



Council of the  
European Union

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Eingelangt am 30/09/16

Brussels, 29 September 2016  
(OR. en)

12523/16

PECHE 335  
ENV 622

#### 'I/A' ITEM NOTE

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	35th Annual meeting of the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) (Hobart, Australia, 17-28 October 2016) - Establishment of the EU position

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1. The Union is a Contracting Party to the Convention on the Conservation of Antarctic Marine Living Resources (Convention)<sup>1</sup>. The objective of the Convention is the conservation of Antarctic marine living resources. Apart from the Union and 12 Union Member States, 23 other States are Contracting Parties to the Convention.
2. The Convention established the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR). The CCAMLR is, among others, responsible for the adoption of conservation measures designed to ensure the conservation of Antarctic marine living resources. Such measures may become binding upon the Union.

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<sup>1</sup> See Council Decision 81/691/EEC.

3. On 24 June 2014, the Council adopted, in accordance with Article 218(9) TFEU, a decision on the position to be adopted, on behalf of the European Union, in the annual meetings of CCAMLR when that body is called upon to adopt decisions having legal effects in relation to matters pertaining to the Common Fisheries Policy (the "Framework Position"<sup>2</sup>). Article 2 and Annex II of the "Framework Position", set out the procedure for the purpose of the year-to-year specification of the Union position.
4. On 30 August 2016, the Commission submitted to the Council a non-paper<sup>3</sup> for the purpose of the year-to-year specification of the Union position. That non-paper was supplemented on 6 September 2016 by a series of draft proposals for adoption by the CCAMLR.<sup>4</sup>
5. The non-paper was examined by the Working Party for Internal and External Fisheries Policy on 15 and 22 September 2016<sup>5</sup>. The Union position on matters pertaining to the Common Fisheries Policy was endorsed on 22 September 2016 in accordance with Article 2 and Annex II of the Framework Position.
6. However, all delegations considered that those measures on the agenda of the annual meeting of CCAMLR which concern the establishment of the Marine Protected Areas and of the Special Areas for Scientific Study<sup>6</sup> were preponderantly measures for the protection of the environment. As these measures fell outside the scope of the Framework Position, and fall in the area where the Union shares competence with the Member States, all delegations considered the relevant proposals must be submitted to the CCAMLR, or supported within the CCAMLR, on behalf of the Union and its Member States. On this basis, all delegations agreed with the content of the positions as set out in doc. 12445/16.

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<sup>2</sup> Cf. doc. 10840/14 PECHE 307.

<sup>3</sup> Cf. doc 11821/16 PECHE 297 ENV 538.

<sup>4</sup> Cf. doc 11821/16 PECHE 297 ENV 538 ADD 1 + COR 1.

<sup>5</sup> Cf. docs 12338/16 PECHE 326 CODEC 1287 etc. and 12237/16 PECHE 320.

<sup>6</sup> Proposals on the East Antarctic Marine Protected Area, the Ross Sea Marine Protected Area, the Weddell Sea Marine Protected Area, and on the Special Areas for Scientific Study in ice shelf retreat and related points in the non-paper. The Commission explained that, in spite of the title ("working paper"), the document concerning the Special Areas for Scientific Study is also a formal proposal for a measure having legal effects, to be adopted by the CCAMLR.

7. The Commission representative recalled that the CCAMLR competence issue is the object of a pending Court case (C-626/15) between the Commission and the Council, and that the Commission maintains its position that the measures for the establishment of Marine Protected Areas fall under Union exclusive competence and that the Framework Position applies. The Commission would make a statement in this respect.
  8. COREPER is therefore invited to suggest that the Council, at one of its forthcoming sessions, establishes the position set out in doc. 12445/16 insofar as it concerns the Union, and enters in the minutes the Commission's statement, to be set out in an addendum to this note.
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