

# EUROPEAN PARLIAMENT

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*Committee on the Internal Market and Consumer Protection*

**2008/0160(COD)**

7.1.2009

**\*\*\*I**

## **DRAFT REPORT**

on the proposal for a regulation of the European Parliament and of the Council  
concerning trade in seals products  
(COM(2008)0469 – C6-0295/2008 – 2008/0160(COD))

Committee on the Internal Market and Consumer Protection

Rapporteur: Diana Wallis

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission.)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council concerning trade in seals products  
(COM(2008)0469 – C6-0295/2008 – 2008/0160(COD))

(Codecision procedure: first reading)

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2008)0469),
  - having regard to Article 251(2) and Articles 95 and 133 of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0295/2008),
  - having regard to the opinion of the Committee on Legal Affairs on the proposed legal basis,
  - having regard to Rules 51 and 35 of its Rules of Procedure,
  - having regard to the report of the Committee on the Internal Market and Consumer Protection and the opinions of the Committee on International Trade, the Committee on the Environment, Public Health and Food Safety and the Committee on Agriculture (A6-0000/2008),
1. Approves the Commission proposal as amended;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council and Commission.

### Amendment 1

#### Proposal for a regulation Title

*Text proposed by the Commission*

Proposal for a  
REGULATION OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL  
concerning *trade in seals* products

*Amendment*

Proposal for a  
REGULATION OF THE EUROPEAN  
PARLIAMENT AND OF THE COUNCIL  
concerning *the placing on the market of  
seal* products

Or. en

*Justification*

*The Regulation should only concern the placing on the market of seal products in the internal market.*

**Amendment 2**

**Proposal for a regulation**

**Citation 2**

*Text proposed by the Commission*

Having regard to the Treaty establishing the European Community, and in particular **Articles 95 and 133** thereof,

*Amendment*

Having regard to the Treaty establishing the European Community, and in particular **Article 95** thereof,

Or. en

*Justification*

*In view of other amendments, Article 133 is not necessary as a legal base to set up an obligatory labelling scheme, this being primarily an internal market issue.*

**Amendment 3**

**Proposal for a regulation**

**Recital 3**

*Text proposed by the Commission*

(3) The hunting of seals has led to expressions of serious concerns by **members of the public**, governments as well as the European Parliament sensitive to animal welfare considerations since there are indications that seals may not be killed and skinned without causing avoidable pain, distress and other forms of suffering. The European Food Safety Authority concluded, in its scientific opinion on the Animal Welfare aspects of the killing and skinning of seals, that it is possible to kill seals rapidly and effectively without causing them avoidable pain or distress, whilst also reporting that in practice, effective and humane killing does

*Amendment*

(3) The hunting of seals has led to expressions of serious concerns by **EU citizens and consumers**, governments as well as the European Parliament sensitive to animal welfare considerations since there are indications that seals may not be killed and skinned without causing avoidable pain, distress and other forms of suffering. The European Food Safety Authority **has** concluded, in its scientific opinion on the Animal Welfare aspects of the killing and skinning of seals, that it is possible to kill seals rapidly and effectively without causing them avoidable pain or distress, whilst also reporting that in practice, effective and humane killing does

not always happen.

not always happen.

Or. en

*Justification*

*It should be emphasized that these concerns are shared by EU citizens and consumers.*

**Amendment 4**

**Proposal for a regulation**

**Recital 4**

*Text proposed by the Commission*

(4) In response to the concern about the animal welfare aspects of the killing and skinning of seals, several Member States have adopted or intend to adopt legislation ***regulating trade in seal products, by prohibiting their import, and production, while*** no restrictions are ***placed on the trade in these products*** in other Member States.

*Amendment*

(4) In response to the concerns about the animal welfare aspects of the killing and skinning of seals, several Member States have adopted or intend to adopt legislation ***with the aim of preventing seal products from being put on the market or otherwise used for commercial purposes. However, no such restrictions are in place nor are they being considered*** in other Member States, ***in particular in those where small-scale seal hunting takes place traditionally and is already regulated at national level.***

Or. en

*Justification*

*The fragmented nature of the market for seal products in the European Union should be reflected in the recitals.*

**Amendment 5**

**Proposal for a regulation**

**Recital 5**

*Text proposed by the Commission*

(5) There are therefore differences between Member States' provisions governing the ***trade, import, production and marketing***

*Amendment*

(5) There are therefore differences between Member States' provisions governing the marketing of seal products. Those

of seal products. Those differences between national measures affect the operation of the internal market. The measures provided for in this Regulation should therefore harmonise the rules across the Member States as regards commercial activities concerning seal products.

differences between national measures affect the operation of the internal market. The measures provided for in this Regulation should therefore harmonise the rules across the Member States as regards commercial activities concerning seal products ***to eliminate the present fragmentation of the internal market.***

Or. en

## Amendment 6

### Proposal for a regulation

#### Recital 6

*Text proposed by the Commission*

***(6) To eliminate the present fragmentation of the internal market, there is a need to provide for harmonised rules while taking into account animal welfare considerations. A ban on placing seal products on the market is appropriate to that effect.***

*Amendment*

***(6) In accordance with the Protocol on protection and welfare of animals annexed to the Treaty, the Community must pay full regard to animal welfare requirements when formulating and implementing, inter alia, the internal market policy. The harmonised rules provided for in this Regulation should accordingly fully take into account animal welfare considerations.***

Or. en

#### *Justification*

*Whilst the harmonised rules in this Regulation should take full account of animal welfare considerations, a ban on placing seal products does not appear to be an appropriate, nor proportionate, means to achieve the objectives of this proposal. See explanatory statement.*

## Amendment 7

### Proposal for a regulation

#### Recital 6a (new)

*Text proposed by the Commission*

*Amendment*

***(6a) A labelling scheme is the appropriate***

*means to address citizens and consumers' concerns as regards the possible presence on the market of products obtained from seals that might not have been killed and skinned without causing avoidable pain, distress and other forms of suffering. Labelling requirements should be such as to enable consumers to make an informed choice and possibly refuse to buy products which do not respect animal welfare standards, thereby restoring the consumers' confidence. Such a labelling scheme may furthermore ensure that the Community's international commitments as regards trade in seal products are fully respected.*

Or. en

## **Amendment 8**

### **Proposal for a regulation**

#### **Recital 7**

*Text proposed by the Commission*

*Amendment*

*(7) A vast majority of seal products in the Community originate from third countries. In order to be more effective, the ban on intra-Community trade should be accompanied by a ban on the introduction of the same products into the Community.*

*deleted*

Or. en

#### *Justification*

*A ban does not appear to be an appropriate, nor a proportionate, measure for achieving the twin policy goals of this proposal - of securing high animal welfare standards and limiting impact of any action on Inuit communities. See explanatory statement.*

## Amendment 9

### Proposal for a regulation Recital 8

*Text proposed by the Commission*

*Amendment*

**(8) A ban on transit and exports should also ensure that seal products do not transit through the Community nor are produced in the Community for export. Such bans would contribute to render the ban on intra-Community trade more effective, as there is a risk that seal products placed under a transit procedure or allegedly produced for export may be fraudulently brought on to the Community market.** *deleted*

Or. en

*Justification*

*See amendment to recital 7.*

## Amendment 10

### Proposal for a regulation Recital 9

*Text proposed by the Commission*

*Amendment*

**(9) Insofar as the provisions of this Regulation affect commercial activities in seal products with third countries, beyond what is strictly required to preserve the ban on intra-Community trade, it should also be considered as a measure governing international trade.** *deleted*

Or. en

*Justification*

*See amendment to recital 7.*

## Amendment 11

### Proposal for a regulation Recital 10

*Text proposed by the Commission*

*Amendment*

***(10) The various prohibitions provided for by this Regulation should respond to the animal welfare concerns expressed by members of the public as to the placing on the Community market, including further to imports from third countries, of seal products obtained from seals that might not have been killed and skinned without causing avoidable pain, distress and other forms of suffering.***

***deleted***

Or. en

*Justification*

*See amendment to recital 7.*

## Amendment 12

### Proposal for a regulation Recital 11

*Text proposed by the Commission*

*Amendment*

***(11) It is appropriate, however, to provide for the possibility of derogations from the general ban on the placing on the market and the import in, or export from, the Community of seal products insofar as the appropriate conditions based on animal welfare considerations are met. To that effect, criteria should be provided for the compliance with which should ensure that seals are killed and skinned without causing avoidable pain, distress and other forms of suffering. Any such derogation should be granted at Community level so that uniform conditions apply throughout the Community with respect to the trade specifically allowed under those***

***(11) In this connection, provision should be made for an explicit indication on the labelling that appropriate conditions based on animal welfare considerations are met. To that effect, criteria should be provided for the compliance with which should ensure that seals are killed and skinned without causing avoidable pain, distress and other forms of suffering. Such criteria should be based on the findings of the European Food Safety Authority as regards the animal welfare aspects of the killing and skinning of seals. Compliance with those criteria should be appraised at Community level so that uniform conditions apply throughout the***

*derogations* and the smooth functioning of the internal market is preserved.

Community and the smooth functioning of the internal market is preserved.

Or. en

### *Justification*

*An appropriately and robustly constructed mandatory labelling system would have more chance of achieving both of Parliaments policy goals, allowing public opinion - through informed consumers - much more effectively to assist in guaranteeing high animal welfare standards (objectively assessed through EFSA's expertise), whilst equally assisting Inuit communities.*

## **Amendment 13**

### **Proposal for a regulation**

#### **Recital 12**

##### *Text proposed by the Commission*

(12) Seal products should only be placed on the market, ***imported, transiting, or exported*** if they meet the conditions provided for to that effect by this Regulation. However, ***if placed on the market, imported or exported in accordance with a derogation granted under this Regulation, seal*** products will also have to comply with the relevant Community legislation, including animal health and food and feed safety provisions, as appropriate. This Regulation should not affect the obligations under Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption concerning the disposal of seal products for public and animal health reasons.

##### *Amendment*

(12) Seal products should only be placed on the market if they meet the conditions provided for to that effect by this Regulation. However, ***such*** products will also have to comply with the relevant Community legislation, including animal health and food and feed safety provisions, as appropriate. This Regulation should not affect the obligations under Regulation (EC) No 1774/2002 of the European Parliament and of the Council of 3 October 2002 laying down health rules concerning animal by-products not intended for human consumption concerning the disposal of seal products for public and animal health reasons.

Or. en

## Amendment 14

### Proposal for a regulation

#### Recital 13

##### *Text proposed by the Commission*

(13) The fundamental economic and social interests of Inuit communities traditionally engaged in the hunting of seals as a means to ensure their subsistence should not be adversely affected. The hunt is an integrated part of the culture and the identity of the members of the Inuit society. It represents a source of income and contributes to the subsistence of the hunter. Therefore, seal products deriving from hunts traditionally conducted by Inuit communities and which contribute to their subsistence ***should not be covered by the prohibitions provided for in this Regulation.***

##### *Amendment*

(13) The fundamental economic and social interests of Inuit communities traditionally engaged in the hunting of seals as a means to ensure their subsistence should not be adversely affected. The hunt is an integrated part of the culture and the identity of the members of the Inuit society. It represents a source of income and contributes to the subsistence of the hunter. ***Furthermore, rendering of raw seal parts into clothing or handicrafts is an important element for tourism related activities of Inuit communities.*** Therefore, ***it is appropriate to provide for the possibility of including a specific indication on the labelling of*** seal products deriving from hunts traditionally conducted by Inuit communities and which contribute to their subsistence.

Or. en

##### *Justification*

*The important role of seal products for Inuit communities extends beyond the hunt to other aspects of their culture, which in turn contribute to their subsistence. This should be reflected in the recitals.*

## Amendment 15

### Proposal for a regulation

#### Recital 14

##### *Text proposed by the Commission*

(14) Appropriate requirements should be provided for ensuring that ***derogations to trade prohibitions can be properly enforced under this Regulation.*** To that effect, provisions should be made relating

##### *Amendment*

(14) Appropriate requirements should be provided for ensuring that ***indications on the labelling relating to the compliance with animal welfare standards are not misleading for the consumers.*** To that

to certification schemes as well as on **labelling and** marking. Certification schemes should ensure that seal products are certified as coming from seals which have been killed and skinned in accordance with the appropriate requirements, which are effectively enforced, and whose object is to ensure that seals are killed and skinned without causing avoidable pain, distress and any other form of suffering.

effect, provisions should be made relating to certification schemes as well as on marking. Certification schemes should ensure that seal products are certified as coming from seals which have been killed and skinned in accordance with the appropriate requirements, which are effectively enforced, and whose object is to ensure that seals are killed and skinned without causing avoidable pain, distress and any other form of suffering.

Or. en

### *Justification*

*An effective and robust labelling scheme requires well enforced certification schemes to ensure that citizens' and consumers' concerns are met.*

## **Amendment 16**

### **Proposal for a regulation**

#### **Recital 16**

##### *Text proposed by the Commission*

(16) In particular, the Commission should be empowered to adopt all measures necessary to ensure that procedures are in place allowing applications for **derogation to the trade prohibitions set out in this Regulation** to be lodged and handled in an efficient manner, as well as to ensure the proper implementation of the provisions of this Regulation concerning certification schemes and labelling **and** marking. Since those measures are of a general scope and are designed to amend non-essential elements of this Regulation *by supplementing it*, inter alia, by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC. The Commission should also be empowered to decide on **derogations to trade prohibitions under**

##### *Amendment*

(16) In particular, the Commission should be empowered to adopt all measures necessary to ensure that procedures are in place allowing applications for **authorisations to use indication on the labelling relating to animal welfare** to be lodged and handled in an efficient manner, as well as to ensure the proper implementation of the provisions of this Regulation concerning certification schemes and labelling **or** marking. Since those measures are of a general scope and are designed to amend non-essential elements of this Regulation, inter alia by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC. The Commission should also be empowered to decide on **the use of specific labelling indications**

***this Regulation, suspension or revocation thereof.*** Since those measures are adopted to ensure the management of the scheme provided for in this Regulation and apply it in individual cases, they must be adopted in accordance with the management procedure provided for in Article 4 of Decision 1999/468/EC.

***relating to animal welfare.*** Since those measures are adopted to ensure the management of the scheme provided for in this Regulation and apply it in individual cases, they must be adopted in accordance with the management procedure provided for in Article 4 of Decision 1999/468/EC.

Or. en

### *Justification*

*This is in line with other amendments on the scope and nature of the proposal. See explanatory statement.*

## **Amendment 17**

### **Proposal for a regulation**

#### **Recital 19**

##### *Text proposed by the Commission*

(19) Since the objective of this Regulation, namely the elimination of obstacles to the functioning of the internal market by harmonising ***national bans*** concerning the ***trade in*** seal products at Community level, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. ***International trade may be regulated by the Community pursuant to Article 133 of the Treaty.*** In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve the objectives it pursues,

##### *Amendment*

(19) Since the objective of this Regulation, namely the elimination of obstacles to the functioning of the internal market by harmonising ***the rules*** concerning the ***placing on the market of*** seal products at Community level, cannot be sufficiently achieved by the Member States and can therefore be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve the objectives it pursues,

Or. en

*Justification*

*This is in line with other amendments on the scope and nature of the proposal. See explanatory statement.*

**Amendment 18**

**Proposal for a regulation  
Article 1**

*Text proposed by the Commission*

*Amendment*

Subject matter

Subject matter **and scope**

This Regulation establishes harmonised rules concerning the placing on the market **and the import in, transit through, or export from, the European Community** of seal products.

This Regulation establishes harmonised rules concerning the placing on the market of seal products **with a view to contributing to the effective functioning of the internal market whilst ensuring a high level of consumer protection, taking into account the protection of animal welfare.**

Or. en

*Justification*

*According to the legal base of Article 95 EC, the objective of this proposal is to ensure the smooth functioning of the Internal Market. This must be in accordance with the Protocol on protection and welfare of animals annexed to the Treaty, whereby the Community must pay full regard to animal welfare requirements when formulating and implementing, inter alia, the internal market policy.*

**Amendment 19**

**Proposal for a regulation  
Article 2 – point 2 b (new)**

*Text proposed by the Commission*

*Amendment*

**2b. ‘supplier’ shall mean any person placing a seal product on the market;**

Or. en

## Amendment 20

### Proposal for a regulation Article 2 – point 3

*Text proposed by the Commission*

3. 'placing on the market' **means introducing onto** the Community market, **thereby making available to third parties**, whether in *exchange* for payment or *not*;

*Amendment*

3. 'placing on the market' **shall mean any supply of a seal product for distribution, consumption or use** on the Community market **in the course of a commercial activity**, whether in *return* for payment or **free of charge**;

Or. en

## Amendment 21

### Proposal for a regulation Article 2 – point 4

*Text proposed by the Commission*

**4. import' means any entry of goods into the customs territory of the Community, with the exception of imports that:**

**(i) are of an occasional nature, and  
(ii) consist exclusively of goods for the personal use of the travellers or their families;**

*Amendment*

**deleted**

Or. en

### *Justification*

*A definition of 'import' is unnecessary in view of amendments to the nature and scope of the Proposal.*

## **Amendment 22**

### **Proposal for a regulation Article 2 – point 5**

*Text proposed by the Commission*

*Amendment*

**5. 'transit' means the transport of goods between two points outside the Community through the territory of the Community with or without trans-shipment, warehousing, breaking bulk, or change in the mode of transport and during which any interruption in the movement arises only from the arrangements necessitated by this form of traffic;** **deleted**

Or. en

#### *Justification*

*A definition of 'transit' is unnecessary in view of amendments to the nature and scope of the Proposal.*

## **Amendment 23**

### **Proposal for a regulation Article 2 – point 6**

*Text proposed by the Commission*

*Amendment*

**6. 'export' means any departure of goods from the customs territory of the Community;** **deleted**

Or. en

#### *Justification*

*A definition of 'export' is unnecessary in view of amendments to the nature and scope of the Proposal.*

## Amendment 24

### Proposal for a regulation Article 2 – point 7

*Text proposed by the Commission*

*Amendment*

**7. 'applicants requesting a derogation' mean countries, including Member States, requesting a derogation under Article 5 of this Regulation on whose territory or under whose jurisdiction the seals from which seals products are made, have been killed and skinned as well as the country under whose jurisdiction fall the persons who kill and skin seals where the killing and skinning take place on the territory of another country. When adopting the implementing measures referred to in Article 5(5), the Commission will decide, in line with the objectives of this Regulation, under which conditions entities other than countries should be included.** *deleted*

Or. en

#### *Justification*

*A definition of 'applicants requesting a derogation' is unnecessary in view of amendments to the nature of the Proposal.*

## Amendment 25

### Proposal for a regulation Article 3

*Text proposed by the Commission*

*Amendment*

**Article 3** *deleted*  
**Bans**

**1. The placing on the market and the import in, transit through, or export from, the Community of seal products shall be prohibited.**

***2. Paragraph 1 shall not apply to seal products resulting from hunts traditionally conducted by Inuit communities and which contribute to their subsistence.***

***3. The Commission shall adopt all measures necessary to implement paragraph 2, including evidentiary requirements relating to the proof of the origin of seal products referred to in that paragraph.***

***Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 9(3).***

Or. en

*Justification*

*A ban coupled with an Inuit exception does not appear to be an appropriate, nor a proportionate, measure for achieving the twin policy goals of this proposal - of securing high animal welfare standards and limiting impact of any action on Inuit communities. See explanatory statement.*

**Amendment 26**

**Proposal for a regulation  
Article 4 – title**

*Text proposed by the Commission*

*Amendment*

Conditions *of* placing on the market,  
*import, transit and export*

Conditions *for* placing *seal products* on the  
market

Or. en

## Amendment 27

### Proposal for a regulation Article 4 – paragraph 1

*Text proposed by the Commission*

1. ***Notwithstanding Article 3(1), the placing on the market, and the import in, transit through, or export from, the Community of seal products shall be allowed where the following conditions are met:***

***(a) they have been obtained from seals killed and skinned in a country where, or by persons to whom, adequate legislative provisions or other requirements apply ensuring effectively that seals are killed and skinned without causing avoidable pain, distress and any other form of suffering;***

***(b) the legislative provisions or other requirements referred to in point (a) are effectively enforced by the relevant authorities;***

***(c) an appropriate scheme is in place whereby seal products, including seal skins and other raw materials derived from seals used to produce seal products, are certified as coming from seals to which the conditions laid down in points (a) and (b) apply, and***

***(d) the fulfilment of the conditions laid down in points (a), (b) and (c) is evidenced by:***

***(i) a certificate, and***

***(ii) a label or marking, where a certificate does not suffice to ensure the proper enforcement of this Regulation, in accordance with Articles 6 and 7.***

*Amendment*

1. ***All suppliers placing seal products on the market shall provide a label in accordance with this Regulation. Such labels shall be affixed to the products in a visible and intelligible manner. Where the affixing of a label is not possible by virtue of the form, characteristics or function of the product, the indications referred to in Articles 4a and 4b shall be marked on the packaging in a visible and intelligible manner.***

*Justification*

*An appropriately and robustly constructed mandatory labelling system would have more chance of achieving both of Parliaments policy goals, allowing public opinion - through informed consumers - much more effectively to assist in guaranteeing high animal welfare standards, whilst equally assisting Inuit communities.*

**Amendment 28**

**Proposal for a regulation**  
**Article 4 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 4a**

**Indications on the labelling**

**1. Labels referred to in Article 4(1) shall contain the following indications:**

**(a) for all seal products, the indication that they are obtained from seals; and**

**(b) for seal products which have been obtained in compliance with the conditions set out in Article 4b, the additional indication that they have been produced without causing avoidable pain, distress or suffering to animals. That indication may be accompanied by markings referred to in point (d) of Article 4b in compliance with Article 6.**

**2. Without prejudice to paragraph 1, for seal products resulting from hunts traditionally conducted by Inuit communities and which contribute to their subsistence, labels referred to in Article 4(1) may contain the additional indication that such product result from traditional Inuit hunting accompanied, as the case may be, by a specific marking.**

***3. The indications referred to in this Article shall be provided in a language or languages easily understood by consumers, as determined by the Member State concerned.***

***4. The Commission shall adopt all measures necessary to implement paragraph 2, including evidentiary requirements relating to the proof of the origin of seal products referred to in that paragraph.***

***Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 9(3).***

Or. en

#### *Justification*

*An appropriately and robustly constructed mandatory labelling system would have more chance of achieving both of Parliaments policy goals, allowing public opinion - through informed consumers - much more effectively to assist in guaranteeing high animal welfare standards, whilst equally assisting Inuit communities. Consumers must therefore be informed if seal products are obtained in accordance with strict guidelines for animal welfare standards. Similarly, there should be opportunity for products that contribute to the subsistence of Inuit communities to be labelled as such.*

#### **Amendment 29**

##### **Proposal for a regulation Article 4 b (new)**

*Text proposed by the Commission*

*Amendment*

##### ***Article 4b***

***Specific requirements concerning the respect of animal welfare standards***

***The additional indication referred to in Article 4a(1)(b) shall be displayed if the following conditions are met:***

***(a) the product has been obtained from seals killed and skinned in a country where, or by persons to whom, adequate legislative provisions or other***

*requirements, including codes of conducts or other voluntary arrangements or schemes, apply ensuring effectively that seals are killed and skinned without causing avoidable pain, distress and any other form of suffering;*  
*(b) the legislative provisions or other requirements referred to in point (a) are effectively enforced by the relevant authorities or bodies;*  
*(c) an appropriate scheme is in place whereby seal products, including seal skins and other raw materials derived from seals used to produce seal products, are certified as coming from seals to which the conditions laid down in points (a) and (b) apply, and*  
*(d) the fulfilment of the conditions laid down in points (a), (b) and (c) is evidenced by a certificate or a marking in accordance with Article 6.*

Or. en

## **Amendment 30**

### **Proposal for a regulation Article 5 – title and paragraph 1**

*Text proposed by the Commission*

#### ***Derogations***

***1. Applicants requesting a derogation which demonstrate to the satisfaction of the Commission that the conditions provided for in Article 4(1) are met shall be granted a derogation.***

*Amendment*

#### ***Authorisations***

***1. The use of the additional indication referred to in Article 4a(1)(b) shall be subject to prior authorisation by the Commission.***

Or. en

## Amendment 31

### Proposal for a regulation Article 5 – paragraph 2

*Text proposed by the Commission*

2. The Commission shall appraise the fulfilment of the conditions laid down in point (a) of **Article 4(1)** on the basis of the criteria set out in Annex II.

*Amendment*

2. The Commission shall appraise the fulfilment of the conditions laid down in point (a) of **Article 4b** on the basis of the criteria set out in Annex II. ***It may decide that bilateral or multilateral agreements between the Community and third countries demonstrate that seal products have been obtained in a manner consistent with Annex II.***

Or. en

#### *Justification*

*The respect of animal welfare requirements set out in this Regulation may be ensured through international agreements between the Community and sealing countries. Where such a legal framework exists, there is no need to provide for further appraisal by the Commission.*

## Amendment 32

### Proposal for a regulation Article 5 – paragraph 3

*Text proposed by the Commission*

3. **Derogations** granted pursuant to paragraph 1 shall be suspended or revoked where any of the conditions referred to in that paragraph would cease to be met.

*Amendment*

3. **Authorisations** granted pursuant to paragraph 1 shall be suspended or revoked where any of the conditions referred to in that paragraph would cease to be met.

Or. en

### Amendment 33

#### Proposal for a regulation Article 5 – paragraph 4

*Text proposed by the Commission*

4. The Commission shall grant **derogations**, and decide on suspension or revocation thereof, in accordance with the procedure referred to in Article 9(2).

*Amendment*

4. Commission shall grant **authorisations**, and decide on suspension or revocation thereof, in accordance with the procedure referred to in Article 9(2).

Or. en

### Amendment 34

#### Proposal for a regulation Article 5 – paragraph 5 – subparagraph 1

*Text proposed by the Commission*

5. The Commission shall adopt all measures necessary to implement this Article, such as measures on the applications to be submitted to the Commission, including evidentiary requirements, in order to obtain a **derogation**. In doing so, the Commission shall take into consideration the different conditions which may occur in the territories of different countries.

*Amendment*

5. The Commission shall adopt all measures necessary to implement this Article, such as measures on the applications to be submitted to the Commission, including evidentiary requirements, in order to obtain **an authorisation**. In doing so, the Commission shall take into consideration the different conditions which may occur in the territories of different countries.

Or. en

### Amendment 35

#### Proposal for a regulation Article 6 – title

*Text proposed by the Commission*

Certificates

*Amendment*

Certificates **and markings related to the respect of animal welfare conditions**

Or. en

### 36Amendment 36

#### Proposal for a Regulation

#### Article 6 – paragraph 1 – introductory part and point a

*Text proposed by the Commission*

Certificates referred to in **Article 4(1)(d)(i)** shall fulfil the following minimum conditions:

(a) they shall display all relevant information necessary to attest that the seal product or products they refer to meet the condition laid down in **Article 4(1)(c)**; and

*Amendment*

Certificates referred to in **point (d) of Article 4b** shall fulfil the following minimum conditions:

(a) they shall display all relevant information necessary to attest that the seal product or products they refer to meet the conditions laid down in **Article 4b**; and

Or. en

### Amendment 37

#### Proposal for a regulation

#### Article 6 – paragraph 1 a (new)

*Text proposed by the Commission*

*Amendment*

**1a. The marking referred to in point (d) of Article 4b shall be affixed in an intelligible, indelible and visible manner.**

Or. en

### Amendment 38

#### Proposal for a regulation

#### Article 6 – paragraph 2 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

2. The Commission shall adopt all measures necessary to implement this Article. **It may**, in particular, **specify** the information to be displayed and the evidentiary requirements to be submitted to attest that the condition laid down in point (b) of paragraph 1 is met.

2. Commission shall adopt all measures necessary to implement this Article, in particular **with regard to**:

*(a) the information to be displayed and the evidentiary requirements to be submitted to attest that the condition laid down in point (b) of paragraph 1 is met; and*

*(b) the conditions which marking shall meet and the circumstances under which it shall be affixed.*

Or. en

## **Amendment 39**

### **Proposal for a regulation Article 7**

*Text proposed by the Commission*

*Amendment*

#### *Article 7*

*deleted*

#### *Labelling and marking*

*1. The label or marking referred to in Article 4(1)(d)(ii) shall be affixed in an intelligible, indelible and visible manner.*

*2. The Commission shall adopt all measures necessary to implement this Article, such as measures specifying the conditions which marking and label shall meet and the circumstances under which they shall be affixed. Those measures, designed to amend non-essential elements of this Regulation by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 9(3).*

Or. en

## Amendment 40

### Proposal for a regulation Article 12 – paragraph 2

*Text proposed by the Commission*

**Articles 3 and 4** shall apply 6 months after the date of entry into force of the Regulation unless the implementing measures referred to in **Articles 3(3), 5(5), 6(2) and 7(2)** are not in force on that date, in which case **they** shall apply on the day following the entry into force of those implementing measures.

*Amendment*

**Article 4** shall apply 6 months after the date of entry into force of the Regulation unless the implementing measures referred to in **Articles 4a(4), 5(5) and 6(2)** are not in force on that date, in which case **it** shall apply on the day following the entry into force of those implementing measures.

Or. en

## Amendment 41

### Proposal for a regulation Annex II – title

*Text proposed by the Commission*

Criteria for appraising the adequacy of the legislative provisions and other requirements **in force** referred to in **Article 5(2)**

*Amendment*

Criteria for appraising the adequacy of the legislative provisions and other requirements referred to in **point (a) of Article 4b**

Or. en

## Amendment 42

### Proposal for a regulation Annex II – point 2

*Text proposed by the Commission*

The characteristics of the weapons used to kill seal are **specified. It is made explicit in the legislation or other requirements which weapons are allowed for stunning and/or killing pups and which are allowed for stunning and/or killing adult seals.**

*Amendment*

The characteristics of the weapons used to kill seal are **in accordance with the Scientific Opinion on Animal Welfare aspects of the killing and skinning of seals of the Panel on Animal Health and Welfare of the European Food Safety**

*Authority adopted on 6 December 2007<sup>1</sup>.*

<sup>1</sup> *The EFSA Journal* (2007) 610, 1-122.

Or. en

## **Amendment 43**

### **Proposal for a regulation Annex II – point 3**

#### *Text proposed by the Commission*

Requirements are specifically outlined for using appropriate monitoring methods and thereby oblige the hunter to verify that the seal is irrevocably unconscious before bleeding it out and before continuing to the next seal.

#### *Amendment*

Requirements are specifically outlined for using appropriate monitoring methods and thereby oblige the hunter to verify that the seal is irrevocably unconscious before bleeding it out and before ***moving to any other task, including*** continuing to the next seal.

Or. en

#### *Justification*

*In order to guarantee that the seal is not killed and skinned with any avoidable pain, distress or other form of suffering, it should be clearly specified that hunter must ensure that the seal is irrevocably unconscious before undertaking any other task.*

## **Amendment 44**

### **Proposal for a regulation Annex II – point 4**

#### *Text proposed by the Commission*

Bleeding-out of all animals is required directly following adequate stunning, that is, before proceeding to stun another seal.

#### *Amendment*

Bleeding-out of all animals is required directly following adequate stunning, that is, before ***moving to any other task, including*** proceeding to stun another seal.

Or. en

### *Justification*

*In order to guarantee that the seal is not killed and skinned with any avoidable pain, distress or other form of suffering, it should be clearly specified that hunter must ensure that the seal is bled-out before undertaking any other task.*

## EXPLANATORY STATEMENT

On the 15th September 2006, a Written Declaration of the European Parliament on banning seal products in the European Union attracted 425 signatures from Members of the Parliament and thus became a resolution pursuant to which the Commission has been required to act.

The resolution itself is quite short and direct in its wording. However, it is clear that it contains two main policy considerations: firstly to place a ban on the trade in certain seal products within the European Union, and secondly to respect the traditions and cultures of indigenous peoples of the Arctic, a consideration again recently repeated in the parliamentary resolution on Arctic Governance policy of 9th October 2008.

However, analysis of the Written Declaration shows that it would not have achieved the animal welfare considerations intended by its authors. For example, the Written Declaration omits several species of seal, such as the ringed seal, which is hunted in high numbers in Canada and Greenland, and the cape fur seal, the seal species predominantly hunted in Namibia, the world's third largest exporter of seal skins.

In adopting its Proposal for a Regulation on the trade in seal products, the Commission has, rightly, been diligent in trying to respect Parliament's wishes as identified in its resolution. Despite this, the submission of a legislative proposal without any chance for debate on a Green or White Paper as to the best methods of achieving the goals of the Written Declaration is perhaps regrettable. Accordingly, Your Rapporteur feels it important that, at the draft report stage, the Parliament takes the opportunity to consider fully the policy options and their consequences. This is particularly so in relation to the Internal Market consequences and the International or WTO ramifications of any proposed ban.

### Structural flaws of the Commission Proposal

The current proposal for a Regulation is constructed on a well intentioned, but nevertheless conflicting, set of policy goals, and Your Rapporteur consequently questions whether the current structure of the proposal is appropriate to attain the aims of Parliament's resolution, and, more importantly, to satisfy the concerns of EU citizens.

In responding to the European Parliament's Written Declaration, the Commission correctly identifies an overwhelming desire to secure animal welfare standards of the highest order in relation to the hunting, skinning and killing of seals for commercial products. As the majority of these activities which it seeks to regulate occur outside of the European Union in Greenland, Namibia, Canada and Russia, and given the EU's limited competence in this field, the Commission suggests a ban on the trade in these products.

In addition to its wish to secure high standards of animal welfare, however, the Parliament in its resolution also expressed the wish to respect the culture, tradition and subsistence lifestyle of Inuit communities. In attempting to respect this policy preference, the Commission's proposal consequently contains a so-called 'Inuit exception' to the total ban.

As a result of these twin policy goals contained in Parliament's Resolution, and to which the Commission rightly responds in its draft proposal for a Regulation, there is an underlying

contradiction in the structure of the proposal put forward.

On the one hand, the Inuit exception could, on certain interpretations of its scope, apply to a large majority of the traded products, thus defeating the animal welfare intentions of the proposal. On the other hand, the existence of a policy instrument expressed in terms of a 'ban' is so damaging to any trade or market in seal products (which is after all the purpose of a ban) that it renders the exception useless to those Inuit communities whom it was designed to assist in the first place.

Furthermore, despite the headline of a 'ban' under Article 3 of the Commission Proposal, it is unclear whether this proposal does indeed achieve this effect. The current structure of the proposal for a Regulation starts with an overall ban or prohibition on the placing on the market of seal products, the Inuit exception then takes a first tranche of goods out of the ban completely. Despite the 'ban', the Regulation then continues to construct a system of conditions and derogations to the 'ban' which allow certified goods reaching appropriate welfare standards expressed in the Annex to be placed on the Internal Market. It is thus possible for a whole country, for arguments sake say Canada, to remove itself from the 'ban' or 'prohibition' by use of the conditions.

In view of the underlying and initial contradiction inherent in the structure of the proposed Regulation and added to this a system of exception and derogations it has to be questioned whether such an instrument incorporating a so-called 'ban' is the correct starting point to achieve the policy goals sets out in Parliament's resolution.

#### Respect for International Commitments of the EU

In addition to the concern that the Proposal does not achieve the policy goals set out in the Parliament's resolution, there are important question marks on whether the Proposal would comply with WTO rules. For example, given the relatively high contribution of products from Inuit hunting to Greenland's trade in seal products compared to other countries, there is a strong argument that a proposal that maintains the Inuit exception is discriminatory towards other countries, in practice providing an advantage to a good portion of the hunt of seals in Greenland.

Furthermore, there are concerns over whether any such trade ban, with or without derogations, can be properly justified according to WTO rules. The general exception in the General Agreement on Tariffs and Trade (GATT) which seems to best fit the justifications for the proposed trade ban, and which is also referred to by the Commission in its explanatory memorandum, is that provided under Article XX(a), where it is "necessary to protect public morals". In order to justify a ban on the grounds of the protection of public morals, it must therefore be shown that such measures are 'necessary' to achieve these aims. In previous WTO rulings, this has been determined by "whether a WTO-consistent alternative measure which the Member concerned could 'reasonably be expected to employ' is available, or whether a less WTO-inconsistent measure is 'reasonably available'"<sup>1</sup>. In this regard it could be argued that a certification or labelling scheme ensuring appropriate information of the public is

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<sup>1</sup> WT/DS161/AB/R and WT/DS169/AB/R, *Korea - Measures Affecting Imports of Fresh, Chilled and Frozen Beef*, adopted 11 December 2000, paragraphs 164 and 166.

sufficient to protect public morals and that a trade ban has not been proven necessary, given that alternative measures have not been appropriately tested or considered.

Where third countries or Member States have introduced bans on seal products, it has not been without the threat of challenge. Furthermore, as no ban has been tested according to WTO rules, it remains uncertain whether they would withstand WTO scrutiny. This is also the case for long-term bans such as that in place in the US, which, from its background, is largely based on biodiversity concerns in an homogeneous national market.

### Internal Market

The Commission Proposal is based on Article 95 EC, which confers on the Community the powers to adopt measures for the harmonisation of national laws having as their object the establishment and functioning of the Internal Market. Whereas disparities are evident in the marketing of seal products across the European Union, a complete ban on the trade in seal products may not be the appropriate means to achieve the aim of ensuring the smooth functioning of the internal market in this respect.

So far, where bans have been introduced on the basis of Article 95 EC, such as the ban on dog and cat fur, or on tobacco advertising, such bans have been justified with regard to internal market insofar as they contributed to improve intra-Community circulation of other products, namely the free circulation of press and other media in the case of tobacco advertising, and of other fur clothing products and accessories in the case of dog and cat fur. The nature of the market for seal products appears to be such that there are no such other products that would benefit from a ban.

Finally, it must be admitted that competence for regulating hunting practices *per se* is for Member States and third countries. The European Union is unable to legislate in this area. The Community's competence is therefore limited to controlling the circulation of products within the Internal Market, and attempts to influence hunting practices within a country, be it a Member State or third country, can only be driven through market demand and consumer pressure.

### An alternative measure

If Parliament remains equally committed to **both** of its original policy goals, those of animal welfare and of respecting an minimising the impact on Inuit communities, then arguably a better proposal might be based on a robust system of labelling and marking which might use some of the machinery in the current proposal but not under the perhaps misleading heading and structure of an overall ban or prohibition.

Your Rapporteur therefore considers that an appropriately and robustly constructed mandatory labelling system would have more chance of achieving both of Parliaments policy goals, allowing public opinion - through informed consumers - much more effectively to assist in guaranteeing high animal welfare standards, whilst equally assisting Inuit communities. Such a proposal would also demonstrate greater compliance with EU and International Trade Law, thus increasing certainty and minimising risks against legal

challenge from either Member States or third countries. Your Rapporteur has therefore amended the proposal, to put forward such a system but also, as stated above, to provoke full discussion.

In an ideal world, the issues raised by this draft report would have been presented in the form of some kind of working or options paper, but in the timescale allowed by the current legislative process the only possibility has been to come forward with a fully reasoned alternative proposal.