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**SOC 527  
EMPL 348  
PECHE 318  
IA 70**

## **REPORT**

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from: The Presidency  
to: Permanent Representatives Committee (Part I)

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Prev. doc.: 9687/16 SOC 369 EMPL 256 PECHE 194 IA 34  
No. Cion prop.: 8535/16 SOC 214 EMPL 131 PECHE 150 - COM(2016) 235 final  
+ ADD 1 + ADD 2 + ADD 3

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Subject: Proposal for a COUNCIL DIRECTIVE implementing the Agreement concluded between the General Confederation of Agricultural Cooperatives in the European Union (COGECA), the European Transport Workers' Federation (ETF) and the Association of National Organisations of Fishing Enterprises (EUROPÊCHE) of 21 May 2012 as amended on 8 May 2013 concerning the implementation of the Work in Fishing Convention, 2007 of the International Labour Organisation  
- Political agreement

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### **I. INTRODUCTION**

On 29 April 2016 the Commission submitted a proposal for a Directive to the Council, acting in accordance with Article 155(2) TFEU. This proposal aims at implementing the Agreement concluded between the General Confederation of Agricultural Cooperatives in the European Union (COGECA), the European Transport Workers' Federation (ETF) and the Association of National Organisations of Fishing Enterprises (EUROPÊCHE) of 21 May 2012 as amended on 8 May 2013 concerning the implementation of the ILO Work in Fishing Convention 2007.

According to the above Treaty provision, the proposal is not subject to a legislative procedure and adoption is foreseen by the Council alone. The European Parliament was duly informed.

The ILO Work in Fishing Convention 188 was adopted by the International Labour Conference (ILC) on 14 June 2007. It is to enter into force twelve months after ratification by ten members of the ILO. To date, eight ILO members have done so. The requirement that at least eight of these must be coastal states is already fulfilled. On 7 June 2010, the Council adopted a decision authorising the EU Member States to ratify the ILO Convention 188. So far two Member States have already ratified, from those which have not yet ratified, some indicated that they are positively inclined to do so.

The EU-level sectorial social partner agreement aims at enhancing the working and living conditions for fishermen working on vessels flying the flag of an EU Member State. Its specific objectives are to improve occupational health and safety for fishermen within the EU, and to establish a consolidated legal framework suited to working conditions in the sea fishing sector. The agreement offers also the possibility of a progressive implementation in specific cases within a period of five years. Furthermore, self-employed working on the same vessel alongside employees fall under certain conditions within the scope of the agreement in the context of occupational safety and health conditions.

The proposed Directive is addressed to all Member States and the agreement does not contain any exemption from the obligation to transpose provisions thereof. However, if, for reasons of geography, such transposition is pointless, the Court of Justice has accepted that a Member State is not under such an obligation. In that case, the Member State concerned should inform the Commission of the reasons that justify its non-transposition.

## **II. DISCUSSIONS in the Council preparatory bodies**

Given the fact that the text of the social partner agreement as such cannot be amended, only minor changes were made to the Commission proposal: the scope was clarified by adding a reference to the "sea fishing sector". More transparency and legal certainty was provided as to the entry into force of the Council Directive once adopted, by stipulating that the date be published by the Commission in the Official Journal of the European Union. Furthermore, the specific situation of land-locked Member States was catered for in an additional recital which reflects the standing case law of the European Court of Justice.

In the discussions of the Working Party under Slovak Presidency no changes were made to the proposal as compared to the document tabled at the June EPSCO Council (doc. 9687/16 ADD 1). On that basis, the Member States indicated that they are generally supportive of the agreement and no delegation indicated that it would oppose the adoption of the Directive.

However, after the last Working Party meeting on 5 September, the following reservations remain: BG, EE, HR, MT and UK maintained their scrutiny reservations, MT maintains its parliamentary reservation. The Presidency invited those Member States to lift their reservations as soon as possible before the Council meeting.

## **III. CONCLUSION**

The Permanent Representatives' Committee is invited to recommend the Council (EPSCO) to reach a political agreement on the text of the draft Directive as set out in document 12226/16 ADD 1 at its session on 13 October.