



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 4 March 2014
(OR. en)**

**Interinstitutional File:
2012/0216 (COD)**

**6103/1/14
REV 1 ADD 1**

**PECHE 51
ENV 106
CODEC 307
PARLNAT 77**

STATEMENT OF THE COUNCIL'S REASONS

Subject: Position of the Council at first reading in view of the adoption of the Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 812/2004 laying down measures concerning incidental catches of cetaceans in fisheries

- Statement of the Council's reasons
- Adopted by the Council on 3 March 2014

I. INTRODUCTION

On 8 August 2012, the Commission submitted to the Council a proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 812/2004 laying down measures concerning incidental catches of cetaceans in fisheries and amending Regulation (EC) No 88/98.

The European Parliament adopted its position at first reading on 16 April 2013.

Negotiations then took place between the European Parliament, the Council and the Commission with a view to reaching an agreement on the proposal. Such an agreement was reached at a trilogue held on 30 January 2014. This agreement was subsequently endorsed by the Working Party on Internal and External Fisheries Policy on 6 February 2014, and by the European Parliament's Committee on Fisheries on 11 February 2014.

On 11 February 2014, the Chairman of the European Parliament's Committee on Fisheries addressed a letter to the Chairman of the Permanent Representatives Committee (Part One) stating that, should the Council transmit formally its own first-reading position to the Parliament in the form set out in the Annex to that letter, he would, subject to verification by the lawyer-linguists of both institutions, recommend to the Parliament's plenary session that it should, in the Parliament's second reading, accept the Council's position at first reading without amendment.

The Council's position at first reading is indeed in line with the above-mentioned agreement text, as amended to reflect the subsequent legal and linguistic revision.

In carrying out its work, the Council took due account of the opinion of the European Economic and Social Committee, which was given on 14 November 2012¹.

¹ OJ C 11, 15.01.2013, p.85.

II. OBJECTIVE

The proposal seeks to align Council Regulation (EC) No 812/2004 with the provisions of the Treaty on the Functioning of the European Union ("the Treaty"), which makes a distinction between the powers delegated to the Commission to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act as laid down in Article 290(1) of the Treaty (delegated acts), and the powers conferred upon the Commission to adopt uniform conditions for implementing legally binding Union acts as laid down in Article 291(2) of the Treaty (implementing acts).

Through this proposal, powers currently conferred on the Commission by Council Regulation (EC) No 812/2004 have been reclassified into measures of a delegated nature and measures of an implementing nature :

- The Commission has proposed that it should be empowered to adopt delegated acts to adapt conditions and technical specifications for the use of acoustic deterrent devices;
- The Commission has proposed that it should be empowered to adopt implementing acts concerning the procedure and format for reporting obligations for Member States.

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

A) General observations

On the basis of the Commission proposal, the European Parliament and the Council have conducted negotiations which resulted in the two co-legislators reaching an agreement that is to be taken up in the Council's position at first reading. The text of the Council position fully reflects the compromise that was reached between the two co-legislators, that was contained in the Parliament's letter of 11 February 2014, and that was subsequently corrected to reflect legal and linguistic review.

B) Key issues

The compromise reflected in the Council's position at first reading contains the following key elements:

a) Conditions of the delegation of powers to the Commission

The European Parliament agreed with the Council's suggestion to limit the delegation of powers to the Commission both as regards its scope and its duration:

- The scope of the delegation is to be limited to allow updating the signal characteristics and the corresponding implementation characteristics of the use of acoustic deterrent devices, in light of technical and scientific progress;
- the duration of the delegation is to be limited to 4 years, which can be tacitly extended for periods of an identical duration.

b) Review

The Council accepted the idea put forward by the European Parliament of a review by the Commission, before the end of 2015, of the appropriateness and the effectiveness of Council Regulation (EC) 812/2004. On this basis and if appropriate, the Commission should consider submitting to the European Parliament and the Council an overarching legislative proposal for ensuring the effective protection of cetaceans including through the regionalisation process.

IV. CONCLUSION

The Council's position at first reading fully reflects the compromise reached in the negotiations between the Council and the European Parliament, facilitated by the Commission.