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Subject:	Proposal for a Regulation of the European Parliament and of the Council on the Common Organisation of the Markets in Fishery and Aquaculture Products - <i>General approach</i>

At its meeting on 12 June 2012, the "Agriculture and Fisheries" Council reached a general approach on the above proposal, as it appears in the Annex. Recitals and definitions will be further examined at a later stage, as well as the correct choice of the implementation procedure (delegated act/implementing act).

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on the common organisation of the markets in fishery and aquaculture products**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 42 and 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:[†]

- (1) The scope of the Common Fisheries Policy extends to measures on the markets for fishery and aquaculture products in the Union. The common organisation of the markets in fishery and aquaculture products, hereafter "Common Market Organisation," is an integral part of the Common Fisheries Policy and should contribute to the accomplishment of its objectives. Since the Common Fisheries Policy is being revised, the Common Market Organisation should be adapted accordingly.

¹ OJ C , , p. .

² OJ C , , p. .

[†] *[Recitals are only rudimentary covered by this compromise and will have to be adapted to final compromise on the enacting part]*

- (2) Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products³ needs to be revised to take account of shortcomings detected in the implementation of the provisions currently in force, recent developments in Union and world markets, and the evolution of fishing and aquaculture activities.
- (3) The provisions of the Common Market Organisation should be implemented in compliance with the Union international commitments, in particular with regard to the provisions of the World Trade Organisation. ***The conditions for a fair competition in the trade in fishery and aquaculture products with third countries should be ensured, in particular through respect for requirements of sustainability and social standards equivalent to those which apply to the European products.***
- (4) The Common Market Organisation should contribute to achieving the objectives of the Common Fisheries Policy.
- (5) Since those objectives cannot be sufficiently achieved by the Member States due to the common nature of the market in fishery and aquaculture products and can therefore, by reason of the need for further common action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty of the European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (6) It is important that the management of the Common Market Organisation is guided by the principles of good governance of the Common Fisheries Policy.

³ OJ L 17, 21.1.2000, p. 22.

- (7) Producer organisations are the key actors for the appropriate application of the Common Fisheries Policy and the Common Market Organisation. It is therefore necessary to strengthen their objectives to ensure that their members carry out fishing and aquaculture activities in a sustainable manner, improve the placing on the market of products, and collect economic information on aquaculture. When realising these objectives, producer organisations should take account the different conditions of the fishery and aquaculture sectors prevailing in the Union, in particular the specificities of small-scale fisheries.
- (8) Inter-branch organisations gathering different categories of operators may help to improve the coordination of marketing activities within the value chain and to develop measures of interest for the whole sector.
- (9) It is appropriate to lay down common conditions for the recognition of producer organisations and inter-branch organisations by Member States, for extension of the rules adopted by producer organisations and inter-branch organisations, and for the costs resulting from such extension to be shared. The procedure for extension of rules should be subject to authorisation by the Commission.
- (10) In order that producer organisations can steer their members towards sustainable fishery and aquaculture activities, producer organisations should define and submit to the competent authorities of the Member States a production and marketing plan with the necessary measures to fulfil their objectives.
- (11) The unpredictability of fishing activities makes it appropriate to set up a mechanism of storing fishery products for human consumption with a view to foster greater market stability and to increase the return on products, in particular by creating added value. This mechanism should contribute to the stabilisation and convergence of the Union's local markets with a view to achieving the single market.
- (12) In order to take account of the diversity of prices throughout the Union, each producer organisation should be entitled to make a proposal for a price to trigger the storage mechanism. ***This trigger price should be set in a way that healthy and fair competition between operators be maintained.***

- (13) As fish stocks are shared resources, their sustainable and efficient exploitation can, in certain instances, be better achieved by organisations composed of members from different Member States. Therefore it is necessary to foresee also the possibility for the setting up of transnational producer organisations and associations of producer organisations, which remain subject to competition rules as foreseen in the present regulation.
- (14) The application of common marketing standards should permit the market to be supplied with sustainable products, to realise the full potential of the internal market in fishery and aquaculture products, and to facilitate commerce based on fair competition, thus helping to improve the profitability of production.
- (15) The widening variety of fishery and aquaculture products makes it essential to provide consumers with a minimum amount of mandatory information on the main characteristics of products.
- (16) The rules on competition relating to agreements, decisions and practices referred to in Articles 101 of the *Treaty* should apply to the production or marketing of fishery and aquaculture products, in so far as their application does not impede the functioning of the common organisation of the markets or jeopardise the attainment of the objectives of Article 39 of the *Treaty*.
- (17) It is appropriate to lay down competition rules applicable to the production and marketing of fishery and aquaculture products, taking into account the specific features of the fishery and aquaculture sector, including fragmentation of the sector, the fact that fish is a shared resource and the large extent of imports. For the sake of simplification, the relevant provisions of Regulation (EC) No 1184/2006 of 24 July 2006 applying certain rules of competition to the production of and trade in certain agricultural products⁴ should be incorporated into the present regulation. Regulation (EC) No 1184/2006 should therefore no longer apply to fishery and aquaculture products.
- (18) It is necessary to improve the economic information on the markets in fishery and aquaculture products in the Union.

⁴ OJ L 214, 4.8.2006, p. 7

- (19) In order to be able to supplement or amend the conditions and requirements for recognition of producers organisations, supplement or amend the content of the production and marketing plan, define and amend the common marketing standards, supplement or amend mandatory information and set minimum criteria for information voluntarily provided by operators to the consumers, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of Articles 24, 33, 41 and 46.*
- (20) It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.†
- (21) In order to ensure uniform conditions for the implementation of Articles 25, 31, 34 and 37 of this Regulation, implementing powers should be conferred upon the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control of by Member States of the Commission's exercise of implementing powers.*
- (22) Council Regulation (EC) No 104/2000 should be repealed.

* *[The choice of legal instrument for implementation will be dealt with at a later stage.]*

† *[Rules on delegated acts will be dealt with at a later state.]*

* *[Rules on implementing acts will be dealt with at a later state.]*

HAVE ADOPTED THIS REGULATION:

Chapter I

General provisions

Article 1

Subject matter

1. A common organisation of the markets in fishery and aquaculture products, hereafter “Common Market Organisation”, is hereby established.
2. The Common Market Organisation shall comprise the following instruments:
 - (a) professional organisations;
 - (b) marketing standards;
 - (c) consumer information;
 - (d) competition rules;
 - (e) market intelligence.
3. ***The Common Market Organisation shall be supplemented by the [Council Regulation on tariff quotas][†], as well as by general trade-related measures adopted to react to disturbances on a market for fisheries or aquaculture products. Implementation of the Common Market Organisation shall be eligible to receive Union financial support on the basis of the Regulation .../2013 of the European Parliament and of the Council of ... on the European Maritime and Fisheries Fund⁵.***

[†] *[Commission proposal for a Council Regulation expected mid 2012]*
⁵ *[refer to Regulation on the European Maritime and Fisheries Fund]*

Article 2

Scope

The Common Market Organisation shall apply to the fishery and aquaculture products listed in Annex I to this Regulation, which are marketed in the Union.

Article 3

Objectives

The ***objectives of the*** Common Market Organisation ***are those*** laid down in Article 45 of the Regulation on the Common Fisheries Policy.

Article 4

Principles

The Common Market Organisation shall be guided by the principles of good governance laid down in Article 4 of the Regulation on the Common Fisheries Policy.

Article 5
Definitions

For the purposes of this Regulation, the definition *of the terms [...] referred to in Article 5 of the Regulation on the Common Fisheries Policy, the definition of the terms 'mass caterer', 'ingredient', and 'labelling' referred to in Article 2 of Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provisions of food information to consumers*⁶, *the definition of the terms 'food' and 'final consumer' in Articles 2 and 3 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Agency and laying down procedures in matters of food safety*⁷, *and the definition of the term 'food additive' referred to in Article 3 of Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives*⁸ shall apply. The following definitions shall also apply:

- (a) 'fishery products' mean aquatic organisms resulting from any fishing activity or products derived therefrom, as listed in Annex I;
- (b) 'aquaculture products' mean aquatic organisms at any stage of their life cycle resulting from any aquaculture activity or products derived therefrom, as listed in Annex I;
- (c) 'producer' means any natural or legal person using means of production to obtain fishery or aquaculture products with a view to their placing on the market;
- (e) 'making available on the market' means any supply of a fishery or aquaculture product for distribution, consumption or use on the Union market in the course of a commercial activity, whether in return for payment or free of charge;
- (f) 'placing on the market' means the first making available of a fishery or aquaculture product on the Union market.

⁶ OJ L 304, 22.11.2011, p. 18.

⁷ OJ L 31, 1.2.2002, p. 1.

⁸ OJ L 354, 31.12.2008, p. 16.

- (g) *retail' means the handling and/or processing of food and its storage at the point of sale or delivery to the final consumer, including distribution terminals, catering operations, factory canteens, institutional catering, restaurants and other similar food service operations, shops, supermarket distribution centres and wholesale outlets;*
- (h) *'prepacked fishery and aquaculture products' means fishery and aquaculture products which are 'prepacked food' as referred to in point (e) of Article 2(2) of Regulation (EC) No 1169/2011.*

Chapter II

Professional organisations

SECTION I

ESTABLISHMENT, OBJECTIVES AND MEASURES

Article 6

Establishment of fishery producer organisations and aquaculture producer organisations

1. Fishery producer organisations *and aquaculture producer organisations* may be established as a group set up on the own initiative of producers of fishery products *or aquaculture products, respectively*, in one or more Member States and recognised in accordance with Section II.
2. *A producer organisation that is representative of both the fishery and aquaculture sectors may be established as a joint fishery and aquaculture producer organisation.*

Article 7

Objectives of fishery producer organisations and aquaculture producer organisations

1. Fishery producer organisations and aquaculture producer organisations shall contribute to ***two or more of*** the following objectives:
 - (a) improving the conditions for the placing on the market of their members' fishery and aquaculture products;
 - (b) improving producer's profitability;
 - (c) stabilising the markets;
 - (d) promoting ***employment in coastal and rural areas***.
2. ***In addition to the objectives set out in paragraph 1, fishery producer organisations shall contribute to the following objectives:***
 - (a) promoting ***sustainable*** fishing activities of their members in full compliance with the conservation policy ***as*** laid down, ***in particular***, in the Regulation on the Common Fisheries Policy, ***including, if Member States deem appropriate, participating in the management of marine biological resources;***
 - (b) ***reducing, and making the best use of any residual***, unwanted catches of commercial stocks.
3. ***In addition to the objectives set out in paragraph 1, aquaculture producer organisations shall contribute to the following objectives:***
 - (a) promoting sustainable aquaculture activities of their members by providing opportunities for their development;
 - (b) ascertaining that the activities of their members are consistent with the ***national*** strategic plans referred to in Article 43 of the Regulation on the Common Fisheries Policy.

4. ***Fishery producer organisations and aquaculture producer organisations may pursue complementary objectives.***

Article 8

Measures deployable by fishery producer organisations and aquaculture producer organisations

1. To achieve the objectives set out in Article 7, fishery producer organisations ***and aquaculture producer organisations*** may make use of ***measures such as:***
 - (a) adjusting production to market requirements;
 - (b) channelling the supply and the marketing of their members' products;
 - (c) ***promoting Union fishery and aquaculture products of their members in a non-discriminatory manner by using for example the potential of certification, in particular designations of origin, quality seals, geographical designations, traditional specialities guaranteed, and sustainability merits;***
 - (d) controlling and taking measures for compliance of their members' activities with the rules established by the producer organisation.
2. ***Fishery producer organisations may also make use of the following measures:***
 - (a) ***collective planning and managing of*** the fishing activities of their members, ***subject to the Member States' organisation of the management of marine biological resources;***
 - (b) ***reducing unwanted catches through involvement in the development and application of technical measures, and making the best use of unwanted catches of commercial stocks by placing them on the market or channeling them to alternative destinations in accordance with Article 15(6) of the Regulation on the Common Fisheries Policy and with Article 40(2) of this Regulation;***

(c) managing temporary storage for fishery products in conformity with Articles 35 and 36.

3. ***Aquaculture producer organisations may also make use of the following measures:***

- (a) promoting sustainable aquaculture activities, notably in terms of environmental protection, animal health and animal welfare;
- (b) collecting information on the marketed products including economic information on first sales, and on production forecasts.

Article 12

Establishment of associations of producer organisations

- 1. An association of fishery or aquaculture producer organisations may be established as a group set up on the own initiative of producer organisations recognised in one or more Member States.
- 2. The provisions of this regulation applicable to producer organisations shall apply to associations of producer organisations unless otherwise stated.

Article 13

Objectives of associations of producer organisations

Associations of fishery or aquaculture producer organisations shall pursue the following objectives:

- (a) performing in a more efficient manner any of the objectives of the member producer organisations laid down in Article 7;
- (b) coordinating and developing activities of common interest for the member producer organisations.

Article 14

Establishment of inter-branch organisations

Inter-branch organisations may be established as a group set up on the own initiative of operators of fishery and aquaculture products in one or more Member States and recognised in accordance with Section II.

Article 15

Objectives of inter-branch organisations

Inter-branch organisations shall ***improve the coordination of, and the conditions for, making available on the market Union fishery and aquaculture products.***

Article 16

Measures deployable by inter-branch organisations

Inter-branch organisations may make use of the following measures to achieve the objectives referred to in Article 15:

- (a) drawing up standard contracts which are compatible with Union ***legislation***;
- (b) promoting Union fishery and aquaculture products in a non-discriminatory manner by using ***for example*** the potential of certification, in particular designations of origin, quality seals, geographical designations, ***traditional specialities guaranteed***, and sustainability merits;
- (c) laying down rules on the production and marketing of fishery and aquaculture products which are stricter than those laid down in Union or national legislation;
- (d) improving quality, knowledge of and the transparency of production and the market;

- (e) performing research and market studies, and developing techniques to optimise the operation of the market including information and communication technology, *as well as collecting socio-economic data*;
- (f) providing the information and carrying out the research needed to deliver sustainable supplies at the *quantity*, quality and price according to market requirements and consumer expectations;
- (g) *carrying out training activities, for example on quality and traceability matters*;
- (h) controlling and taking measures for compliance of their members' activities with the rules established by the inter-branch organisation.

SECTION II

RECOGNITION

Article 17

Recognition of producer organisations

1. Member States may recognise as fishery or aquaculture producer organisations all fishery or aquaculture producer groups which apply for such recognition, on condition that *they*:
 - (a) are sufficiently *economically* active in the territory *of the Member State concerned* or a part thereof, in particular as regards number of members *or* volume of marketable production;
 - (b) have a legal personality under national law of a Member State, have their official headquarters and are established in its territory;
 - (c) are capable of pursuing the objectives laid down in Article 7;

- (d) comply with the competition rules *referred to* in Chapter V; *and*
- (e) may not *abuse* a dominant position on a given market.

2. *Producer organisations recognised before the entry into force of this Regulation shall be considered as recognised producer organisations for the purposes of this Regulation. This is without prejudice to their obligation to comply with the provisions of this Regulation.*

Article 18

Recognition of inter-branch organisations

1. Member States may recognise as inter-branch organisations groups *of operators* established on their territory which *apply for such recognition* on condition that *they*:
 - (a) represent a significant share of *production activity and either one or both of processing and marketing activities, concerning* fishery and aquaculture products or products processed from fishery and aquaculture products;
 - (b) are not themselves engaged in the production, processing or marketing of fishery and aquaculture products or products processed from fishery and aquaculture products;
 - (c) have a legal personality under the national law of a Member State, and have their official headquarters and are established in the territory of that Member State;
 - (d) can carry out the objectives laid down in Article 15;
 - (e) take into account the interest of consumers;
 - (f) do not hinder the sound operation of the Common Market Organisation; *and*
 - (g) *comply with the applicable competition rules.*

2. ***Inter-branch organisations recognised before the entry into force of this Regulation shall be considered as recognised inter-branch organisations for the purposes of this Regulation. This is without prejudice to their obligation to comply with the provisions of this Regulation.***

Article 19

Checks and withdrawal of recognition by Member States

1. Member States shall carry out checks at regular intervals to ascertain ***that*** producer organisations and inter-branch organisations comply with the conditions for recognition laid down in Articles 17 and 18 ***respectively; a finding of non-compliance may result in the withdrawal of recognition.***
2. ***The*** Member State hosting the official headquarters of ***a producer organisation or inter-branch organisation with members from different Member States, or*** an association of producer organisations recognised in different Member States, shall set up the administrative cooperation needed to carry out checks on the activities of the organisation or the association concerned ***in collaboration with the other Member States concerned.***

Article 21

Allocation of fishing opportunities

A producer organisation whose members are nationals of different Member States or an association of producer organisations recognised in different Member States shall perform its tasks without prejudice to the provisions governing the allocation of fishing opportunities among Member States in accordance with Article 16 of the Regulation on the Common Fisheries Policy.

Article 22

Communication to the Commission

Member States shall communicate to the Commission by electronic means any decision to grant or withdraw the recognition.

Article 23

Checks by the Commission

In order to ensure that the conditions for recognition of producer organisations or inter-branch organisations laid down in Articles 17 and 18 ***respectively*** are complied with, the Commission may carry out checks and may, where appropriate, request ***the*** Member State ***concerned to*** withdraw the recognition of producer organisations or inter-branch organisations.

Article 24

*Delegated acts**

The Commission shall be empowered to adopt delegated acts in accordance with Article 50 to

- (a) amend or supplement the conditions for the recognition referred to in Articles 17 and 18, ***taking into account in particular the characteristics of small fisheries and aquaculture sectors***. Those rules may concern the internal functioning of producer organisation or inter-branch organisations, their rules of association, financial and budgetary provisions, obligations for their members and enforcement of the application of their rules including penalties;
- (b) lay down rules concerning the frequency, content and practical methods of the checks to be carried out by the Member States in accordance with Article 20 and 21.

* *[The choice of legal instrument for implementation will be dealt with at a later stage.]*

Article 25
*Implementing acts**

1. The Commission shall adopt implementing acts concerning
 - (a) the time-limits and procedures to be applied by Member States for the recognition of producer organisations and inter-branch organisations pursuant to Articles 17 and 18 or for the withdrawal of such recognition pursuant to Article 19;
 - (b) the format, time-limits and procedures to be applied by Member States for the communication to the Commission of any decision to grant or withdraw the recognition pursuant to Article 22.
2. The implementing acts referred to in paragraph 1 of this Article shall be adopted in accordance with the examination procedure referred to in Article 51.

SECTION III
EXTENSION OF RULES

Article 26
Extension of rules of producer organisations

1. A Member State may make the rules agreed within a producer organisation binding on producers who are not members of the organisation and who market any of the products within the area in which the producer organisation is representative, on condition that:
 - (a) the producer organisation ***has been established for a period of at least one year and is*** considered to be representative of production and marketing in one Member State and makes an application to the competent national authorities; ***and***

* *[The choice of legal instrument for implementation will be dealt with at a later stage.]*

- (b) the rules to be extended concern any of the measures for producer organisations laid down in *point (a) to (c) of Article 8(1), and points (a) and (b) of Article 8(2) and (3)*.
2. For the purposes of *point (a) of* paragraph 1 a fishery producer organisation is *considered to be* representative where it accounts for at least 65 % of the quantities marketed of the relevant product during the previous year in the area where it is proposed to extend the rules.
3. For the purposes of *point (a) of* paragraph 1 an aquaculture producer organisation is considered to be representative where it *accounts for* at least 40 % of the quantities marketed of the relevant product during the previous year in the area where it is proposed to extend the rules.
4. The rules to be extended to non-members shall apply for a period between 90 days and 12 months.

Article 27

Extension of rules of inter-branch organisations

1. A Member State may make some of the agreements, decisions or concerted practices agreed on within an inter-branch organisation binding in a specific area or in specific areas on other operators who do not belong to the organisation on condition that:
- (a) the inter-branch organisation *covers* at least 65 % of *each of* at least two of the following activities: production, *processing or* marketing of the relevant product during the previous year in the area or areas concerned of a Member State, and makes an application to the competent national authorities; *and*
- (b) the rules to be extended to other operators concern any of the measures for inter-branch organisations laid down in Article 16(a) *to (g)* and do not cause any damage to other operators in the Member State concerned or the Union.
2. The extension of rules may be made binding for no more than three years, *without prejudice to Article 29(4)*.

Article 28

Liability

When rules are extended to non-members according to Articles 26 and 27, the Member State concerned may decide that non-members are liable to the producer organisation or the inter-branch organisation for the equivalent of all or part of the costs paid by members resulting from the application of the extension of rules.

Article 29

Authorisation by the Commission

1. Member States shall notify the Commission of the rules which they intend to make binding on all producers or operators in a specific area or in specific areas pursuant to Articles 26 and 27.
2. The Commission shall adopt a decision authorising the extension of the rules notified by a Member State if :
 - (a) the provisions of Articles 26 and 27 **respectively** are complied with;
 - (b) Chapter V on competition rules is complied with;
 - (c) the extension does not jeopardise free trade; **and**
 - (d) the objectives of Article 39 of the **Treaty** are not endangered.
3. Within **one** month of receipt of the notification, the Commission shall take a decision authorising or refusing to authorise the extension of rules and shall inform the Member States **thereof**. Where the Commission has not taken a decision within the **one**-month period, the extension of rules shall be deemed to have been authorised by the Commission.

4. *An authorised extension of rules may continue to be applied after the expiry of the initial period of time, including by tacit agreement, without an explicit renewal of the authorisation, provided that the Member State concerned has notified the Commission, at least one month before the expiry of such initial period, of the additional period of application and the Commission has either authorised such further application, or not objected to it within one month of receipt of such notification.*

Article 30

Withdrawal of authorisation

The Commission may carry out checks and may withdraw the authorisation of extension of rules in case it establishes that any of the requirements for the authorisation is not met. The Commission shall inform the Member States *thereof*.

Article 31

*Implementing acts**

Rules concerning the format and procedure of notification mentioned in Article 29(1) shall be established by the Commission by way of implementing acts adopted in accordance with the examination procedure referred to in Article 51.

* *[The choice of legal instrument for implementation will be dealt with at a later stage.]*

SECTION IV

PRODUCTION AND MARKETING PLANNING

Article 32

Production and marketing plan

1. Each producer organisation shall submit a production and marketing plan *at least for their main marketed species* to *its* competent national authorities *for approval*. *Such production and marketing plans shall be aimed at achieving* the objectives laid down in Articles 3 and 7.
2. *The production and marketing plan shall comprise:*
 - a) *a production programme for caught or farmed species;*
 - b) a marketing strategy to match the quantity, quality and presentation of supply to market requirements;
 - c) *measures to be taken by the producer organisation in order to contribute to the objectives laid down in Article 7;*
 - d) *special anticipatory measures to adjust the supply of species which habitually present marketing difficulties during the year;*
 - e) *sanctions* applicable to members who infringe *upon* the decisions adopted to implement the plan.
3. The *competent national authorities* shall approve the plan. Once approved, the producer organisation shall immediately implement the plan.
4. Producer organisations may revise the production and marketing plan and the revision shall be communicated for approval to the competent *national* authorities.

5. The producer organisation shall establish an annual report of its activities under the production and marketing plan referred to in paragraph 1, and shall submit it to the competent ***national authorities for approval.***
6. Member States shall carry out checks to ensure that each producer organisation fulfils the obligations provided for in this Article; ***a finding of non-compliance may result in the withdrawal of recognition.***

Article 33

*Delegated acts**

The Commission shall be empowered to adopt delegated acts in accordance with Article 50 to lay down rules concerning the content of the production and marketing plan referred to in Article 32(1).

Article 34

*Implementing acts**

The rules of procedure and time-limits for the submission by producer organisations and the approval by Member States of the production and marketing plan referred to in Article 32 shall be established by the Commission by way of implementing acts adopted in accordance with the examination procedure referred to in Article 51.

* *[The choice of legal instrument for implementation will be dealt with at a later stage.]*
* *[The choice of legal instrument for implementation will be dealt with at a later stage.]*

Section V

Stabilisation of the markets

Article 35

Storage mechanism

Fishery producer organisations may finance the storage of fishery products listed in Annex II to this Regulation, provided that ***the products***:

- (a) have been ***placed on the market*** by producer organisations ***or their members*** but a buyer has not been found at the trigger price referred to in Article 36;
- (b) meet the marketing standards ***established in accordance with*** Article 39 and are of adequate quality for human consumption;
- (c) are stabilised or processed and stored ***in tanks or cages, or*** by way of freezing, either on board vessels or in land facilities, salting, drying, marinating, and, where relevant, boiling and pasteurisation. Filleting or cutting-up and, where appropriate, heading, may accompany one of the previous processes;
- (d) are reintroduced ***from storage into*** the market for human consumption.

Article 36

Prices triggering the storage mechanism

1. Before the beginning of each year, each producer organisation may individually make a proposal for a price triggering the storage mechanism referred to in Article 35 for fishery products listed in Annex II.
2. The trigger price ***shall*** not exceed 80 % of the weighted average price recorded for the product in question in the area of activity of the producer organisation concerned during the three years immediately preceding the year for which the trigger price is fixed.

3. When determining the trigger price, account shall be taken of:
- (a) trends in production and demand;
 - (b) the stabilisation of market prices;
 - (c) convergence of the markets;
 - (d) producers' incomes;
 - (e) consumers' interests.
4. Member States shall, upon examining the proposals of the producer organisations recognised in their territory, determine the trigger prices to be applied by the producer organisations. These prices shall be fixed on the basis of the criteria referred to in paragraphs 2 and 3. The prices shall be made publicly available.

Article 37

*Implementing acts**

Rules concerning the format of publication by Member States of the trigger prices pursuant to Article 36(4) shall be established by the Commission by way of implementing acts adopted in accordance with the examination procedure referred to in Article 51.

* *[The choice of legal instrument for implementation will be dealt with at a later stage.]*

Chapter III

Marketing standards

Article 39

Establishment of marketing standards

1. Common marketing standards may be laid down for the **fishery** products ***that are*** listed in Annex I ***and*** intended for human consumption.
2. The standards referred to in paragraph 1 may ***relate to quality, size or weight, packing, presentation and labelling of the products, and*** in particular to:
 - (a) minimum marketing sizes; ***such minimum marketing sizes shall correspond, where relevant, to minimum conservation reference sizes in accordance with Article 7(1f) of the Regulation on the Common Fisheries Policy;***[†]
 - (b) specifications of ***preserved*** products in accordance with conservation requirements and international obligations.
3. Paragraphs 1 and 2 shall apply without prejudice to:
 - (a) Regulation (EC) No 853/2004 of the European Parliament and of the Council laying down specific hygiene rules for food of animal origin⁹;
 - (b) Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing¹⁰; and
 - (c) Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy¹¹.

[†] ***[Final text depends on the discussion of the discards policy under the Regulation in the Common Fisheries Policy.]***

⁹ OJ L 139, 30.4.2004, p. 55

¹⁰ OJ L 286, 29.10.2008, p. 1

¹¹ OJ L 343, 22.12.2009, p. 1

Article 40

Compliance with marketing standards

1. The products ***intended for*** human consumption for which marketing standards have been laid down may be ***made available on the market*** in the Union only in accordance with those standards.
2. All fishery products landed, including those not complying with marketing standards, may ***be used for purposes other than direct human consumption, including fishmeal, fish oil, pet food, food additives, pharmaceuticals, and cosmetics.***

Article 41

*Delegated acts**

The Commission shall be empowered to adopt delegated acts in accordance with Article 50, in order to define the common marketing standards referred to in Article 39(1) with regard to quality, size or weight, packing, presentation and labelling, and, if experience gained in the implementation of the standards so requires, to amend them, while ensuring that the standards are defined in a fair and transparent manner;

* *[The choice of legal instrument for implementation will be dealt with at a later stage.]*

Chapter IV

Consumer information

Article 42

Mandatory information

1. ***Without prejudice to the provisions of Regulation (EU) No 1169/2011, fishery and aquaculture products referred to in points (a), (b), (c), and (e) of Annex I which are marketed within the Union, irrespective of their origin or of the marketing method, may only be offered for sale to the final consumer or to a mass caterer, where appropriate marking or labelling indicates:***
 - (a) The commercial designation of the species and its scientific name;***
 - (b) The production method, in particular by the following words “...caught...” or “...caught in freshwater..” or “...farmed...”;***
 - (c) the area where the product was caught or farmed;***
 - (d) whether the product has been defrosted.***

This requirement shall not apply to:

- i) ingredients present in the final product;***
- ii) foods for which freezing is a technologically necessary step of the production process;***
- iii) fisheries and aquaculture products previously frozen for health safety purposes, in accordance with Annex III, Section VIII, of Regulation (EC) No 853/2004;***

- iv) *fisheries and aquaculture product which have been defrosted before the process of smoking, salting, cooking, pickling, drying or a combination of those processes.*
2. *For non-prepacked fishery and aquaculture products, the mandatory information listed in paragraph 1 may be provided for sale at retail by means of commercial information such as bill boards or posters.*
3. *Where a mixed product is offered for sale to the final consumer or to a mass caterer consisting of the same species but derived from a variety of production methods, the method for each batch must be stated. Where a mixed product is offered for sale to the final consumer or to a mass caterer consisting of the same species but derived from a variety of catch areas or fishfarming countries, at least the area of the batch which is most representative in terms of quantity must be stated, together with an indication that the products also come from different catch or fishfarming areas.*
4. *Member States may exempt from the requirements in paragraph 1 small quantities of products sold directly from fishing vessels to consumers, provided that these do not exceed the value referred to in Article 58(8) of Regulation (EC) No 1224/2009.*
5. *Fisheries and aquaculture products and packages labelled or marked prior to the date of entry into force of this Article which do not comply with this Article may be marketed until such stocks have been used up.*

Article 43

Commercial designation

1. For the purposes of Article 42, paragraph 1, the Member States shall draw up and publish a list of the commercial designations accepted in their territory, *together with their scientific names*. The list shall indicate:
- (a) the scientific name for each species, according to the FishBase Information System *or according to the FAO AFSIS database, where relevant*;

(b) the commercial designation:

- (i) the species' name** in the official language or languages of the Member State;
- (ii)** where applicable, any other name or names accepted or permitted locally or regionally.

2. **All species of fish where the fish constitutes an ingredient of another food may be designated as "fish", provided that the name and presentation of such food does not refer to a specific species.**
3. **Any changes to the list of commercial designations accepted by a Member State shall be notified forthwith to the Commission, which shall inform the other Member States thereof.**

Article 44

Indication of the catch or production area

1. The indication of the catch or production area in accordance with **point (i) of Article 42(1)** shall consist of the following:
 - (a) in the case of fishery products caught at sea, the name ***in writing, or a map or pictogram showing, one of the following: the area, subarea, division or subdivision as listed in the FAO Fishing Areas;***
 - (b) in the case of fishery products caught in freshwater, a reference to the Member State or third country of provenance of the product;
 - (c) In the case of aquaculture products, a reference to the Member State or third country in which the product ***has reached more than half of its final weight or has stayed for more than half of the rearing period or, in the case of shellfish, has undergone a final rearing or cultivation stage of at least six months.***
2. In addition to the information referred to in paragraph 1, operators may indicate a more precise catch or production area.

Article 45

Additional voluntary information

1. *Without prejudice to the provisions of Regulation (EU) No 1169/2011, voluntary information for fishery and aquaculture products referred to in Annex I may be provided in addition to the mandatory information required pursuant to Article 42.*
2. Voluntary information shall not be displayed to the detriment of the space for mandatory information on the marking or labeling.

Article 46

*Delegated acts**

The Commission shall be empowered to adopt delegated acts in accordance with Article 50, in order to

- (a) supplement or amend the mandatory information requirements referred to in Article 42(1), Article 42(2), Article 43 and Article 44, while ensuring that the mandatory information is performed in an accurate and transparent manner;
- (b) set minimum criteria for information voluntarily provided by operators referred to in Article 45(1), while ensuring that the conditions for displaying voluntary information are accurate, transparent and non-discriminatory.

* *[Delegated acts will be dealt with at a later stage.]*

Chapter V

Competition rules

Article 47

Application of competition rules

Articles 101 to 106 of the *Treaty* and their implementing provisions shall apply to agreements, decisions and practices referred to in Articles 101(1) and 102 of the *Treaty* which relate to production or marketing of fishery and aquaculture products.

Article 48

Exceptions to the application of competition rules

1. Notwithstanding Article 47 of this Regulation, Article 101(1) of the *Treaty* shall not apply to agreements, decisions and practices of producer organisations which concern the production or sale of fishery and aquaculture products, or the use of joint facilities for the storage, treatment or processing of fishery and aquaculture products, and which
 - (a) are necessary to attain the objectives set out in Article 39 of the *Treaty*;
 - (b) do not imply any obligation to charge identical prices;
 - (c) do not lead to the partitioning of markets in any form within the Union;;
 - (d) do not exclude competition; **and**
 - (e) do not jeopardise the achievement of the objectives of Article 39 of the *Treaty*.
2. Notwithstanding Article 47 of this Regulation, Article 101(1) of the *Treaty* shall not apply to agreements, decisions and practices of inter-branch organisations which
 - (a) are necessary to attain the objectives set out in Article 39 of the *Treaty*;
 - (b) do not entail any obligation to apply a fixed price;

- (c) do not lead to the partitioning of markets in any form within the Union;
- (d) do not apply dissimilar conditions to equivalent transactions with other trading partners, thereby placing them at a competitive disadvantage;
- (e) do not eliminate competition in respect of a substantial proportion of the products in question; *and*
- (f) do not restrict competition in ways which are not essential for the achievement of the goals of the Common Fisheries Policy .

Chapter VI

Market intelligence

Article 49

Market Intelligence

1. The Commission shall:
 - (a) gather, analyse and disseminate economic knowledge and understanding of the Union market for fishery and aquaculture products along the supply chain, taking into account the international context;
 - (b) survey prices regularly along the Union supply chain for fishery and aquaculture products and conduct analyses on market trends;
 - (c) provide ad-hoc market studies and a methodology for price formation surveys.
2. In order to achieve the objectives referred to in paragraph 1, the Commission shall make use of the following measures:
 - (a) facilitate access to available data on fishery and aquaculture products collected pursuant to the Union legislation;

- (b) make market information available to the adequate level to stakeholders.

Chapter VII

Procedural provisions

Article 50

*Exercise of delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Articles 24, 33, 41 and 46 shall be conferred for an indeterminate period of time from [...]
3. The delegation of power referred to in Articles 24, 33, 41 and 46 may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Articles 24, 33, 41 and 46 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.

* *[The choice of legal instrument for implementation will be dealt with at a later stage.]*

Article 51
*Implementation**

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Chapter VIII
Final provisions

Article 52
Amendment to Regulation (EC) No 1184/2006

In Article 1 of Regulation (EC) No 1184/2006 the following words are added:

"and Regulation (UE) No of the European Parliament and of the Council , of on the common organisation of the markets in fishery and aquaculture products (*)

(*) OJ ..."

* *[The choice of legal instrument for implementation will be dealt with at a later stage.]*

Article 52a

Amendments to Regulation (EC) No 1224/2009 and to Commission Implementing Regulation (EU) No 404/2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009¹²

1. Regulation (EC) No 1224/2009 is hereby amended as follows:

- (a) the following sentences are added to Article 57(1): “Member States shall undertake checks to ensure compliance. The checks may take place at all marketing stages and during transport.”**
- (b) in Article 58(5), points (g) and (h) are replaced by the following:**
- (c) “(g) the information to consumers provided for in Article 42 of Regulation (EU) No .../2012 of the European Parliament and of the Council of ... on the common organisation of the markets in fishery and aquaculture products (*);**
- (h) the scientific name.**

(*) OJ ...”.

2. Article 68 of Commission Implementing Regulation (EU) No 404/2011 shall be replaced by the following:

“Article 68

Information to the consumer

With respect to Article 58(6) of the Control Regulation, the scientific name of the species may be provided to the consumers at retail level by means of commercial information such as bill boards or posters.”

¹² ***OJ L 112, 30.4.2011, p. 1.***

Article 53

Repeal

Regulation (EC) No 104/2000 is hereby repealed. ***However, Article 4 shall apply until 12 December 2014.***

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex III.

Article 54

Review

The Commission shall report to the European Parliament and the Council on the results of the application of this Regulation before the end of 2022.

Article 55

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply ~~/from 1 January 2014/~~, ***with the exception of Chapter IV and Article 52a which shall apply from 13 December 2014.***

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels, [...]

For the European Parliament

The President [...]

For the Council

The President [...]

ANNEX I

CN code	Description of goods
(a) 0301	Live fish
0302	Fish, fresh or chilled, excluding fish fillets and other fish meat of heading 0304
0303	Fish, frozen, excluding fish fillets and other fish meat of heading 0304
0304	Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen
(b) 0305	Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; flours, meals and pellets of fish, fit for human consumption
(c) 0306	Crustaceans, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; crustaceans, in shell, cooked by steaming or by boiling in water, whether or not chilled, frozen, dried, salted or in brine; flours, meals and pellets of crustaceans, fit for human consumption
0307	Molluscs, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; aquatic invertebrates other than crustaceans and molluscs, live, fresh, chilled, frozen, dried, salted or in brine; flours, meals and pellets of aquatic invertebrates other than crustaceans, fit for human consumption
(d)	Animal products not elsewhere specified or included; dead animals of Chapter 1 or 3, unfit for human consumption:
	- Other
	- - Products of fish or crustaceans, molluscs or other aquatic invertebrates; dead animals of Chapter 3:
	- - - Fish waste
0511 91 10	- - - Other
0511 91 90	
(e) 1212 20 00	- Seaweeds and other algae

- (f) Fats and oils and their fractions, of fish, whether or not refined, but not chemically modified:
- Fish-liver oils and their fractions
- 1504 10 - Fats and oils and their fractions, of fish, other than liver oils
- 1504 20
- (g) 1603 00 Extracts and juices of meat, fish or crustaceans, molluscs or other aquatic invertebrates
- (h) 1604 Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs
- (i) 1605 Crustaceans, molluscs and other aquatic invertebrates, prepared or preserved
- (j) Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous, whether or not prepared
- 1902 20 - Stuffed pasta, whether or not cooked or otherwise prepared:
- 1902 20 10 - - Containing more than 20 % by weight of fish, crustaceans, molluscs or other aquatic invertebrates
- (k) Flours, meals and pellets, of meat or meat offal, of fish or of crustaceans, molluscs or other aquatic invertebrates, unfit for human consumption; greaves:
- 2301 20 00 - Flours, meals and pellets, of fish or of crustaceans, molluscs or other aquatic invertebrates
- (l) Preparations of a kind used in animal feeding
- 2309 90 - Other:
- ex 2309 90 - - Fish solubles
- 10

ANNEX II

CN Code	Description of the goods
0302 22 00	Plaice (<i>Pleuronectes platessa</i>)
ex 0302 29 90	Dab (<i>Limanda limanda</i>)
0302 29 10	Megrim (<i>Lepidorhombus</i> spp.)
ex 0302 29 90	Flounder (<i>Platichthys flesus</i>)
0302 31 10	Albacore or longfinned tunas (<i>Thunnus alalunga</i>)
and	
0302 31 90	
ex 0302 40	Herring of the species <i>Clupea harengus</i>
0302 50 10	Cod of the species <i>Gadus morhua</i>
0302 61 10	Sardines of the species <i>Sardina pilchardus</i>
ex 0302 61 80	<i>Sprat (sprattus sprattus)</i>
0302 62 00	Haddock (<i>Melanogrammus aeglefinus</i>)
0302 63 00	Coalfish (<i>Pollachius virens</i>)
ex 0302 64	Mackerel of the species <i>Scomber scombrus</i> and <i>Scomber japonicus</i>
0302 65 20	Dogfish (<i>Squalus acanthias</i> and <i>Scyliorhinus</i> spp.)
and	
0302 65 50	
0302 69 31	Redfish (<i>Sebastes</i> spp.)
and	
0302 69 33	
0302 69 41	Whiting (<i>Merlangius merlangus</i>)
0302 69 45	Ling (<i>Molva</i> spp.)
0302 69 55	Anchovies (<i>Engraulis</i> spp.)
ex 0302 69 68	Hake of the species <i>Merluccius merluccius</i>
0302 69 81	Monkfish (<i>Lophius</i> spp.)
ex 0302 69 99	<i>Dolphin-fish (Coryphaena hippurus)</i>
ex 0307 41 10	Cuttlefish (<i>Sepia officinalis</i> and <i>Rossia macrosoma</i>)
ex 0306 23 10	Shrimps of the species <i>Crangon crangon</i> and deepwater prawn (<i>Pandalus borealis</i>)
ex 0306 23 31	
ex 0306 23 39	

0302 23 00	Sole (<i>Solea</i> spp.)
0306 24 30	Edible crabs (<i>Cancer pagurus</i>)
0306 29 30	Norway lobsters (<i>Nephrops norvegicus</i>)
0303 31 10	Lesser or Greenland halibut (<i>Reinhardtius hipoglossoides</i>)
0303 78 11	Hake of the genus <i>Merluccius</i>
0303 78 12	
0303 78 13	
0303 78 19	
and	
0303 29 55	
0304 29 56	
0304 29 58	
0303 79 71	Sea bream (<i>Dentex dentex</i> and <i>Pagellus</i> spp.)
0303 61 00	Swordfish (<i>Xiphias Gladius</i>)
0304 21 00	
0304 91 00	
0306 13 40	Shrimps of the family <i>Penaeidae</i>
0306 13 50	
ex 0306 13 80	
0307 49 18	Cuttlefish of the species <i>Sepia officinalis</i> , <i>Rossia macrosoma</i> and <i>Sepiola rondeletti</i>
0307 49 01	
0307 49 31	Squid (<i>Loligo</i> spp.)
0307 49 33	
0307 49 35	
and	
0307 49 38	
0307 49 51	Squid (<i>Ommastrephes sagittatus</i>)
0307 59 10	Octopus (<i>Octopus</i> spp.)
0307 99 11	<i>Illex</i> spp.
0303 41 10	Albacore or longfinned tuna (<i>Thunnus alalunga</i>)

0302 32 10	Yellowfin tunas (<i>Thunnus albacares</i>)
0303 42 12	
0303 42 18	
0303 42 42	
0303 42 48	
0302 33 10	Skipjack or stripe-bellied bonito (<i>Katsuwonus pelamis</i>)
0303 43 10	
0303 45 10	Bluefin tuna (<i>Thunnus thynnus</i>)
0302 39 10	Other species of the genera <i>Thunnus</i> and <i>Euthynnus</i>
0302 69 21	
0303 49 30	
0303 79 20	
ex 0302 29 90	Lemon sole (<i>Microstomus kitt</i>)
0302 35 10	Bluefin tunas (<i>Thunnus thynnus</i>)
and	
0302 35 90	
ex 0302 69 51	Pollack (<i>Pollachius pollachius</i>)
0302 69 75	Ray's bream (<i>Brama</i> spp.)
ex 0302 69 82	Blue whiting (<i>Micromesistius poutassou</i> or <i>Gadus poutassou</i>)
ex 0302 69 99	Pout (<i>Trisopterus luscus</i>) and poor cod (<i>Trisopterus minutus</i>)
ex 0302 69 99	Bogues (<i>Boops boops</i>)
ex 0302 69 99	Picarel (<i>Spicara smaris</i>)
ex 0302 69 99	Conger (<i>Conger conger</i>)
ex 0302 69 99	Gurnard (<i>Trigla</i> spp.)
ex 0302 69 91	Horse mackerel (<i>Trachurus</i> spp.)
ex 0302 69 99	
ex 0302 69 99	Mullet (<i>Mugil</i> spp.)
ex 0302 69 99	Skate (<i>Raja</i> spp.)
and	
ex 0304 19 99	
ex 0302 69 99	Scabbard fish (<i>Lepidopus caudatus</i> and <i>Aphanopus carbo</i>)

ex 0307 21 00	Common scallop (<i>Pecten maximums</i>)
ex 0307 91 00	Common whelk (<i>Buccinum undatum</i>)
ex 0302 69 99	Striped or red mullet (<i>Mullus surmuletus</i> , <i>Mullus barbatus</i>)
ex 0302 69 99	Black sea bream (<i>Spondyliosoma cantharus</i>)

ANNEX III

CORRELATION TABLE

Regulation (EC) No 104/2000	This Regulation
Article 1	Articles 1, 2, 3, 4, 5
Articles 2, 3	Articles 39, 40, 41
Article 4	Articles 42, 43, 44, 45, 46
Article 5(1)	Articles 6, 7, 8, 9, 10, 11, 12, 13
Articles 5(2), 5(3), 5(4), 6	Articles 17, 19, 20, 21, 22, 23, 24, 25
Article 7	Articles 26, 28, 29, 30, 31
Article 8	-
Articles 9, 10, 11, 12	Articles 32, 33, 34, 38
Article 13	Articles 14, 15, 16, 18, 19, 20, 22, 23, 24, 25
Article 14	Article 48(2)
Article 15	Article 27
Article 16	Articles 28, 29, 30, 31
Articles 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27	Articles 35, 36, 37, 38
Articles 28, 29, 30, 31, 32, 33	-
Article 34	Articles 22, 25, 37
Article 35	-
Article 36	-
Article 37	Articles 50, 51
Articles 38, 39	Article 51
Article 40	-
Article 41	Article 54
Article 42	Articles 52, 53
Article 43	Article 55
-	Article 47
-	Article 48(1)
-	Article 49