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STATEMENT OF THE COUNCIL'S REASONS

Subject: Position of the Council at first reading with a view to the adoption of a Regulation of the European Parliament and of the Council on the Common Fisheries Policy, amending Council Regulation (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002, (EC) No 639/2004 and Council Decision (EC) No 2004/585

– Statement of the Council's reasons
Adopted by the Council on 17 October 2013

I. INTRODUCTION

On 13 July 2011, the European Commission adopted a proposal for a new Basic Regulation on the Common Fisheries Policy (CFP).

- a) After three orientation debates held in March, April and May 2012, the "Agriculture and Fisheries" Council reached a partial "general approach" on 12 June 2012¹, which was finalised at the Council meeting of 26 February 2013, in particular concerning the implementation of the discards ban and related provisions (Articles 15 and 16)².

The European Parliament voted on its position at first reading on 6 February 2013³.

Following the vote in the European Parliament, negotiations took place between the European Parliament, the Council and the Commission with a view to reaching an agreement on the proposal. Conclusive informal trilogues were held on 28 and 29 May 2013, and a final informal technical meeting was organised on 7 June 2013. The agreement was subsequently endorsed by the Committee of Permanent Representatives on 14 June 2013, by the European Parliament Committee on Fisheries on 18 June 2013, and by Council on 15 July 2013.

Taking the above agreement into account and following legal and linguistic revision, the "Agriculture and Fisheries" Council on 17 October 2013 has been invited to adopt the Council's position at first reading, in accordance with the ordinary legislative procedure laid down in Article 294 of the Treaty on the Functioning of the European Union (TFEU).

In carrying out its work, the Council took due account of the opinions of the European Economic and Social Committee and of the Committee of the Regions, which were given on 28 March 2012 and 4 May 2012, respectively⁴.

¹ Doc. 11322/12 PECHE 227 CODEC 1654.

² Doc. 11322/1/12 PECHE 227 CODEC 1654 REV 1.

³ Doc. 5255/13 CODEC 61 PECHE 39 PE 7.

⁴ OJ C 181, 21.6.2012, p.183; OJ C 225, 27.7.2012, p.20.

II. OBJECTIVE

The proposal is part of the July 2011 reform package (linked to the proposal on a new Common Markets Organisation and a reviewed external dimension of the CFP) and must be seen in conjunction with the proposal for a new European Maritime and Fisheries Fund (EMFF), which the Commission adopted on 2 December 2011. The general objective of the proposal is to ensure fisheries and aquaculture activities that provide long-term sustainable environmental, economic and social conditions, and contribute to the availability of food supply.

Important new elements of the Commission's proposal have been:

- stock management at maximum sustainable yield as a legal obligation ("by 2015" for all stocks);
- implementation decisions by Member States in a regional context, under Union multiannual plans or technical measures frameworks;
- discard ban (landing obligation irrespective of quotas and minimum reference sizes, prohibition of operations under insufficient quota, related marketing standards for over-quota catches);
- transferable fishing concessions which represent fishing opportunities.

III. ANALYSIS OF THE COUNCIL'S POSITION AT FIRST READING

A) General observations

On the basis of the Commission proposal, the European Parliament and the Council have conducted negotiations with the aim to conclude an agreement at the stage of the Council's position at first reading. The text of the Council position fully reflects the compromise reached between the two co-legislators.

B) Key issues

The compromise reflected in the Council position at first reading contains the following key elements:

a) General provisions

The European Parliament agreed with the Council's suggestion to merge general and specific objectives into one Article (Article 2). Within the objectives, compromises needed to be found in particular on the concept and timetable for introducing management of fish stocks in accordance with maximum sustainable yield, on the relation to preserving the marine environment at large, on the elimination of discards, and on fleet capacity adaptation. The most difficult compromise was the one on maximum sustainable yield. It underlines the incremental process for the implementation of this management concept, but with definite timelines, and specifies that the key management parameter is the exploitation rate that the stocks experience through fishing.

Among the definitions, the compromise focused on the "eco-system based approach to fisheries management", "low impact fishing", "minimum conservation reference size", "surplus of allowable catch" and "sustainable fisheries partnership agreements". The Parliament accepted the Council's new definitions on "discards" and on "Member States having a direct management interest", which relates to the relevant group of Member States engaged in the so-called "regionalisation", and Council accepted the Parliament's new definitions on "stock within safe biological limits", "low impact fishing" - with a small amendment -, "selective fishing" - with a small amendment, and "entry into the fleet".

b) Access to waters

The European Parliament accepted the enlargement of preferential treatment for local fleets in outermost regions towards all outermost regions (Article 5(3)). Council accepted the special mention of, and additional support for, existing biologically sensitive areas which Parliament considered as access conditions; this provision was shifted to form part of the conservation measures (Article 8).

c) Conservation measures

Parliament and Council found a compromise on the additional Article on general provisions for conservation measures which both institutions considered appropriate. Parliament succeeded with a number of specifications concerning the lists of conservation and technical measures, while Council was able to maintain its position that technical measures should be seen as a sub-group of conservation measures. Council accepted, with a number of amendments, the Parliament's amendment on fish stock recovery areas (Article 8). Instead of empowering Member States to establish those areas, it was agreed to have Union measures based on regional cooperation among Member States; national measures remain possible under special provisions which concern the Member States' own vessels and their 12 mile zones (Articles 19 and 20).

The parties agreed to rationalise the provisions on multiannual plans, linking them to the concept of maximum sustainable yield with a special provision for "mixed fisheries", and to the discard ban.

A difficult compromise was struck on the new Article concerning conservation measures to pursue obligations under environmental legislation (Article 11). The Parliament succeeded in its support for the Commission's position to have delegated acts in place if those measures need to be adopted at Union level, while Council was able to clarify the scope of this provision and to incorporate a procedure which ensures the development of these measures within the regionalised cooperation by Member States, in case more than one Member State is concerned. Council accepted the Parliament's amendment on continuing the empowerment for Member State emergency measures (Article 13).

The most difficult part of the compromise concerned Articles 15 and 16, relating to the landing obligation and fishing opportunities. Council had to concede or tighten some elements of the flexibility mechanisms it had envisaged for the implementation of this obligation, while Parliament largely accepted the Council's position on the scope and roll-out of the landing obligation in the fisheries between 2015 and 2019. Parliament agreed to detail the implementation procedures so that, as a minimum requirement, so-called "discard plans" adopted as delegated acts have to be in place when the landing obligation enters into force, while as a general rule multiannual plans will be the instrument of implementation. A compromise was also found for the general rules on controlling the discard ban. The Parliament conceded a number of amendments it envisaged under Article 16 (fishing opportunities), in view of the Council's competence under Article 43(3) TFEU. However, Council had to accept that general rules on the allocation of fishing opportunities within Member States were established in the regulation (Article 17).

With regard to regionalisation (Article 18), Council was able to convince Parliament of its concept and of a more succinct drafting of this part, while maintaining the various avenues of either Union or Member State measures. This issue was particularly important for securing a compromise, as Member States already engaging in regionalisation processes felt that the new regulation needed to reflect the existing practice.

d) Management of fishing capacity

Both Parliament and Council were opposed to the introduction of a compulsory trade in fishing concessions, which the Commission had proposed to overcome the problem of excess fishing capacity. Parliament accepted that reference be made to such concessions as a voluntary component of Member States' management systems.

Council partly accepted the Parliament's amendments for a more comprehensive procedure of capacity reporting, including the introduction of calculation standards based in Commission guidelines. Parliament largely accepted the Council's position with regard to the proportionality of financial sanctions in case of non-compliance.

e) Scientific base for fisheries management

The compromise concerning this part focused on data collection. Council partly accepted the Parliament's quest for more transparency in data collection activities and reporting, and agreed to the continuation of the sectoral regulation which the Council had adopted in 2008.⁵

f) External policy

Concerning the part on external policy, both Parliament and Council supported more detailed provisions than those contained in the proposal, the latter basing its position on the Council conclusions of March 2012.⁶ Parliament conceded on the level of detail as regards mandatory provisions in Sustainable fisheries partnership agreements and their protocols, as well as concerning the conditions for granting licenses in this area. Parliament also accepted to group policy elements which concern stocks exploited together with third countries or the management of stocks jointly with third countries, into one single Article (Article 33).

g) Aquaculture

In the part on aquaculture, Council accepted an additional focus on environment and resource efficiency within multiannual national strategic plans, as requested by Parliament.

h) Control and enforcement

With regard to control and enforcement, a compromise was found on the control principles, and Council agreed to the creation of an expert group on compliance. At the request of the Council, its tasks were enlarged towards an advisory function, in addition to reviewing issues of compliance and implementation in the Union fisheries control system.

⁵ Regulation (EC) No 199/2008.

⁶ doc. 7086/12 PECHE 66.

i) Financial instruments

The Parliament conceded on amendments aiming at more detailed cross-compliance between the financial instrument and obligations under the CFP and environmental law. Council preferred dealing with these issues when negotiating the regulation on the EMFF, but agreed to having general principles of cross-compliance established in the CFP regulation.

j) Advisory Councils

Both Parliament and Council were in favour of enlarging the number of advisory councils and detailing their functioning within the regulation. A compromise had to be found on the representation of interests from the industry and interest groups from the wider society (Annex III), and the Council accepted the Parliament's request for an advisory council for markets.

k) Delegation of powers

The procedure and scope of Commission powers for implementation were one of the difficult parts of the compromise. With regard to delegated acts, Parliament in the majority of cases supported the Commission proposal which had foreseen 12 empowerments for delegated acts. While the Council's general approach already accepted five of them, the final compromise resulted in six such empowerments. Most of them (four) concern the implementation of the discard ban.

IV. CONCLUSION

The Council's position at first reading fully reflects the compromise reached in the negotiations between the Council and the European Parliament, facilitated by the Commission. This compromise is confirmed by the letter of the Chair of the European Parliament's Committee on Fisheries (PECH) to the Chairman of the Permanent Representatives Committee (20 June 2013)⁷. In this letter, the PECH Chair indicates that he will recommend to the members of the PECH Committee, and subsequently to the plenary, that they accept the Council's position at first reading without amendments at Parliament's second reading, subject to verification by the lawyer-linguists of both institutions. By adopting the Regulation on the Common Fisheries Policy the European Union provides the essential part for establishing the CFP reform. The financial pillar in support of the reform (EMFF) has not been agreed yet.

⁷ Letter number 310831, IPOL-COM.PECH D(2013)32913.