

Brussels, 26/08/2010
C/20105869

Mr Renato Schifani
President
Senate of the Republic
Piazza Madama
00186 Roma

Dear President,

The European Commission thanks the Committee on agriculture and agro-food production of the Italian Senate for the interest shown in dealing with this draft Decision.

In its resolution, the Italian Senate Ninth Committee on Agriculture and Agro-food production expressed concern about the application of the principles of subsidiarity and proportionality in a proposed Council Decision laying down rules for imports of fishery products from Greenland into the European Union (COM(2010)176 final). This measure is considered disproportionate because it may have negative effects on the fishing industry of the European Union.

According to Article 5 (3) of the Treaty on European Union (TEU) "Under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level".

The legislative framework is as follows: Greenland is one of the overseas countries and territories (OCT) within the meaning of Article 355(2) of the Treaty on the Functioning of the European Union (TFEU). In application of Article 198 TFEU, Member States agree to associate with the Union the non-European countries and territories - listed in Annex II to the TFEU- which have special relations with some Member States. Greenland is listed in Annex II. Article 198 TFEU also states that "The purpose of the association shall be to promote the economic and social development of the countries and territories and to establish close economic relations between them and the Union as a whole". This provision has been further implemented by the Overseas Association Decision (OAD)¹ and the Greenland OCT Decision 2006/526/EG².

¹ Council Decision 2001/822/EC of 27 November 2001 on the association of the overseas countries and territories with the European Community (OJ L 314, 30.11.2001, p. 1).

² Council Decision 2006/526/EC of 17 July 2006 on relations between the European Community on the one hand, and Greenland and the Kingdom of Denmark on the other (OJ L 208, 29.7.2006, p. 28).

In accordance with this legislative framework, the objective of the proposal in question is to allow Greenland to trade fishery products, live bivalve molluscs and by-products with the Union on the basis of internal market rules, provided that Greenland transposes the relevant body of EU law in order to ensure their safety. Such objective cannot be better achieved by Member States at central, regional or local level as the sanitary rules upon imports of these products are already harmonised at the Union level. The principle of subsidiarity does not appear to be at stake in this case.

Under the principle of proportionality, the content and form of Union action shall not exceed what is necessary to achieve the objectives of the Treaties (Article 5(4) TEU). Nothing suggests, in the Commission's view, that the draft Decision goes against this principle. The legislation currently in force allows imports into the Union from Greenland, including fishery products imported into Greenland from other third countries, if the Union health standards as laid down in the relevant legislation are met. As regards imports from other third countries, the only effect of the proposed measure will be that sanitary inspections upon imports of the products concerned are conducted at an Union Border Inspection Post in Greenland, rather than at the Border Inspection Post in the Member State of destination. On the basis in the arguments raised by the Committee's opinion, there is no reason to expect negative economic impacts on the Italian fishery industry or the fishery industry of any other Member State, as rules on customs and tariffs remain unchanged, and the Decision will facilitate the administrative procedure associated with sanitary inspection of fishery products from Greenland.

It follows from this analysis that, whilst taking good note of the specific concerns expressed by the Committee, the Commission finds that the proposed decision respects the principle of subsidiarity and proportionality enshrined in the Treaties.

I hope you will find this a valuable contribution to your own deliberations and look forward to developing our policy dialogue further in the future.

Yours sincerely

/-/ Maroš Šefčovič