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REPORT

from : Working Party on Internal and External Fisheries Policy

to : Permanent Representatives Committee (part 1)

No. Cion prop. : 9295/08 - COM(2008) 243 final

Subject : **Preparation of the Agriculture and Fisheries Council on 29-30 September 2008**
Mauritania
- policy debate

I. INTRODUCTION

1. The Council Regulation (EC) No 704/2008 of 15 July 2008 on the conclusion of the Protocol setting out the fishing opportunities and financial contribution provided for in the Fisheries Partnership Agreement between the European Community and the Islamic Republic of Mauritania for the period 1 August 2008 to 31 July 2012¹ was published on 31 July 2008 and entered into force seven days later. Article 2(4) of the Protocol lays down that "the Community shall pay the financial contribution [EUR 86 mio] no later than 31 August for the first year and no later than the 1 August the following years".

¹ OJ 203 of 31.7.2008, p. 1.

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2. On 6 August 2008 a military coup replaced the democratically elected president of Mauritania by an interim prime minister and a new government was formed on 2 September of this year. This coup has been condemned by the international community, including the European Union, the African Union and the Security Council of the United Nations.

3. On 29 August 2008, the Commission took a decision² instructing the authorising officer to verify that all the necessary conditions are fulfilled before proceeding with the payment. This verification process is now under way. In case of a non-payment, Article 10 of the Protocol stipulates that the Mauritanian authorities must notify the Community thereof. The Community shall carry out the necessary checks, and where necessary, transmit the payment within no more than 30 working days of the date of receipt of the notification. The Mauritanian authorities notified the Community of the non-payment on 4 September 2008. In case of non-payment after this period of 30 working days, the Mauritanian authorities may suspend the protocol.

II. DISCUSSIONS AT THE LEVEL OF THE WORKING PARTY

4. The situation in Mauritania in relation to the Fisheries Partnership Agreement was discussed in the Working Party on Internal and External Fishery Policy on 4 September 2008. The Commission representative is fully aware of the pressures at the international level and made it clear that the Commission seeks guidance from Member States before deciding how to proceed with the Community's contractual obligation to pay.

5. The table round, in which most delegations participated, showed general support for the Commission's decision to delay payment and a general agreement that it was important to send a clear signal to the Mauritians that the democratically elected government needs to be reinstated. Concerns were voiced that the current situation in Mauritania would jeopardize the fisheries agreement. More specifically:

² C(2008) 4703 final. In parallel, the Commission has also launched the Article 96- procedure under the Cotonou agreement. The situation in Mauritania is also being discussed in the Africa Working Party and ACP Working Party.

RESTREINT UE

6. The Netherlands delegation warned that the Mauritanian control authorities could make life very difficult for the European vessels until the payment has taken place. It also noted that an absence of the European fleet could lead the Mauritians to sell the fishing possibilities to other countries (e.g. China) which would be detrimental to the sustainable exploitation of the resources.
7. The Spanish delegation would have preferred making the payment before 31 August. While recognizing the need for Cotonou consultations, it advocated to dissociate this commercial fisheries agreement from the political process so as to ensure that fishing continues by honouring the Community's obligations. In this context, it underlined the need to discuss various issues in relation to the application of the protocol. It asked, as did the Irish delegation, whether the Commission services would be visiting Mauritania in the near future.
8. The Latvian and Lithuanian delegations also advocated dissociating political aspects from economic ones.
9. The United Kingdom delegation considered that the worst case scenario would be if the democratically elected president were not reinstated and that the Chinese fishing fleet replaced the European fleet in the Mauritanian waters.
10. The Danish, Greek and Italian delegations reserved their positions. The Italian delegation encouraged the Commission to take contacts with the Mauritians as soon as possible. The Danish delegation would especially await the outcome of the discussions in the ACP group.
11. The German and Portuguese delegations hoped that 30 days would be a sufficient time for consultations so that the way can be cleared for paying at the end of that period.
12. The Council Legal Service pointed out that by not paying by the 31 August 2008 the Community had not respected an obligation under Article 2 of the Protocol, triggering the application of Article 10 of the Protocol which might lead to Mauritania unilaterally suspending the agreement.

RESTREINT UE

13. The Commission representative confirmed that contacts would be made with the Mauritanian authorities in the coming days in an attempt to clarify the situation.

14. The Presidency concluded that delegations were supportive of the decision to delay the payment due on 31 August 2008 to verify that the conditions are in place for proceeding with the payment and asked the Commission to take contacts with the Mauritanian authorities to seek possible solutions for the future. He underlined the agreement in the Working Party that the Community should send a clear signal to Mauritanian authorities of the need to reinstate the democratically elected government while taking account of the interests of the European fishing fleet.

15. COREPER is invited, in the light of the latest information from the Commission, to prepare this point for a policy debate at the Council.
