



**COUNCIL OF  
THE EUROPEAN UNION**

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from: General Secretariat  
to: Permanent Representatives Committee (Part 1)

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No. Cion prop.: 18545/11 PECHE 397 CODEC 2421 - COM(2011) 888 final

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Subject: Proposal for a Regulation of the European Parliament and of the Council on certain measures in relation to countries allowing non-sustainable fishing for the purpose of conservation of fish stocks  
(First reading) (Legislative deliberation)  
- Approval of the final compromise text

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1. On 14 December 2011, the Commission submitted to the Council a proposal for a Regulation of the European Parliament and of the Council on certain measures in relation to countries allowing non-sustainable fishing for the purpose of the conservation of fish stocks.
2. During the following months, the Working Party on Internal and External Fisheries Policy examined the proposal and reached a tentative position<sup>1</sup>.

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<sup>1</sup> Cf. doc. 9313/1/12 + REV 1.

3. On 24 April 2012, the EP's Fisheries Committee voted its report on the above proposal, and subsequently the Attachés Group examined the report in its meeting on 8 May 2012 on the basis of a comparative document<sup>2</sup>.
4. On 16 May 2012, COREPER agreed on a negotiating mandate (doc. 9759/12) for the Presidency to pursue informal dialogues with the EP representatives.
5. On 31 May 2012, the Presidency had a first exchange of views with the EP and the Commission, which identified the main questions left in contention. The EP strongly felt that the proposal in its current state was not efficient enough and that a solution had to be found in order to accommodate this concern. A new dialogue took place on 20 June 2012. The outstanding concerns were solved and a compromise text, in Addendum 1 to this note, was elaborated.
6. The Presidency believes that the revised compromise reflects a reasonable approach, built on the initial architecture of the proposal, that strikes a good balance between the need for efficiency and the EU's commitment to its international obligations.
7. Some of the **key elements** of the revision are the following:
  - **The new Recital 8a)** clarifies that, if a measure adopted under this Regulation is considered ineffective, further measures may be adopted against the same third country under this Regulation.
  - **Article 2 (a) and the corresponding Recitals** have been slightly modified to better reflect that the proposal would apply in situations where third countries do not cooperate for the management of a shared stock in both bilateral and multilateral settings.

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<sup>2</sup> Cf. doc. 9631/12.

- **Article 2 (b)** reflects a slightly amended definition of "associated species" built upon the FAO relevant definition. This is an internationally agreed text, which gives a good indication about the EU's commitment to its international obligations. This new definition would have to be applied in full respect of the principle of proportionality, as indicated in articles 4 (d), 5.1 (c) and 5.4. However, the Commission suggestion that the reference to the proportionality principle would be better placed in article 5 only was not accepted.
- **Article 4 (e)** has been modified in order to align its scope with the prior paragraphs (c) and (d), and it now includes associated species as well.
- **Article 5. 1. (b)** has been modified to align its content to the revised definition of "associated species".
- **Article 6. 1.** now includes an obligation to inform the Council and the EP whenever a notification is sent to a third country regarding the intention to identify it as a country allowing non-sustainable fishing.
- **Article 6 .3.** provides now for a clear deadline in which the relevant third country needs to respond to the notification. The Commission asked the Council and the EP to reflect if exceptional cases in which third countries cannot reply within the deadline for an objective reason should be included here. However, it has been felt that the measures adopted under this Regulation will be exceptional by nature, and they will be preceded by numerous efforts, so no additional guarantees are necessary.
- For reasons of efficiency, **article 8** now makes reference only to the examination procedure.
- In addition, the Commission insisted that MSY should be the sole criterion used in this proposal, in line with the outcome of the discussions on the CFP reform package. However, both the Council and the EP believed that these discussions are still ongoing and there is no final outcome on the issue.

8. In light of this agreement, COREPER is invited to:

- endorse the consolidated text of the draft Regulation (Addendum 1 to this report);
  - mandate its Chairman to write to the Chair of the Parliament's Fisheries Committee saying that the Council would approve the European Parliament's position in first reading if the Plenary votes the final text as set out in addendum 1 to this report, subject to finalisation by the lawyer/linguists.
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