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PECHE 195

PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	8 May 2017
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2017) 216 final
Subject:	Proposal for a COUNCIL DECISION establishing the position to be adopted, on behalf of the European Union, in the South Pacific Regional Fisheries Management Organisation (SPRFMO) and repealing Decision 14405/12

Delegations will find attached document COM(2017) 216 final.

Encl.: COM(2017) 216 final



EUROPEAN
COMMISSION

Brussels, 8.5.2017
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Proposal for a

COUNCIL DECISION

**establishing the position to be adopted, on behalf of the European Union, in the South
Pacific Regional Fisheries Management Organisation (SPRFMO) and repealing
Decision 14405/12**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

By Council Decision 2012/130/EU¹, the Union approved the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean (the Convention), which established the South Pacific Regional Fisheries Management Organisation (SPRFMO). Within the SPRFMO, the Commission of the South Pacific Regional Fisheries Management Organisation (the SPRFMO Commission) is responsible for the adoption of measures designed to ensure the long-term conservation and sustainable use of the fishery resources in the SPRFMO Convention Area and to safeguard the marine ecosystems in which these resources occur. Such measures may become binding upon the Union.

The position to be adopted on behalf of the Union in Regional Fisheries Management Organisations (RFMOs) is currently established according to a two tier approach. A Council Decision sets out the guiding principles and orientations of the Union's position on a multiannual basis, whereas it is thereafter adjusted for each annual meeting by Commission non-papers to be discussed in the Council Working Party.

As regards the SPRFMO, Council Decision 14405/12 of 5 October 2012 provides for a review of the Union's position before the 2017 annual meeting. Therefore, this proposal aims at setting out the Union's position within SPRFMO for the period 2017-2021 and thereby replacing Council Decision 14405/12 of 5 October 2012, which is covering the period 2012-2016.

- **Consistency with existing policy provisions in the policy area**

This revision aims at incorporating the principles and orientations of the new Common Fisheries Policy (CFP) as laid down in Regulation (EU) No 1380/2013 of the European Parliament and of the Council², taking also into account the objectives of the Commission Communication on the external dimension of the CFP³. Moreover, the Union's position has been adjusted to the Lisbon Treaty.

As it is the case for the current one, the following position contains general principles and orientations; however it takes into account to the extent possible the specificities of the SPRFMO. In addition, the standard process for the year to year specification of the Union position has been incorporated as requested by Member States

- **Consistency with other Union policies**

N/A

¹ OJ L 67 of 6.3.2012, p. 1.

² Regulation (EU) No 1380/2013 of the European Parliament and of the Council on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council decision 2004/585/EC (OJ L 354 of 28.12.2013, p.22).

³ COM(2011) 424 of 13.7.2011.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The following Decision is based on the Treaty on the Functioning of the European Union, and in particular Article 43(2), in conjunction with Article 218(9) which provides that the Council, on a proposal from the Commission shall adopt a decision establishing the positions to be adopted on the Union's behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects. This shall apply to the position to be adopted by the Commission, on behalf of the Union, in the SPRFMO.

Regulation (EU) No 1380/2013 of the European Parliament and of the Council is the legal basis setting up the principles to be reflected in this position.

The following Decision shall replace Council Decision 14405/12 which is covering the period 2012-2016, and shall cover the period 2017-2021.

- **Subsidiarity (for non-exclusive competence)**

N/A

- **Proportionality**

N/A

- **Choice of the instrument**

Pursuant to Article 218(9) of the Treaty on the Functioning of the European Union, the position to be adopted on behalf of the Union in Regional Fisheries Management Organisations (RFMOs) when they are called upon to adopt acts having legal effects, with the exception of acts supplementing or amending their institutional framework, must be adopted by Council Decision, on a proposal from the Commission.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

N/A

- **Stakeholder consultations**

N/A

- **Collection and use of expertise**

N/A

- **Impact assessment**

N/A

- **Regulatory fitness and simplification**

N/A

- **Fundamental rights**

N/A

4. BUDGETARY IMPLICATIONS

N/A

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

N/A

- **Explanatory documents (for directives)**

N/A

- **Detailed explanation of the specific provisions of the proposal**

N/A

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Article 38 of the Treaty on the Functioning of the European Union, in conjunction with Article 39(1)(d) thereof, provides that one of the objectives of the Common Fisheries Policy is to assure the availability of supplies.
- (2) Article 2 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council⁴ provides that the Common Fisheries Policy shall ensure that fishing and aquaculture activities are environmentally sustainable in the long-term and are managed in a way that is consistent with the objectives of achieving economic, social and employment benefits, and of contributing to the availability of food supplies. It also provides that the Common Fisheries Policy shall apply the precautionary approach to fisheries management, and shall aim to ensure that exploitation of living marine biological resources restores and maintains population of harvested species above levels which can produce the maximum sustainable yield. It also provides that the Union shall aim to take management and conservation measures based on best available scientific advice, to promote fishing methods that contribute to more selective fishing and the avoidance and reduction, as far as possible, of unwanted catches, to fish with low impact on the marine ecosystem and fishery resources and to gradually eliminate discards. Besides, Article 28 of Regulation (EU) No 1380/2013 specifically provides that these principles shall be applied by the Union in its external policy.

⁴ Regulation (EU) No 1380/2013 of the European Parliament and of the Council on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council decision 2004/585/EC (OJ L 354 of 28.12.2013, p.22).

- (3) By Council Decision 2012/130/EU⁵ the Union concluded the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean (the SPRFMO Convention), which established the South Pacific Regional Fisheries Management Organisation (SPRFMO). Within the SPRFMO, the Commission of the SPRFMO (the SPRFMO Commission) is responsible for the adoption of measures designed to ensure the long-term conservation and sustainable use of fishery resources through the application of the precautionary approach and an ecosystem approach to fisheries management, and, in so doing, to safeguard the marine ecosystems in which these resources occur. Such measures are to become binding upon the Union.
- (4) On 5 October 2012, the Council adopted Decision 14405/12 on the establishment of the Union position to be adopted in the South Pacific Regional Fisheries Management Organisation (SPRFMO).
- (5) Decision 14405/12 provides that the position established therein is to be reviewed at the latest for the annual Meeting of the SPRFMO Commission in 2017. It is therefore appropriate to repeal Decision 14405/12 and to replace it by a new Decision.
- (6) In view of the evolving nature of fishery resources in the Convention Area and the consequent need for the position of the Union to take account of new developments, including new statistical, biological and other information presented before or during the annual Meeting of the SPRFMO Commission, procedures must be established, in line with the principle of sincere cooperation among the Union institutions enshrined in Article 13(2) TEU, for the year-to-year specification of the Union position.
- (7) The Commission, in accordance with Articles 218 and 3(1) TFEU, represents the EU in the annual Meeting of the SPRFMO Commission. Therefore, this Decision is addressed to the Commission.

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken by the European Union in the annual Meeting of the SPRFMO Commission, when that body is called upon to adopt decisions having legal effects, is set out in Annex I.

Article 2

The year-to-year specification of the Union position to be taken in the annual Meeting of the SPRFMO Commission shall be established in accordance with Annex II.

⁵ Council Decision 2012/130/EU of 3 October 2011 on the approval, on behalf of the European Union, of the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean (OJ L 67 of 6.3.2012, p. 1).

Article 3

The Union position set out in Annex I shall be assessed and, where appropriate, revised by the Council upon a proposal from the Commission, at the latest for the annual Meeting of the SPRFMO Commission in 2022.

Article 4

Decision 14405/12 is repealed.

Article 5

This Decision is addressed to the European Commission.

Done at Brussels,

*For the Council
The President*