II

(Acts adopted under the EC Treaty/Euratom Treaty whose publication is not obligatory)

DECISIONS

COUNCIL

COUNCIL DECISION

of 5 March 2009

on the approval of amendments to the Convention on future multilateral cooperation in the North-East Atlantic Fisheries allowing for the establishment of dispute settlement procedures, the extension of the scope of the Convention and a review of the objectives of the Convention

(2009/550/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37, in conjunction with Article 300(2) and the first subparagraph of Article 300(3) thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament [1],

Whereas:

(1) The Convention on future multilateral cooperation in the North-East Atlantic Fisheries (the Convention), was signed in London on 18 November 1980 and entered into force on 17 March 1982.

(2) The Community acceded to the Convention on 13 July 1981 [2].

(3) According to Article 19(2) of the Convention the adoption of an amendment to the Convention requires a three-fourths majority of all Contracting Parties. In accordance with Article 19(3) of the Convention, an amendment will take effect 120 days following the date of notification by the Depositary of receipt of written notification of approval by three-fourths of all Contracting Parties.

(4) The Contracting Parties to the Convention adopted an amendment to the Convention at the 23rd Annual Meeting of the North-East Atlantic Fisheries Commission (NEAFC) in November 2004 allowing NEAFC to adopt recommendations establishing procedures for the settlement of disputes arising from the Convention.

(5) By postal vote on 11 August 2006 the Contracting Parties to the Convention adopted an amendment to the Convention whereby the scope of the Convention was extended so as to include sedentary species and the objectives of the Convention were broadened. The Convention was also amended so as to mention developments in other international forums for fisheries management that affect fisheries in the NEAFC Convention area, and certain new definitions were introduced.

(6) Sedentary species are harvested or affected by fisheries and it is therefore appropriate to include those species in the scope of the Convention.

(7) The Convention provides that NEAFC shall perform its functions in the interest of the conservation and optimum utilisation of fishery resources. In addition to these objectives, it is important to underline the importance of long-term management and that the management of fishery resources should provide sustainable economic, environmental and social benefits. It is therefore appropriate to include these elements as objectives in the Convention.

[1] Opinion of 19 February 2009 (not yet published in the Official Journal).
[2] OJ L 227, 12.8.1981, p. 21.

(8) According to the Convention, NEAFC shall, in performing its functions, take account of the best scientific evidence available to it. In fulfilling the objectives, it is also important to take into account the precautionary approach, the ecosystem approach and the need to conserve marine biological diversity. It is therefore appropriate that NEAFC also take these elements into account in performing its functions.

(9) A dispute settlement procedure established under the Convention should enable the expeditious settlement of disputes, which would be in the interest of the Community.

(10) Furthermore, such a procedure would help towards the strengthening and modernisation of regional fisheries management organisations, in particular the NEAFC, and thereby ensure the long-term sustainability of the fisheries in the North-East Atlantic.

(11) In the light of the fishing possibilities accruing to the Community under the Convention, it is therefore in the Community's interest to approve the proposed amendments,

HAS DECIDED AS FOLLOWS:

Article 1

The amendments to the Convention are hereby approved on behalf of the European Community.

The text of the amendments to the Convention are attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to notify the Depositary Government of the Community's approval in accordance with Article 19(3) of the Convention [1].

Done at Brussels, 5 March 2009.

For the Council
The President
M. ŘÍMAN

[1] The date of entry into force of the amendments will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.

ANNEX

The Convention on future multilateral cooperation in the North-East Atlantic Fisheries is hereby amended as follows:

1. In the preamble, a new second paragraph shall be inserted as follows:

'RECOGNISING the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982; the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, 1995; the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, 1993 and taking into account the Code of Conduct for Responsible Fisheries adopted by the 28th Session of the Conference of the Food and Agriculture Organisation of the United Nations in October 1995,'

2. In the preamble the third paragraph shall be replaced by the following:

'DESIRING to promote the long-term conservation and optimum utilisation of the fishery resources of the North-East Atlantic area, and in doing so to safeguard the marine ecosystems in which the resources occur, and accordingly to encourage international cooperation and consultation with respect to these resources,';

3. Article 1 shall be replaced by the following:

'*Article 1*

For the purpose of this Convention the following definitions apply:

1. "The Convention Area" means the areas

   (a) within those parts of the Atlantic and Arctic Oceans and their dependent seas which lie north of 36° north latitude and between 42° west longitude and 51° east longitude, but excluding:

   — the Baltic Sea and the Belts lying to the south and east of lines drawn from Hasenore Head to Gniben Point, from Korshage to Spodsbierg and from Gilbierg Head to the Kullen, and,

   — the Mediterranean Sea and its dependent seas as far as the point of intersection of the parallel of 36° latitude and the meridian of 5°36′ west longitude,

   (b) within that part of the Atlantic Ocean north of 59° north latitude and between 44° west longitude and 42° west longitude;

2. "Fishery resources" means resources of fish, molluscs, crustaceans and including sedentary species, excluding, in so far as they are dealt with by other international agreements, highly migratory species listed in Annex I of the United Nations Convention on the Law of the Sea of 10 December 1982, and anadromous stocks;

3. "Living marine resources" means all living components of marine ecosystems;

4. "Marine biological diversity" means the variability among marine living organisms and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.'

4. Article 2 shall be replaced by the following:

'*Article 2*

The objective of this Convention is to ensure the long-term conservation and optimum utilisation of the fishery resources in the Convention Area, providing sustainable economic, environmental and social benefits.'

5. Article 4 shall be replaced by the following:

'*Article 4*

1. The Commission shall perform its functions in order to fulfil the objectives set out in Article 2.

2. When making recommendations in accordance with Article 5 or 6 of this Convention the Commission shall in particular:

(a) ensure that such recommendations are based on the best scientific evidence available;

(b) apply the precautionary approach;

(c) take due account of the impact of fisheries on other species and marine ecosystems, and in doing so adopt, where necessary, conservation and management measures that address the need to minimise harmful impacts on living marine resources and marine ecosystems; and

(d) take due account of the need to conserve marine biological diversity.

3. The Commission shall provide a forum for consultation and exchange of information on the state of the fishery resources in the Convention Area and on the management policies, including examination of the overall effects of such policies on the fishery resources and, as appropriate, other living marine resources and marine ecosystems.'

6. In Articles 5, 6, 8, 9, 12, 13, 15, 18 and 20 the words 'fisheries jurisdiction' shall be replaced by the following:

'jurisdiction'.

7. The following Article shall be inserted:

'*Article 18 bis*

The Commission shall make recommendations establishing procedures for the settlement of disputes arising under this Convention.'.