



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 8 July 2013**

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**ADDENDUM TO "I/A" ITEM NOTE**

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from: General Secretariat of the Council  
to: Permanent Representatives Committee (Part 1) / Council

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No. Cion prop.: 12514/11 PECHE 187 CODEC 1166 - COM(2011) 425 final

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Subject: Proposal for a Regulation of the European Parliament and of the Council on the  
Common Fisheries Policy  
*- Political agreement*

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**1. Statement by France, Germany, Poland, Denmark, Belgium, Latvia, Portugal and Malta  
on Article 16a**

France, Germany, Poland, Denmark, Belgium, Latvia, Portugal and Malta recall that Member States have the primary responsibility for the definition and management of national allocation systems of fishing opportunities and, therefore, consider that Article 16a should be interpreted in this context.

## **2. Declaración de España**

### **Artículo 2**

España considera que debe tenerse en cuenta que no es posible conseguir al mismo tiempo el rendimiento máximo sostenible para todas las especies de una pesquería mixta, y debe buscarse un nivel que maximice los rendimientos del conjunto de las especies de cada pesquería, manteniendo las poblaciones dentro de límites biológicos seguros.

### **Artículos 11(1) y 15(3)**

España señala que la excepción *de minimis*, cuyo límite superior es el 5% de las capturas anuales totales de especies sometidas a la obligación de desembarque, deberá aplicarse de manera flexible mediante distintos porcentajes en los diferentes planes de gestión que se aprueben en su momento, que pueden ser superiores o inferiores al 5% en cada caso.

### **Artículo 15**

España llama la atención sobre el grave incentivo al comercio ilegal de capturas inferiores a la talla mínima legal que constituye la obligación de desembarque de tales capturas en el Mediterráneo y en el Golfo de Cádiz, y por ello defenderá la adopción de medidas especiales en los planes de gestión para estas pesquerías que, dentro del marco legal vigente, eviten dicho comercio ilegal.

### **Artículo 38 bis**

España reafirma que las inversiones de empresas comunitarias en terceros países constituyen uno de los instrumentos mediante los cuales se da cumplimiento a los objetivos de la política pesquera exterior pesquera de la UE y que por ello deben ser objeto de defensa por parte de las instituciones de la UE.

### **Courtesy translation: Statements by Spain**

#### **Ad Article 2**

Spain considers that the maximum sustainable yield cannot be obtained simultaneously for all the species in a mixed fishery and that, as a consequence, a level that maximizes the yields of the different species of each fishery must be sought, keeping the stocks within safe biological limits.

### **Ad Articles 11(1) and 15(3)**

Spain considers that *de minimis* exception, whose upper limit is 5 % of the annual catches of species submitted to the obligation to land, shall be implemented in a flexible way by setting different percentages, either higher or lower than 5%, in each of the different management plans at the time of their approval.

### **Ad Article 15**

Spain alerts that the obligation to land catches in the Mediterranean and in the Gulf of Cádiz is a serious incentive to the illegal trade of undersized catches. This is precisely the reason why Spain will defend the adoption of special measures in the management plans of these fisheries in a way that, within the current legal framework, they avoid the above mentioned illegal trade.

### **Ad Article 38 bis**

Spain reaffirms that the investments of Union companies in third countries constitute one of the instruments through which the objectives of the external fisheries policy of the EU are fulfilled and that, therefore, they must be defended by the institutions of the EU.

## **3. Commission statements**

### **Ad Article 17**

(on paragraphs 1 and 3) The Commission underlines that the empowerment of the Commission to adopt measures set out in the Member States' joint recommendations by means of implementing or delegated acts cannot affect the Commission's discretion to adopt such acts.

(on paragraph 7) The ability of the Member States having a direct management interest to prepare common joint recommendations cannot affect the Commission's exclusive right of initiative to submit proposals in the Common Fisheries Policy field.

(on paragraph 8) In the light of Article 2(1) TFEU, paragraph 8 cannot be understood as conferring automatically, in the absence of further Union legislation, an authorisation on Member States to adopt legally binding acts in an area of exclusive Union competence. In case the Commission considers that such acts are not compatible with the Common Fisheries Policy objectives, Member States should act in accordance with the principle of loyal cooperation in order to remove any incompatibility with Union law.

### **Ad Part VII and in particular Article 38b paragraph 3**

The provisions of Part VII on the External policy are not susceptible to affect the validity of Council decisions or negotiating directives from the Council to the Commission or of agreements concluded with third states or organisations in accordance with Article 218 TFEU.

### **Ad Article 56 paragraph 2 second part**

The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5 § 4, subparagraph 2, point b) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established by Article 5 § 4 recourse to subparagraph 2, point b) cannot be simply seen as a "discretionary power" of the Legislator, but must be interpreted in a restrictive manner and thus must be justified.