



**COUNCIL OF
THE EUROPEAN UNION**

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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 organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000

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

I. INTRODUCTION

On 13 July 2011 the European Commission presented to the Council its proposal on the common organization of the markets in fishery and aquaculture products ("CMO")¹.

After an orientation debate held on 19 March 2012, the "Agriculture and Fisheries" Council reached a "general approach" in June 2012².

The European Parliament voted on its first reading position on 12 September 2012³.

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. Agreement was reached on 4 June 2013 and 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 the 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 is 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, adopted on 28 March 2012 and 4 May 2012, respectively⁴.

¹ Doc. 12516/11 PECHE 188 CODEC 1167.

² Doc. 10415/12 PECHE 192 CODEC 1445.

³ Doc. 13616/12 CODEC 2093 PECHE 334 PE 390.

⁴ OJ C 181, 21.6.2012, p. 183; OJ C 225, 25.7.2012, p.20.

II. OBJECTIVE

The aim of the proposal is to replace Regulation 104/2000 of 17 December 1999⁵ establishing the legal basis of the common organisation of the markets in fishery and aquaculture products ("CMO"). The CMO proposal is part of the CFP Reform Package and is designed to contribute to the objectives of the proposed new CFP Regulation⁶.

Among the objectives of this proposal are:

- the simplification of legal procedures and reporting obligations;
- strengthening the role of Professional Organisations;
- a reduction in market support (discontinuation of the withdrawal price mechanism, phasing-out the support for storage aid); and
- better information to consumers.

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.

⁵ OJ L 17, 21.1.2000, p. 22.

⁶ Doc. 12514/11 PECHE 187 CODEC 1166.

B) Key issues

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

a) **General provisions**

Both the European Parliament and the Council noted that a reference to the external dimension was missing in the Commission proposal. In the Commission's view this was not necessary because the external policy would be dealt with in a separate regulation under a different legal basis. In the final compromise, reference to the regulations that shall supplement the CMO as regards external aspects was included.

At the request of the Council, the definitions of "retail" and "pre-packed fishery and aquaculture products" were added to the list of definitions in Article 5, and reference to definitions from the CFP and other regulations that shall also apply in this context was made.

b) **Producer Organisations (POs)**

The European Parliament endorsed the restructuring of the section on establishment, objectives and measures proposed by the Council, for simplification purposes, which resulted in the deletion of Articles 9-11. As a result, the EP Amendments 38 - 68 fell, the substance of these being to a large extent incorporated into the Council's structure.

Objectives and measures: the European Parliament and the Council agreed on changes that enlarge and detail the objectives of POs as compared to the Commission proposal. Thus, for instance, as regards Fishery POs, the following elements were included: the promotion of *sustainable fishing* ; the compliance with *environmental law* while respecting *social policy*, how *unwanted catches* should be dealt with, *traceability* and the contribution against *IUU practices*. Corresponding changes to the section on "measures" were introduced.

Recognition: At the request of the Council, detailed rules on the functioning of POs and inter-branch organizations were introduced.

Production and marketing plans: important requests of the Council have been accepted: firstly, the contents of production and marketing plans are specified in Article 28(2); secondly, the proposal's empowerment to the Commission to adopt delegated acts has been deleted; and, finally, changes to the format and structure of the production and marketing plans shall be adopted by the Commission via implementing acts.

Storage mechanism: The storage mechanism proposed by the Commission, which was intended to replace the whole system of withdrawal prices and interventions, remained practically unchanged. It proved to be an effective compromise between those who favored the extension of the current system and others that wanted to completely end public intervention.

Collective fund: At the request of the Council, the proposal's rules on the POs collective funds were deleted, as they were deemed to bring no added value.

c) Marketing standards

As suggested by the Council, marketing standards may refer to quality, size or weight, packing, presentation and labeling of the products and, in particular, to minimum marketing sizes in accordance with minimum conservation reference sizes, where relevant. Fishery products landed which do not comply with marketing standards may be used for purposes other than human consumption (this is intended to avoid creating markets for "unwanted catches" such as juvenile fish).

At the request of the Council, the proposal's empowerment to the Commission to adopt delegated acts has been deleted.

d) Consumer information

Article 35 (mandatory information) proved to be one of the most difficult issues in the negotiations. In particular, the inclusion of the *date of catch or date of landing* and the *gear used* were highly contentious points.

- Date of landing: The European Parliament supported the inclusion of the date of landing among the mandatory data, as compared to the date of catch proposed by the Commission. Against this view, the Council considered that neither the date of catch nor the date of landing brought enough added value in most cases (while it increased administrative burden). It could even be misleading in some cases if the consumer naturally associated a better product quality with a more recent date. The Council finally accepted to include the date of minimum durability, while the date of catch could still be included among the voluntary information under Article 39.
- Gear category: In addition to a more detailed indication of the area where the product was caught or farmed, which was accepted by the Council, the Parliament wanted the inclusion of the gear category used. The Council initially opposed this initiative which could imply the stigmatization of certain fishing techniques. As a compromise, both sides agreed on the inclusion of a simplified list of seven groups of gears as specified in Annex III (more information on gears may be given as voluntary information; see below).

Eco-labeling (Article 36): The EP and the Council agreed that the Commission shall submit by 1 January 2015 a feasibility report on options for an eco-label scheme and on setting minimum requirements.

Additional voluntary information (Article 39) may include inter alia the *date of catch*, the *date of landing* or the *port* at which the products were landed, the *type of fishing gear in more detail* or the *flag state* of the vessel that caught the products.

It will be possible to use "Quick Response (QR) codes" to outline the mandatory information under Article 35(1).

Voluntary information shall not be displayed to the detriment of the space available for mandatory information, and no voluntary information shall be included that cannot be verified.

Delegated acts: The proposal's empowerment to the Commission to adopt delegated acts has been deleted.

e) Procedural and Final provisions

Amendments to the Control Regulation: At the request of the Council, Regulation (EC) No 1224/2009 is amended to establish that Member States shall undertake compliance checks, and to align the provisions on information to consumers.

Rules establishing common marketing standards (Article 47): current marketing standards for certain products shall continue to apply

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 (25 June 2013). 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 market organisation on fishery and aquaculture products the European Union provides an essential building block for establishing the new Common Fisheries Policy.