.12 The concerns regarding the MRM exception are remedied by removing the MRM exception from the Basic Regulation. The concerns relating to the design and application of the IC exception are addressed by modifying the exception, in particular by linking its use to the respect of animal welfare and providing for a limit to the placing on the market of seal products if the scale of the hunt or other circumstances are such as to indicate that the hunt is being conducted primarily for commercial purposes.

2.13 In addition, experts from the Commission are working together with experts from Canada in order to set up the necessary attestation system to enable Canadian Inuit to make use of the Inuit exception under the EU seal regime.

2.14 A marketing structure for Inuit products should be set up by the various governments involved.

3. General comments

3.1 Seal hunting is an integral part of the culture and identity of the Inuit and other indigenous communities and makes a major contribution to their subsistence. The full prohibition of seal hunting, established several years ago due to the pressure of public opinion, generated a deep crisis for the Inuit community characterised by poverty and incapability to ensure their survival. At present, 90 % of the Inuit are unemployed and a great number of them are completely dependent on social security. For those reasons, seal hunts traditionally conducted by Inuit and other indigenous communities have been recently readmitted if done for their own subsistence.

3.2 The EESC proposes to involve the Inuit Community, in the process between the European Commission and the Canadian Government, in order to find together the best way to ensure the Inuit's right to subsistence continuing, and, at the same time, to protect seals from the international trade and the extinction.

3.3 A genuinely humane killing method cannot be effectively and consistently applied in the hunts conducted by the Inuit and other indigenous communities, just like in the other seal hunts. Nonetheless, it is appropriate, in the light of the objective pursued by Regulation (EC) No 1007/2009, to make the placing on the Union market of products resulting from hunts by the Inuit and other indigenous communities conditional upon those hunts being conducted in a manner which reduces pain, distress, fear or other forms of suffering of the animals hunted to the extent possible.

3.4 Regulation (EC) No 1007/2009 also allows, by way of exception, the placing on the market of seal products where the hunt is conducted with the sole purpose of sustainable management of marine resources.

3.5 While recognising the importance of hunts for the purpose of sustainable management of marine resources, in practice, however, these hunts may be difficult to distinguish from the large hunts conducted primarily for commercial purposes. This may lead to unjustified discrimination between the seal products concerned. Therefore, this exception should no longer be provided for.

3.6 The placing on the market of seal products shall be allowed only where the seal products result from hunts conducted by Inuit and other indigenous communities, provided that the following conditions are all satisfied:

- (a) the hunt has been traditionally conducted by the community;
- (b) the hunt contributes to the subsistence of the community and is not conducted primarily for commercial reasons;
- (c) the hunt is conducted in a manner which reduces pain, distress, fear or other forms of suffering of the animals hunted to the extent possible taking into consideration the traditional way of life and the subsistence needs of the community.

3.7 The EESC shares the conditions for the placing of the seal products on the market, but suggests that the European Commission finds a good balance between the seals' protection and the Inuit's need to hunt them, as it is crucial for their survival. A non-pragmatic interpretation of said conditions could, in practice, impede the Inuit hunting of seals.

3.8 The EESC considers it useful:

- (a) to establish a special status for the seal products made by the Inuit according to the traditional way of hunting, for example 'Traditionally caught by Inuit'. In this case, in order to avoid more international disputes, it could be useful to clearly define this concept as a 'non-industrial harvest';
- (b) to create a system of tracking, labelling and a specific logo to monitor Inuit activity and to protect and inform the consumers;
- (c) import quotas should be considered if arrangements are seen to be abused.

3.9 The import of seal products shall also be allowed where it is of an occasional nature and consists exclusively of goods for the personal use of travellers or their families. The nature and quantity of such goods shall not be such as to indicate that they are being imported for commercial reasons.

3.10 How traceability is further organised depends on the kind of system put in place and the responsibilities allocated to the various parties involved. In the context of the regulation of trade in seal products, these minimum requirements should be interpreted as follows:

Identification requirements

The identification requirements comprise in principle three elements:

- the hunter (either Inuit/indigenous hunter or licensed hunter for resource management purposes) — having a unique identification number;
- the collecting station (designating the territory/geographical location);
- the product (essentially traces the transaction between the hunter and the collecting station).

It may be necessary to identify in addition or instead 'the hunt' in case it is not directly linked to the hunter, there is no collecting station or it does not cover the national level, but only specific regions.

3.11 In reaching its decision, which will be final and binding, the WTO must reconcile contradictory statements from international agreements that are almost 70 years old. Among such statements, one forbids 'arbitrary or unjustifiable discrimination' between countries. Another says that nations can act in a way that is 'necessary to protect public morals' ⁽²⁾.

3.12 *The greatness of a nation and its moral progress can be judged by the way its animals are treated* ⁽³⁾.

Brussels, 27 May 2015.

The President
of the European Economic and Social Committee
Henri MALOSSE

⁽²⁾ A. Butterworth and M. Richardson, *Marine. Policy*, 38, 457-469; 2013.

⁽³⁾ Quote attributed to Mahatma Gandhi.