



Council of the
European Union

Brussels, 7 October 2016
(OR. en)

Interinstitutional File:
2012/0179 (COD)

11625/16
ADD 1

PECHE 292
CODEC 1139

DRAFT STATEMENT OF THE COUNCIL'S REASONS

Subject: Position of the Council at First Reading in view of the adoption of Regulation of the EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing specific conditions for fishing for deep-sea stocks in the North-East Atlantic and provisions for fishing in international waters of the North-East Atlantic and repealing Regulation (EC) No 2347/2002
– *Draft Statement of the Council's reasons*

I. INTRODUCTION

1. The European Commission submitted to the Council and to the European Parliament on 19 July 2012 the proposal in subject.¹ The aim of the proposal was to update the existing Regulation establishing the specific conditions for fishing deep-sea stocks.²
2. Between January 2014 and November 2015, the Working Party on Internal and External Fishery Policy undertook a thorough reading of the proposal.
3. The European Parliament voted on its first reading position on 10 December 2013.³
4. Following an examination of the Parliament's amendments by the Working Party, taking into account also the principles of the new CFP⁴, the Luxemburg Presidency prepared a compromise text as set out in the third column of doc. 5803/5/14, including the technical updates outlined in doc. 15306/15. This text was endorsed by the Permanent Representatives Committee on 11 November 2015, and on this basis the Presidency received a mandate to enter into negotiations with the European Parliament.
5. After the trilogue on 17 November 2015 which was held under the Luxemburg Presidency, and additional trilogues on 26 April, 25 May, 14 and 30 June 2016 held under the Netherlands Presidency, a provisional agreement was reached with the Parliament.
6. By letter dated 13 July 2016, the Chair of the European Parliament's Committee on Fisheries informed the President of Coreper I that, should the Council transmit formally to the European Parliament its position as agreed, subject to legal-linguistic verification, he will recommend to the Plenary that the Council's position be accepted without amendments at Parliament's second reading.

¹ Cf. doc. 12801/12.

² Regulation (EC) No 2347/2002.

³ Cf. doc. 17452/2013.

⁴ Regulation (EU) No 1380/2013.

7. On 20 July 2016, the Permanent Representatives Committee confirmed the final compromise text with a view to an agreement.⁵

II. OBJECTIVE

8. The aim of the proposal was to update and better focus the key elements of the existing Regulation (fishing authorisation regime, data collection, effort monitoring, and control), simplifying reporting obligations and supplementing the regime with measures to reduce the impact of deep sea fishing on the ecosystem (concept of "fishing footprint" and phasing out of bottom trawling).

III. ANALYSIS OF THE COUNCIL'S POSITION AT FIRST READING

A. General

9. The Council's position largely endorses the Commission's proposal with respect to modernising the fishing authorisation regime, better aligning specific data collection and recording provisions with the general data collection framework, simplifying reporting, and reviewing control provisions. However, Council introduced elements of flexibility in order to reduce the administrative workload and avoid disproportionate measures (see for instance Article 5(6), 6(2), 10, 12 and 13(2) of the Council's position). In addition, the proposal's optional provisions on fishing effort management were deleted by Council, in view of the new management principles established by the CFP reform, including the introduction of the landing obligation.

⁵ Cf. doc. 11141/16.

10. In view of the CFP reform that only entered into force on 1 January 2014 after the Parliament had voted its position at first reading, Council could not agree to certain amendments proposed by the European Parliament which aimed at going beyond the new CFP principles for deep sea fishing (e.g. amendments 36 and 37 on capacity management, amendments 65 and 66 on catch limits in data-poor situations, amendment 71 on the landing obligation for deep sea species) or restated CFP elements (e.g. amendment 119 on support from the European Maritime and Fisheries Fund).

11. With regard to changes to the Commission proposal, the Council builds on amendments suggested by the Parliament with respect to the "fishing footprint" (amendments 43 to 55) and with respect to designating areas where vulnerable marine ecosystems (VMEs) occur or are likely to occur (amendments 42 and 56). The Commission's proposal to phase out bottom trawling in deep sea fishing, which the Parliament had not accepted as such (see amendment 62), was replaced in the Council's position, based on a convergence of the three differing views, by a package of provisions (no bottom trawling below 800 metres in EU waters and in areas of EU waters identified for the protection of deep water VMEs; strict conditions for exploratory fishing outside of established fished areas ("footprint"), with related sanctions in case of non-compliance; reinforced observer coverage, and reporting requirements concerning species indicating the probability of VMEs; and a detailed assessment of the Regulation's impact after four years).

B. Particular elements

12. Of particular concern for the three institutions was the observer coverage on board of vessels fishing for deep sea species. In an attempt to balance the Parliament's interest in rapidly increasing scientific knowledge on deep sea species and gear impact with the Council's interest in applying standard parameters of coverage and in avoiding giving preference to one fishery over many others in a situation of scarce human resources, a compromise was found at 20% observer coverage which will be mandatory on vessels targeting deep sea species with bottom trawls or bottom set gillnets (Article 16 of the Council's position). This percentage could be reviewed in co-decision following a scientific assessment performed at the request of the Commission.

13. In the course of the contacts with the Parliament and the Commission, the spatial scope of the Regulation became contested. In particular, the Parliament supported extending the new regime towards operations of EU vessels in international waters of the North East Atlantic, governed by measures of the North East Atlantic Fisheries Commission (NEAFC). The Council contested this approach, concerned about diverging rules that would apply in the same area, about the specific management approach developed in NEAFC, and highlighting the difference in fishing patterns. A compromise could be found by selectively extending the rules on observer coverage to cover EU vessels operating in NEAFC waters (Article 16(5) of the Council's position), thus introducing a standard in this respect which is higher than the one currently applied at international level. In addition, Council agrees to continue applying to operations in the NEAFC waters provisions of the initial access Regulation regarding designated ports, the information obligation and the fishing permit (Article 20(3) of the Council's position).

14. Finally, the Council agrees in its position on a package of assessment elements (Article 19) that should lead to a detailed review of the existing and new measures with regard to their appropriateness to achieve long term conservation of stocks, low impact on VMEs and better scientific knowledge.

IV. CONCLUSION

15. In establishing its position, the Council has taken full account of the Commission's proposal and of the European Parliament's position at first reading.
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