



COUNCIL OF
THE EUROPEAN UNION

Brussels, 23 June 2010
(OR. en,it)

11436/10

Interinstitutional File:
2010/0097 (CNS)

AGRI 239
VETER 21
AGRILEG 92
AELE 34
INST 229
PARLNAT 36

COVER NOTE

from: The Secretary General of the Senate of the Republic of Italy
date of receipt: 14 June 2010
to: Mr Pierre de BOISSIEU, Secretary-General of the Council of the European Union
Subject: Proposal for a Council Decision laying down rules for imports into the European Union from Greenland of fishery products, live bivalve molluscs, echinoderms, tunicates, marine gastropods and by-products thereof
- Reasoned opinion on the application of the Principles of Subsidiarity and Proportionality

Delegations will find attached a copy of the above letter.

ANNEX

Sir,

On behalf of the President of the Senate of the Italian Republic, I enclose the text of the Resolution approved by the Committee on Agriculture and Food Production following its examination of the proposal for a Council Decision laying down rules for imports into the European Union from Greenland of fishery products, live bivalve molluscs, echinoderms, tunicates, marine gastropods and by-products thereof (COM(2010) 176 final). Under Article 6 of Protocol No 2 to the Treaty on European Union and the Treaty on the Functioning of the European Union, the Resolution sets out a reasoned opinion stating that the act does not comply with the principles of subsidiarity and proportionality.

(Complimentary close.)

**PROPOSAL FOR A COUNCIL DECISION LAYING DOWN RULES FOR IMPORTS
INTO THE EUROPEAN UNION FROM GREENLAND OF FISHERY PRODUCTS, LIVE
BIVALVE MOLLUSCS, ECHINODERMS, TUNICATES, MARINE GASTROPODS AND
BY-PRODUCTS THEREOF**

The Committee, following consideration of the Proposal for a council decision laying down rules for imports into the European Union from Greenland of fishery products, live bivalve molluscs, echinoderms, tunicates, marine gastropods and by-products thereof (COM(2010)176 final), pursuant to Senate Rule 144,

Whereas:

the Document in question relates to a proposed agreement between the European Union and Greenland to enable the latter state to trade in specific fisheries products and marine species within the European Union originating from the territory in question or introduced into Greenland from other non-European countries;

in procedural terms, it must be noted, firstly, that the legal relationship between the Union and Greenland is primarily governed by Articles 198 to 204 of the Treaty on the Functioning of the European Union (TFEU) and on Council Decision 2006/526/EEC of 17 July 2006 regulating relations between the European Union and the Overseas Countries and Territories (OCT) which includes Greenland, within the meaning of Article 355 TFEU;

these rules mainly provide European Union support to OCTs in order to promote their economic and social development and to establish close economic relations between them and the European Union, also by offering duty free access to the European Union market under certain conditions;

having regard to article 36 of Council Decision 2001/822/EEC of 27 November 2001;

considering all the sanitary and health issues to which the import of products from third countries may give rise, despite the checks provided by the Community Act in question;

considering that the fishing industry in Italy and other Mediterranean countries is currently facing very serious difficulties, which demand the adoption of adequate and urgent measures;

in this reasoned opinion, issued pursuant to Protocol No. 2 annexed to the Treaty on the Functioning of the European Union, considers that the act in question does not comply with the subsidiarity and proportionality principles, on the following grounds:

- the right for Greenland to introduce fishery products into the European Union must be restricted to only those products originating from Greenland, which therefore excludes any products imported into Greenland from non-European countries. With regard to subsidiarity, the Committee notes that in this particular case European Union action does not provide those "evident benefits" which the proper application of the subsidiarity principle should produce, considering also the negative impacts on the economic and social cohesion of many member states of the Union to which the extension of imports of products not originating from Greenland might give rise;
- the Committee deems it necessary to note that the proportionality principle (provided by Art. 5 of the Treaty on European Union) provides that Union action shall not exceed what is necessary to achieve the objectives of the Treaties. In the instant case the purpose of the special regime for Greenland and the so-called Overseas Countries, within the meaning of articles 198ff TFEU, is to foster their economic and social

development and establish close economic relations between them and the European Union, under given conditions. It therefore follows that offering Greenland the possibility of introducing into the European Union fisheries products not originating in Greenland, but imported by Greenland from third countries, exceeds the objectives of the Treaty and cannot therefore be accepted, for it would breach the principle of proportionality. This possibility cannot be justified by the intention to foster the economic and social development of that territory, and certainly not by the intention to create closer economic relations between Greenland and the European Union because the products in question declaredly originate from other countries and which, by being imported via Greenland, would be subject to the system of rules governing the Union's internal market;

- with respect to the rules set out in the Document at issue, the Committee notes that the possibility for Greenland to introduce into the territory of the Union products imported by Greenland from third countries is a source of great concern because it could also establish a precedent for the whole fisheries and agrifood sector, with evident negative repercussions on employment. It is therefore advisable to avoid introducing this measure, considering also the serious difficulties facing the fisheries industry in the European States in the Mediterranean area, or as a second lesser alternative, to postpone it for the duration of an appropriate transitional period.
-