Conservation of marine and fisheries resources: tropical tuna, conclusion of the Convention for the strengthening of the Inter-American Commission IATTC, established by the 1949 Convention between the United States and Costa Rica called Antigua Convention

2005/0137(AVC) - 20/07/2005 - Initial legislative proposal

PURPOSE : to conclude, on behalf of the EC, the Convention for the Strengthening of the Inter-American Tropical Tuna Commission established by the 1949 Convention between the USA and the Republic of Costa Rica.

PROPOSED ACT : Council Decision.

CONTENT : the Inter-American Tropical Tuna Commission (IATTC) is a Regional Fisheries Organisation which has the competence to regulate fisheries in the Eastern Pacific Ocean (EPO) for highly migratory fish stocks. This RFO was established by the 1949 Convention between the United States of America and the Republic of Costa Rica. The IATTC membership now comprises 14 coastal and fishing States with interests in the region.

The Community has been operating in the EPO tuna fisheries for many years. Currently, the EC tuna fishing fleet operating in the EPO counts 5 purse seiners targeting in particular skipjack tuna and its catches amounted to 31,000 Metric Tonnes in 2002. Its presence in the region requires it to co-operate with other interested coastal and fishing States, Entities and Organisations towards the conservation and management of the highly migratory fish stocks placed under IATTC Competence. As such, the Community became a member of the Agreement on the International Dolphin Conservation Program (AIDCP). The Agreement seeks the effective conservation of dolphin stocks affected by tuna fisheries in the EPO and its operation has been entrusted to the Secretariat of the IATTC. In 1999, the Community signed the AIDCP (Council Decision 1999/337/EC) and subsequently decided to apply it provisionally (Council Decision 1999/386/EC).

Contrary to the AIDCP provisions, the 1949 Convention rules on accession of new members are limited to States and therefore prevent the accession of the Community to IATTC under its present terms. In light of the Community's established interest in the fisheries subject to IATTC competence, a process for the amendment of the 1949 Convention was launched with the adoption in 1999 of the Guayaquil Protocol, whereby the 1949 Convention is modified so that Regional Economic Integration Organisations such as the Community may become members of this RFO. However, the entry into force of this Protocol has proved to be long and laborious. The Protocol has been signed by just 8 IATTC members, and ratified by only four among these. It will only enter into force once all IATTC Parties have ratified it.

In light of the lengthiness of this process, the Community agreed to allow Spain, the only Member State whose vessels operate in the Area, to become a Member of IATTC under the present terms of the 1949 Convention. Council Decision 1999/405/EC authorises Spain's accession on a temporary basis and on

account of “unique circumstances” without creating any precedent, or affecting the Community’s exclusive competence in fisheries matters. Even under this exceptional regime, it has taken until 2003 for Spain to receive the ‘nihil obstat’ from all other Members to accede to the IATTC.

The discussions that ended with the adoption of the Guayaquil Protocol also led the Contracting Parties of the IATTC to recognise the need to bring the statute of the Organisation up to date with recent developments in the international Law of the Sea: the United Nations Convention on the Law of the Sea of 1982, its implementing Agreements, and the Code of Conduct for Responsible Fisheries. As a result, IATTC adopted a Resolution in 1998 launching the process of drafting the text of a new IATTC Convention to replace that of 1949. The new Convention is known as “the Antigua Convention”. It will enter into force 15 months after the deposit of the 7th instrument of ratification by a current Contracting Party to IATTC. The Antigua Convention was opened for signature on 14 November 2003 in United States of America (the Depositary).

The Community was invited since the beginning to participate in the drafting of the Antigua Convention and has actively contributed to the process. In particular, the Community sought to ensure that the new Convention text would contain the necessary provisions so that the IATTC would become an open Organisation, allowing any party with a real interest to become a Member. The Antigua Convention is a comprehensive text that effectively

strengthens the IATTC and ensures that it will exercise its responsibilities towards the effective conservation and management of the EPO highly migratory fish stocks according to the principles and standards set out in the Law of the Sea.

Spain accession to IATTC does not affect the Community’s rights under international law to sign the Antigua Convention, since Council Decision 1999/405/EC only applies to the 1949 Convention. According to the Decision, Spain is required to denounce the 1949 Convention on the date of the Community’s accession. Since it seems most likely that the Antigua Convention will enter into force before the Community can accede to the 1949 Convention, it is necessary to provide for Spain’s denunciation of the latter Convention in those

circumstances, taking account of the fact that the Community will be party to the Antigua Convention as soon as it enters into force. A provision to that effect is included in the attached decision.

The Community should therefore proceed to conclude the Antigua Convention in order to become a full member of IATTC, without prejudice to the possibility of its earlier accession under the 1949 Convention in case the Guayaquil Protocol enters into force before the Antigua Convention does.

FINANCIAL IMPACT:

- Budget line: 11.03.02 : contributions to international fishery organisations.

- Duration of the action : unlimited from 2005. The annual expenditures will depend on the contribution the Community makes to the Organisation’s budget to be decided at the annual meeting of the IATTC.

- Operational expenditures: 4.2 m EUR over 6 years (0.7 m EUR annually) ;

- Administrative expenditures: 0.3 m EUR over 6 years (0.05 m EUR annually) ;

- Total expenditures : 4.5 m EUR (0.75 m EUR/year) ;

- Administrative expenditures not included in the reference amount: 3.18 m EUR (human resources: 2.58 m EUR, comprising 0.43 m EUR annually ; other administrative costs : 0.6 m EUR, comprising 0.1 m EUR annually) ;

- Total indicative cost of the intervention: 7.68 m EUR (1.28 m EUR annually).