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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL defining characteristics for fishing vessels (recast) – Outcome of the European Parliament's first reading (Strasbourg, 3 to 6 April 2017)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure ¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

In this context, the rapporteur, Mr Werner KUHN (EPP - DE) presented one compromise amendment (amendment 7) to the proposal for Regulation, on behalf of the Committee on Fisheries. This amendment had been agreed during the informal contacts referred to above.

¹ OJ C 145, 30.6.2007, p.5

II. VOTE

When it voted on 4 April 2017, the plenary adopted the compromise amendment (amendment 7) to the proposal for a Regulation.

The Commission proposal as thus amended and the legislative resolution constitute the Parliament's first-reading position², it reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The text of the amendment adopted and the European Parliament's legislative resolution are set out in the Annex. The amendment is presented in the form of a consolidated text, where changes to the Commission's proposal are highlighted in bold and italics. The symbol "■" indicates deleted text.

Characteristics for fishing vessels *I**

European Parliament legislative resolution of 4 April 2017 on the proposal for a regulation of the European Parliament and of the Council defining characteristics for fishing vessels (recast) (COM(2016)0273 – C8-0187/2016 – 2016/0145(COD))

(Ordinary legislative procedure – recast)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0273),
- having regard to Article 294(2) and Article 43(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0187/2016),
- having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
- having regard to the opinion of the European Economic and Social Committee of 19 October 2016³,
- having regard to the Interinstitutional Agreement of 28 November 2001 on a more structured use of the recasting technique for legal acts⁴,
- having regard to the letter of 17 October 2016 from the Committee on Legal Affairs to the Committee on Fisheries in accordance with Rule 104(3) of its Rules of Procedure,
- having regard to its previous resolutions, in particular its resolution of 22 November 2012 on small-scale coastal fishing, artisanal fishing and the reform of the common fisheries policy⁵,
- having regard to the provisional agreement approved by the responsible committee under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 15 February 2017 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
- having regard to Rules 104 and 59 of its Rules of Procedure,
- having regard to the report of the Committee on Fisheries (A8-0376/2016),

³ OJ C 34, 2.2.2017, p. 140.

⁴ OJ C 77, 28.3.2002, p. 1.

⁵ OJ C 419, 16.12.2015, p. 167.

- A. whereas, according to the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission, the Commission proposal does not include any substantive amendments other than those identified as such in the proposal and whereas, as regards the codification of the unchanged provisions of the earlier acts together with those amendments, the proposal contains a straightforward codification of the existing texts, without any change in their substance;
1. Adopts its position at first reading hereinafter set out, taking into account the recommendations of the Consultative Working Party of the legal services of the European Parliament, the Council and the Commission;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Position of the European Parliament adopted at first reading on 4 April 2017 with a view to the adoption of Regulation (EU) 2017/... of the European Parliament and of the Council defining characteristics for fishing vessels (recast)

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 Article 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 Committee⁶,

Acting in accordance with the ordinary legislative procedure⁷,

⁶ OJ C 34, 2.2.2017, p. 140.

⁷ Position of the European Parliament of 4 April 2017.

Whereas:

- (1) Council Regulation (EEC) No 2930/86⁸ has been substantially amended⁹. Since further amendments are to be made, that Regulation should be recast in the interests of clarity.
- (2) In the framework of the Common Fisheries Policy, reference is made to the characteristics of fishing vessels, such as length, breadth, tonnage, date of entry into service and engine power.
- (3) It is essential that identical rules for determining the characteristics of fishing vessels be used in order to unify the conditions for the pursuit of the activity in the Union. ***Those rules should be in line with the standards of the Common Fisheries Policy.***
- (4) The definitions laid down in this Regulation should be based upon initiatives already taken by specialist international organisations.
- (5) Therefore, account should be taken of ***the United Nations Convention on Fishing and Conservation of the Living Resources of the High Seas, signed in Geneva on 29 April 1958***, the International Convention on Tonnage Measurement of Ships, signed in London on 23 June 1969 (the ‘1969 Convention’) and the International Convention for the Safety of Fishing Vessels, signed in Torremolinos on 2 April 1977 ■ .

⁸ Council Regulation (EEC) No 2930/86 of 22 September 1986 defining characteristics for fishing vessels (OJ L 274, 25.9.1986, p. 1).

⁹ See Annex II.

- (6) For fishing vessels with a length overall of less than 15 metres, the methodology laid down in Annex I to the 1969 Convention is in certain cases inappropriate. Therefore, for those vessels a simpler definition of gross tonnage is desirable.
- (7) The International Organisation for Standardisation (ISO) has drawn up standards on internal combustion engines which are widely applied in Member States.
- (8) In order to *adapt the reference to the relevant ISO International Standards setting out the requirements for the determination of the continuous engine power to* technical progress, 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 the adoption of the necessary amendments *to the reference to the relevant ISO International Standard*. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement *of 13 April 2016* on Better Law-Making¹⁰. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts,

HAVE ADOPTED THIS REGULATION:

¹⁰ OJ L 123, 12.5.2016, p. 1.

Article 1

General provision

The definitions of characteristics of fishing vessels laid down in this Regulation shall apply to all Union rules concerning fisheries.

Article 2

Length

1. The length of a vessel shall be the length overall, defined as the distance in a straight line between the foremost point of the bow and the aftermost point of the stern.

For the purposes of this definition:

- (a) the bow shall be taken to include the watertight hull structure, forecastle, stem and forward bulwark, if fitted, but shall exclude bowsprits and safety rails;
- (b) the stern shall be taken to include the watertight hull structure, transom, poop, trawl ramp and bulwark, but shall exclude safety rails, bumkins, propulsion machinery, rudders and steering gear, and divers' ladders and platforms.

The length overall shall be measured in metres with an accuracy of two decimals.

2. When the length between perpendiculars is referred to in Union legislation, it shall be defined as the distance measured between the forward and the after perpendiculars as defined by the International Convention for the Safety of Fishing Vessels.

The length between perpendiculars shall be measured in metres with an accuracy of two decimals.

Article 3

Breadth

The breadth of a vessel shall be the maximum breadth as defined in Annex I to the International Convention on Tonnage Measurement of Ships (the ‘1969 Convention’).

The overall breadth shall be measured in metres with an accuracy of two decimals.

Article 4

Tonnage

1. The gross tonnage of fishing vessels with a length overall equal to, or greater than, 15 metres shall be measured as specified in Annex I to the 1969 Convention.

2. The gross tonnage of fishing vessels with a length overall of less than 15 metres shall be measured in accordance with the formula set out in Annex I to this Regulation.
3. When net tonnage is referred to in Union rules, it shall be defined as specified in Annex I to the 1969 Convention.

Article 5

Engine power

1. The engine power shall be the total of the maximum continuous power which can be obtained at the flywheel of each engine and which can, by mechanical, electrical, hydraulic or other means, be applied to vessel propulsion. However, where a gearbox is incorporated into the engine, the power shall be measured at the gearbox output flange.

No deduction shall be made in respect of auxiliary machines driven by the engine.

The unit in which engine power is expressed shall be the kilowatt (kW).

2. The continuous engine power shall be determined in accordance with the requirements adopted by the International Organisation for Standardisation in its recommended International Standard ISO 3046/1, 2nd edition, October 1981.

3. The Commission is empowered to adopt delegated acts in accordance with Article 7 concerning the *amendment of* paragraph 2 of this Article *in order to adapt the reference to the relevant ISO International Standard* to technical progress.

Article 6

Date of entry into service

The date of entry into service shall be the date of the first issue of an official safety certificate.

Notwithstanding the first paragraph, the date of entry into service shall be the date of the first entry in an official register of fishing vessels:

- (a) if an official safety certificate is not issued; or
- (b) in the case of fishing vessels which entered into service before 1 December 1986.

Article 7

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 5(3) shall be conferred on the Commission for *a* period of **five years** from ... [*the date of entry into force of this Regulation*]. ***The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.***
3. The delegation of power referred to in Article 5(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power 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. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement ***of 13 April 2016*** on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 5(3) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two 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 two months at the initiative of the European Parliament or of the Council.

Article 8

Repeal

Regulation (EEC) No 2930/86 is repealed.

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

Article 9

Final provisions

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at,

For the European Parliament

For the Council

The President

The President

ANNEX I

NEW VESSELS < 15 METRES LENGTH OVERALL

The gross tonnage of new fishing vessels with a length overall of less than 15 metres is defined as:

$$GT = K_1 \cdot V$$

where: $K_1 = 0,2 + 0,02 \log_{10} V$

and V is the volume, given by:

$$V = a_1 (L_{oa} \cdot B_1 \cdot T_1)$$

where:

L_{oa} = length overall (Article 2 of this Regulation)

B_1 = breadth in metres according to the 1969 Convention

T_1 = depth in metres according to the 1969 Convention

a_1 = a function of L_{oa}

VESSELS < 15 METRES LENGTH OVERALL EXISTING ON 1 JANUARY 1995

The gross tonnage of fishing vessels existing on 1 January 1995 with a length overall of less than 15 metres is defined as:

$$GT = K_1 \cdot V$$

where V is volume, given by:

$$V = a_2 (L_{oa} \cdot B_1 \cdot T_1)$$

where:

L_{oa} = length overall (Article 2 of this Regulation)

B_1 = breadth in metres according to the 1969 Convention

T_1 = depth in metres according to the 1969 Convention

a_2 = a function of L_{oa}

The functions a_1 and a_2 shall be fixed on the basis of statistical analyses of pooled representative samples of the fleets of the Member States. These shall be specified together with definitions of the dimensions B_1 and T_1 and with detailed rules for the application of the formulae in a Decision of the Commission.

ANNEX II

Repealed Regulation with the amendment thereto

Council Regulation (EEC) No 2930/86

(OJ L 274, 25.9.1986, p. 1)

Council Regulation (EC) No 3259/94

(OJ L 339, 29.12.1994, p. 11)

ANNEX III

CORRELATION TABLE

Regulation (EEC) No 2930/86	This Regulation
Article 1	Article 1
Article 2	Article 2
Article 3	Article 3
Article 4(1)(a)	—
Article 4(1)(b)	Article 4(1)
Article 4(1)(c)	Article 4(2)
Article 4(1)(d)	—
Article 4(1)(e)	—
Article 4(2)	Article 4(3)
Article 5	Article 5
Article 6	Article 6
—	Article 7
—	Article 8
Article 7(1)	Article 9
Article 7(2)	—
Annex	Annex I
—	Annex II
—	Annex III