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*****I**
REPORT

on the proposal for a regulation of the European Parliament and of the Council on certain measures in relation to countries allowing non-sustainable fishing for the purpose of the conservation of fish stocks (COM(2011)0888 – C7-0508/2011 – 2011/0434(COD))

Committee on Fisheries

Rapporteur: Pat the Cope Gallagher

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.)

Amendments to a draft act

In amendments by Parliament, amendments to draft acts are highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the draft act which may require correction when the final text is prepared – for instance, obvious errors or omissions in a language version. Suggested corrections of this kind are subject to the agreement of the departments concerned.

The heading for any amendment to an existing act that the draft act seeks to amend includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend. Passages in an existing act that Parliament wishes to amend, but that the draft act has left unchanged, are highlighted in **bold**. Any deletions that Parliament wishes to make in such passages are indicated thus: [...].

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council on certain measures in relation to countries allowing non-sustainable fishing for the purpose of the conservation of fish stocks
(COM(2011)0888 – C7-0508/2011 – 2011/0434(COD))**

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2011)0888),
 - having regard to Article 294(2) and Articles 207(2) and 43(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C7-0508/2011),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - after consultation of the European Economic and Social Committee,
 - having regard to Rule 55 of its Rules of Procedure,
 - having regard to the report of the Committee on Fisheries and the opinion of the Committee on Development (A7-0146/2012),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

(Amendment 1

Proposal for a regulation
Recital 2 a (new)

Text proposed by the Commission

Amendment

(2 a) The Union should be able to refuse the importation of fish coming from a State that has tabled an objection to and undermines a management or conservation measure in the framework of an RFMO.

Amendment 2

Proposal for a regulation
Recital 6

Text proposed by the Commission

Amendment

(6) Such measures should aim ***at removing*** incentives for the fleets of the country allowing non-sustainable fishing to fish on the stock of common interest. This can be achieved by, for example, restricting imports of fish products ***caught by vessels conducting fisheries on a stock of common interest under the responsibility of*** a country allowing non-sustainable fishing, restricting the provision of port services to ***those*** vessels or ***avoiding that*** Union fishing vessels or Union fishing equipment ***may be*** used for fishing the stock of common interest under the responsibility of the country allowing non-sustainable fishing.

(6) Such measures should aim ***to*** remove incentives for the fleets of the country allowing non-sustainable fishing to fish on the stock of common interest. This can be achieved by, for example, restricting imports of ***all fish and fishery*** products ***originating from*** a country allowing non-sustainable fishing, restricting the provision of port services to vessels ***flying the flag of that country*** or ***preventing*** Union fishing vessels or Union fishing equipment ***from being*** used for fishing the stock of common interest under the responsibility of the country allowing non-sustainable fishing.

Justification

This act has to provide the EU with a strong tool, allowing the widest possible action, not limited to the "stocks of common interest" or "associated species".

Amendment 3

Proposal for a regulation Recital 8

Text proposed by the Commission

(8) **It** is necessary that the adoption of such measures be preceded by an evaluation of their expected environmental, trade, economic and social effects.

Amendment

(8) ***In order to ensure that the measures that are envisaged are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, it is necessary that the adoption of such measures be preceded by an evaluation of their expected environmental, trade, economic and social effects.***

Justification

This AM replaces AM 2 in the draft report.

Amendment 4

Proposal for a regulation Article 1 – paragraph 1

Text proposed by the Commission

1. This Regulation lays down ***the*** framework for the adoption of certain measures regarding fisheries-related activities and policies by third countries ***with*** the aim of ensuring long-term sustainability of fish stocks of common interest between the European Union and those third countries.

Amendment

1. This Regulation lays down ***a*** framework for the adoption, ***by the Commission,*** of certain measures regarding ***the*** fisheries-related activities and policies ***of*** third countries ***and has*** the aim of ensuring ***the*** long-term sustainability of fish stocks of common interest between the European Union and those third countries.

Justification

Amendment 5

Proposal for a regulation

Article 2 – paragraph 1 – point a

Text proposed by the Commission

(a) ‘stock of common interest’ means a fish stock whose geographical distribution makes it available to the fleets of both Member States and third countries and whose management requires the cooperation between these third countries and the Union;

Amendment

(a) ‘stock of common interest’ means a fish stock whose geographical distribution makes it available to the fleets of both Member States and third countries and whose management requires the cooperation between these third countries and the Union, ***or a fish stock managed under RFMOs to which the Union is a contracting party;***

Amendment 6

Proposal for a regulation

Article 2 –point b

Text proposed by the Commission

(b) "associated species" means any fish species that occur in a mixed fishery with a stock of common interest;

Amendment

deleted

Justification

In line with amendments to Recital 6 and Article 4 (c) and (d).

Amendment 7

Proposal for a regulation Article 2 – point c

Text proposed by the Commission

Amendment

(c) "mixed fishery" means a fishery where more than one species are present in the area being fished and are vulnerable to being caught in the fishing gear.

deleted

Justification

This definition is not needed anymore, in line with amendments 1 and 3.

Amendment 8

Proposal for a regulation Article 3 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) has adopted such measures without due regard to the rights, interests and duties of others including the European Union, and those fishery management measures lead to fishing activities which would lead the stock below the levels that can produce maximum sustainable yield, when considered in conjunction with measures taken by the Union either autonomously or in cooperation with other countries.

(b) has adopted such measures without due regard to the rights, interests and duties of others including the European Union, and those fishery management measures lead to fishing activities which would lead the stock below the levels that can produce maximum sustainable yield, when considered in conjunction with measures taken by the Union either autonomously or in cooperation with other countries, *or*

(c) has failed or refused to adopt the management measures approved within the RFMO that manages the stock.

Amendment 9

Proposal for a regulation Article 3 – paragraph 2

Text proposed by the Commission

2. For the purposes of paragraph 1(b) (ii), the stock levels that can produce maximum sustainable yield ***shall be determined on the basis of best available scientific advice.***

Amendment

2. For the purposes of paragraph 1(b) (ii), ***best available scientific advice shall determine*** the stock levels that can produce maximum sustainable yield.

Amendment 10

Proposal for a regulation Article 4 – paragraph 1 – point c

Text proposed by the Commission

(c) impose quantitative restrictions on importations into the Union of fish, and fishery products made of or containing such fish, stemming from the stock of common interest and that had been caught under the control of the country allowing non-sustainable fishing;

Amendment

deleted

Justification

This paragraph becomes redundant, as the measures are defined in Article 4(1)(d).

Amendment 11

Proposal for a regulation Article 4 – paragraph 1 – point d

Text proposed by the Commission

(d) impose quantitative restrictions ***of***

Amendment

(d) impose quantitative restrictions ***on***

importations into the Union of fish of any *associated* species, *and fishery products made of or containing such fish, when* caught while conducting fisheries *on the stock of common interest* under the control of the country allowing non-sustainable fishing; *in such a case, the Commission shall define appropriate means to determine which catches fall within the scope of the measure;*

importations into the Union of *all* fish of any species caught while conducting fisheries under the control of the country allowing non-sustainable fishing *of stocks of common interest, as well as of fishery products made of or containing such fish;*

Amendment 12

Proposal for a regulation Article 4 – paragraph 1 – point e

Text proposed by the Commission

(e) impose restrictions *of* the use of Union ports by *vessels flying the flag of the country allowing non-sustainable fishing that fish the stock of common interest and by vessels transporting fish and fishery products stemming from the stock of common interest that had been caught either by vessels* flying the flag of the country allowing non-sustainable fishing *or by vessels authorised by it while flying another flag*; such restrictions shall not apply in cases of force majeure or distress within the meaning of Article 18 of the UNCLOS (force majeure or distress) for services strictly necessary to remedy those situations;

Amendment

(e) impose restrictions *on* the use of Union ports by *fishing* vessels flying the flag of the country allowing non-sustainable fishing; such restrictions shall not apply in cases of force majeure or distress within the meaning of Article 18 of the UNCLOS (force majeure or distress) for services strictly necessary to remedy those situations;

Justification

This AM replaces AM 9 in the draft report.

Amendment 13

Proposal for a regulation

Article 5 – paragraph 1 – point b

Text proposed by the Commission

(b) made effective in conjunction with restrictions on fishing by Union vessels or on production or consumption within the Union applicable to fish, and fishery products made of or containing such fish, of the species for which the measures have been adopted pursuant to this Regulation.

These restrictions, in the case of associated species, may apply only when these are caught while conducting fisheries on the stock of common interest.

Amendment

(b) made effective in conjunction with restrictions on fishing by Union vessels or on production or consumption within the Union applicable to fish, and fishery products made of or containing such fish, of the species for which the measures have been adopted pursuant to this Regulation.

Justification

In line with the deletion of "associated species" in Article 4(1)(d).

Amendment 14

Proposal for a regulation

Article 5 – paragraph 4

Text proposed by the Commission

4. In adopting measures in accordance to this Regulation, the Commission shall evaluate the environmental, trade, economic and social effects of those measures in the short and long terms and the administrative burden associated to their implementation.

Amendment

4. In adopting measures in accordance to this Regulation, the Commission shall, ***in order to ensure that the envisaged measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade,*** evaluate the environmental, trade, economic and social effects of those measures in the short and long terms and the administrative burden associated to their implementation.

Justification

This AM replaces AM 11 in the draft report.

Amendment 15

**Proposal for a regulation
Article 6 – paragraph 3**

Text proposed by the Commission

3. Prior to adopting measures pursuant to Article 4, the Commission shall provide the third country concerned with a reasonable opportunity to respond to the notification in writing and to remedy the situation.

Amendment

3. Prior to adopting measures pursuant to Article 4, the Commission shall provide the third country concerned with a reasonable opportunity to respond to the notification in writing and to remedy the situation ***within one month of receiving the notification.***

Amendment 16

**Proposal for a regulation
Article 8 - paragraph 3a (new)**

Text proposed by the Commission

Amendment

3a. The evaluation report referred to in Article 5(4), shall be made available to the European Parliament and the Council in accordance with the procedure provided for in Article 10(4) of Regulation No 182/2011 in addition to other documents provided for therein.

Justification

Compromise AM regarding recital 8. To develop legal consequences the recital needs to be reflected in an Article. The Commission is obliged to inform the EP and the Council according to Regulation No 182/2011.

EXPLANATORY STATEMENT

Repeated infringements to the UN Convention on the Law of the Sea and the UN Fish Stocks Agreement, as well as unilateral actions in disregard of cooperation requirements imposed by Regional Fisheries Management Organizations (RFMOs) upon coastal States for the responsible management of straddling and highly migratory fish stocks, call for a proper legal tool allowing the EU to react to uncooperative behaviour by States concerned.

Any blatant lack of good will in working towards agreed measures has to be met with firm action, as it may not only adversely affect EU fisheries, but also lead to considerable depletion of fish stocks, in spite of other coastal States engaging in a moderation of their fishing effort.

The EU being a lucrative market of destination for fisheries products, it has a particular responsibility in ensuring sustainable fishing and the respect of obligations deriving from the common management of straddling and migratory stocks. It is therefore necessary to provide the EU with effective means to take action against any State unwilling to assume such a responsibility, or not cooperating in the adoption and implementation of agreed management measures, in order to disincentive unsustainable fishing.

Your rapporteur therefore fully supports the Commission proposal to use trade and other type of measures in situations like the ones described above, but calls for an unmistakable political message, including a more clear-cut approach and strong, effective measures. Trade measures to be applied should not be limited to imports of the "stocks of common interest" and "associated species" only, but applicable to all imports of fish and fishery products of all species originating from countries allowing non-sustainable fishing.

28.3.2012

OPINION OF THE COMMITTEE ON DEVELOPMENT

for the Committee on Fisheries

on the proposal for a regulation of the European Parliament and of the Council on certain measures in relation to countries allowing non-sustainable fishing for the purpose of the conservation of fish stocks
(COM(2011)0888 – C7-0508/2011 – 2011/0434(COD))

Rapporteur: Maurice Ponga

SHORT JUSTIFICATION

The aim of this new proposal for a Commission regulation is to promote cooperation between States in order to establish truly sustainable fishing practices which conserve fish stocks and ensure their optimal use.

To achieve this, the European Union needs to have suitable and effective tools so it can impose sanctions on States which are responsible for measures and practices that lead to over-exploitation of stocks or which do not cooperate in good faith by taking agreed management measures.

The new regulation presented by the Commission provides for various measures by which sanctions may be imposed on countries allowing non-sustainable fishing, the aim being to safeguard the long-term viability of fish stocks of common interest to the European Union and non-EU countries.

This entails:

- applying quantitative restrictions on imports into the EU of fish and fishery products caught under the auspices of a country allowing non-sustainable fishing, or restrictions on the use of ports in the EU by vessels flying the flag of a country authorising non-sustainable fishing,
- prohibiting the purchase by EU economic operators of fishing vessels flying the flag of a country allowing non-sustainable fishing, and the reflagging of fishing vessels flying the flag of a Member State to countries allowing non-sustainable fishing,
- prohibiting the export of fishing vessels or fishing equipment or supplies to countries allowing non-sustainable fishing,
- prohibiting the conclusion of private trade agreements with countries allowing non-

sustainable fishing, and joint fishing ventures with fishing vessels flying the flag of a country allowing non-sustainable fishing.

The rapporteur is of the opinion that this new regulation will help to encourage and establish sustainable and responsible fishing internationally and that it is closely linked to the Regulation on preventing illegal, unreported and unregulated fishing. He commends the Commission for its initiative therefore.

The rapporteur does however consider that, to be consistent with development policy objectives, as laid down in Article 208 TFEU, there needs to be complementarity and that measures taken under fishing policy and trade policy must be consistent with those taken under development policy. Consequently, the rapporteur considers that special measures must be included for developing countries in order to take due account of their financial, technical and material capacity and their needs.

Finally, a review clause needs to be introduced, in the rapporteur's view, in order to check that the regulation is proving effective and relevant, and to propose amendments, should this be necessary.

AMENDMENTS

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

Amendment 1

Proposal for a regulation Recital 5

Text proposed by the Commission

(5) In addition, it is necessary to define the type of measures that may be taken with regard to countries allowing non-sustainable fishing and to establish general conditions for the adoption of such measures so they are based on objective criteria, equitable, cost-effective and compatible with international law, in particular the Agreement establishing the World Trade Organization.

Amendment

(5) In addition, it is necessary to define the type of measures that may be taken with regard to countries allowing non-sustainable fishing and to establish general conditions for the adoption of such measures so they are based on objective criteria, equitable, cost-effective and compatible with international law, in particular the Agreement establishing the World Trade Organization. ***These measures should take particular account of the level of development and the vulnerability of the country concerned.***

Justification

Account should be taken of the level of development and vulnerability of a country deemed to be allowing non-sustainable fishing. Developing countries cannot be expected to comply with the same requirements.

There are special provisions for developing States in Part VII of the 1995 Agreement for the Implementation of the Provisions of the 1982 United Nations Convention on the Law of the Sea relating to Straddling Fish Stocks and Highly Migratory Fish Stocks.

Amendment 2

Proposal for a regulation

Article 5 – paragraph 4

Text proposed by the Commission

4. ***In*** adopting measures in accordance to this Regulation, the Commission shall evaluate the environmental, trade, economic and social effects of those measures in the short and long terms and the administrative burden associated to their implementation.

Amendment

4. ***Before*** adopting measures in accordance to this Regulation, the Commission shall evaluate the environmental, trade, economic and social effects of those measures in the short and long terms and the administrative burden associated to their implementation. ***In its evaluation, the Commission shall take due account of the level of development, the vulnerability and the financial, material and technical capacities of the country concerned, as well as of the consequences that such measures may have on development policies implemented in that country.***

(The wrong numbering in the French version of the Commission proposal should be corrected.)

Justification

It is essential that, in carrying out its evaluation, the Commission takes the special situation of developing countries into account, along with development policy actions in these countries. The measures should in fact be complementary and coherent.

Amendment 3

Proposal for a regulation Article 8 a (new)

Text proposed by the Commission

Amendment

Article 8a

Review and reporting

By ...* and every three years thereafter, the Commission shall review the implementation of this Regulation and report back to the European Parliament and the Council.

The report shall assess, in particular:

- the countries in respect of which measures have been adopted;***
- the measures adopted by the Commission;***
- any corrections carried out by the countries which are the subject of the measures; and***
- the effects that the measures adopted have had on fishing sustainability.***

The report shall be accompanied, if appropriate, by a proposal to amend this Regulation.

**** OJ Please insert the date two years after the entry into force of this Regulation.***

Justification

A review clause needs to be included so that Parliament may, if necessary, amend the regulation to respond to problems and obstacles encountered in its implementation.

PROCEDURE

Title	Certain measures in relation to countries allowing non-sustainable fishing for the purpose of the conservation of fish stocks
References	COM(2011)0888 – C7-0508/2011 – 2011/0434(COD)
Committee responsible Date announced in plenary	PECH 17.1.2012
Committee(s) asked for opinion(s) Date announced in plenary	DEVE 17.1.2012
Rapporteur(s) Date appointed	Maurice Ponga 10.2.2012
Discussed in committee	1.3.2012
Date adopted	27.3.2012
Result of final vote	+: 26 -: 0 0: 0
Members present for the final vote	Michael Cashman, Ricardo Cortés Lastra, Corina Crețu, Nirj Deva, Leonidas Donskis, Charles Goerens, Catherine Grèze, Filip Kaczmarek, Franziska Keller, Gay Mitchell, Norbert Neuser, Bill Newton Dunn, Maurice Ponga, Birgit Schnieber-Jastram, Michèle Striffler, Alf Svensson, Eleni Theoharous, Patrice Tirolien, Ivo Vajgl, Anna Záborská, Iva Zanicchi, Gabriele Zimmer
Substitute(s) present for the final vote	Enrique Guerrero Salom, Edvard Kožušník, Cristian Dan Preda, Patrizia Toia

PROCEDURE

Title	Certain measures in relation to countries allowing non-sustainable fishing for the purpose of the conservation of fish stocks	
References	COM(2011)0888 – C7-0508/2011 – 2011/0434(COD)	
Date submitted to Parliament	14.12.2011	
Committee responsible Date announced in plenary	PECH 17.1.2012	
Committee(s) asked for opinion(s) Date announced in plenary	DEVE 17.1.2012	ENVI 17.1.2012
Not delivering opinions Date of decision	ENVI 24.1.2012	
Rapporteur(s) Date appointed	Pat the Cope Gallagher 6.1.2012	
Discussed in committee	26.1.2012	29.2.2012
Date adopted	24.4.2012	
Result of final vote	+: -: 0:	23 0 0
Members present for the final vote	Antonello Antinoro, Kriton Arsenis, Alain Cadec, Chris Davies, João Ferreira, Carmen Fraga Estévez, Pat the Cope Gallagher, Dolores García-Hierro Caraballo, Marek Józef Gróbarczyk, Carl Haglund, Ian Hudghton, Iliana Malinova Iotova, Werner Kuhn, Isabella Lövin, Gabriel Mato Adrover, Guido Milana, Maria do Céu Patrão Neves, Crescenzo Rivellini, Ulrike Rodust, Raül Romeva i Rueda, Struan Stevenson, Catherine Trautmann, Jarosław Leszek Wałęsa	
Substitute(s) present for the final vote	Diane Dodds, Barbara Matera, Jens Nilsson, Nikolaos Salavrakos	
Date tabled	25.4.2012	