



**COUNCIL OF
THE EUROPEAN UNION**

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**Interinstitutional File:
2011/0195 (COD)**

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"I/A" ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Proposal for 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 (**first reading**)
- Adoption
a) of Council's position at first reading
b) of the statement of the Council's reasons
= Statements

Council Statement on multi-annual plans

The Council is committed to working with the European Parliament and the Commission to address inter-institutional issues and agree a way forward that respects the legal position of both the Parliament and the Council to facilitate the development and introduction of multi-annual plans on a priority basis under the terms of the Common Fisheries Policy.

The Council further proposes that an inter-institutional taskforce be established to help find the most appropriate way forward.

Statement by the European Parliament and by the Council on data collection

The European Parliament and Council request the Commission to fast track the adoption of a proposal to amend EU Regulation 199/2008 in order that the principles and objectives for data collection that are essential to support the reformed Common Fisheries Policy and set out in the new CFP Reform Regulation can be given practical effect as early as possible.

Statements by the Commission

Ad Article 18

(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 authorization 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 VI and in particular Article 28 paragraph 3

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

Ad Article 47 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.
