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**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 12 November 2013
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**14993/13
ADD 1**

**PV/CONS 50
AGRI 668
PECHE 460**

DRAFT MINUTES

Subject: **3265th** meeting of the Council of the European Union (**AGRICULTURE
AND FISHERIES**) held in Luxembourg on 17 October 2013

PUBLIC DELIBERATION ITEMS¹

Page

LEGISLATIVE DELIBERATIONS

"A" ITEMS (doc. 14828/13)

1. Proposal for a Regulation of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000 [First reading] (LA + S)..... 3
2. Proposal for a Regulation of the European Parliament and of the Council on the Common Fisheries Policy, amending Council Regulation (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002, (EC) No 639/2004, and Council Decision (EC) No 2004/585 [First reading] (LA + S)..... 5
3. Directive of the European Parliament and of the Council amending Directive 2004/109/EC of the European Parliament and of the Council on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market, Directive 2003/71/EC of the European Parliament and of the Council on the prospectus to be published when securities are offered to the public or admitted to trading and Commission Directive 2007/14/EC laying down detailed rules for the implementation of certain provisions of Directive 2004/109/EC [First reading] (LA)..... 8
4. Amendments of the European Parliament to the Council's position on the draft budget for 2014 8

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¹ Deliberations on Union legislative acts (Article 16(8) of the Treaty on European Union), other deliberations open to the public and public debates (Article 8 of the Council's Rules of Procedure).

LEGISLATIVE DELIBERATIONS

(public deliberation in accordance with Article 16(8) of the Treaty on European Union)

1. Proposal for a Regulation of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000 [First reading] (LA + S)

- Adoption
 - a) of the Council's position at first reading
 - b) of the statement of the Council's reasons
 - 14668/13 CODEC 2246 PECHE 443
 - + ADD 1
 - + ADD 2
 - 12005/13 PECHE 306 CODEC 1683
 - + COR 1 (fr, nl)
 - + COR 2 (sv)
 - + REV 1 (nl)
 - + ADD 1 REV 1
- approved by Coreper, Part 1, on 16.10.2013

The Council approved its position at first reading, in accordance with Article 294(5) of the Treaty on the Functioning of the European Union. (Legal basis: Articles 42 and 43(2) of the TFEU).

Statement by the European Parliament and by the Council **on control rules in the area of product traceability and consumer information**

"As a follow-up to the reform of the Regulation on Common Organisation of the Markets for fishery and aquaculture products, the European Parliament and the Council invite the European Commission to submit to them a proposal aiming at amending the Control Regulation (Regulation No 1224/2009). Such amendment should take into account the need for regulating the provision of gear type information as regards products derived from wild capture fisheries.

The European Parliament and the Council also invite the Commission to adopt, in due time, the necessary amendments to the Commission Implementing Regulation (EU) No 404/2011 as regards the mandatory information to the consumer in order to take into account the provisions of this Regulation, the Control Regulation, as amended, and Regulation 1169/2011 on the provision of food information to consumers."

Statements by the Commission

Ad Article 35 - paragraph 1 (e)

"The Commission does not agree with the change introduced by the lawyer linguists to Article 42(1)(e) of the text of the political agreement reached at the informal trilogue on 8 May 2013 on the Commission's proposal for a regulation on the common organisation of the markets in fishery and aquaculture products (new Article 35(1)(e) of document 12005/13).

The Commission's position is that, as agreed during the informal trilogue on 8 May 2013, appropriate marking or labelling should indicate the date of minimum durability, without any further qualification, for all fishery and aquaculture products referred to in Article 42(1) (new Article 35(1) of document 12005/13) offered for sale to the final consumer. Introducing the words "where appropriate" at the end of Article 42(1)(e) (new Article 35(1)(e) of document 12005/13) will create legal uncertainty and jeopardise reaching the objective of improving transparency for consumers."

Ad Article 35

"The Commission regrets that the agreement between the co-legislators has removed from the Commission's proposal the obligation to indicate the "date of catch" and the "date of harvest" for fishery and aquaculture products, respectively. The Commission considers that these dates provide essential information for consumers. The indication of dates of catch and harvest clearly benefit the Union's small-scale fishermen and farmers, and promote short distribution channels for fishery and aquaculture products.

The Commission also regrets that the co-legislators have removed from the Commission's proposal the application of certain labelling requirements to preserved and prepared products, i.e. commercial name, production method and provenance. The Commission believes that these requirements respond to the growing public demand for information about the content of preserved and prepared products. This is also an essential matter for the credibility and value of the Union's production.

The Commission would like to reiterate that the above labelling improvements proposed by the Commission would not impose any disproportionate burden on the fishing industry as they build on the existing traceability requirements."

Statement by Austria on mandatory consumer information concerning the date of minimum durability for fresh fishery products

"Austria would like to express its concerns with the new mandatory consumer information in particular on the date of minimum durability, the gear category used by fishermen, the indication of the catch or production area, as well as concerning freshwater fishery, the reference to the body of water, that are likely to generate excessive constraints and administrative burdens for Member States and their operators (see also statement brought forward by France, Germany, Spain, Belgium, Denmark, Portugal, Greece and Malta on 8 July 2013).

In particular, Austria would like to express its concerns with the mandatory information on the date of minimum durability (DMD) respectively the "use by date" (UBD) in Art. 42 par. 1 point (e) of the CMO Regulation for non-prepacked fishery products. DMD/UBD cannot be used reliably with non-prepacked food as its accuracy depends on the kind of packaging and the storage conditions. Therefore a standardized declaration on expectable durability for non-prepacked fish is impossible to obtain.

As a consequence it is very likely that a very short DMD/UBD would be used on retail level which might lead to big quantities of fish to be destroyed because consumers might prefer to buy products with a longer DMD/UBD. In this respect, Austria would like to point to the Union's initiatives regarding the reduction of food waste. Furthermore, Austria would like to point out that regulation 1169/2011 on consumer information only requires allergen information as the only mandatory information for non-prepacked food. For the very same reason, that other elements of labelling are either very hard or - as in this case – impossible – to obtain."

Statement by France, Germany, Spain, Belgium, Denmark, Portugal, Greece and Malta on mandatory consumer information

"France, Germany, Spain, Belgium, Denmark, Portugal, Greece and Malta consider that new mandatory consumer information, in particular on the gear category used by fishermen, the date of minimum durability or the indication of the catch or production area, as well as concerning freshwater fishery, a reference to the body of water must not generate excessive constraints and administrative burdens for Member States and their operators."

Statement by Spain concerning mandatory consumer information on the fishing gear used - Article 35

"Spain considers that the new mandatory information for consumers should not have any detrimental effect on the fishing industry and, more specifically, underlines that the obligation to include information on the type of fishing gear used must not prejudice or discriminate against the use of other types of fishing gear authorised by the Union and used in accordance with existing Community legislation."

2. Proposal for a Regulation of the European Parliament and of the Council on the Common Fisheries Policy, amending Council Regulation (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002, (EC) No 639/2004, and Council Decision (EC) No 2004/585 [First reading] (LA + S)

- Adoption
 - c) of the Council's position at first reading
 - d) of the statement of the Council's reasons
 - 14669/13 CODEC 2247 PECHE 444
 - + ADD 1 REV 1
 - + ADD 2
 - 12007/13 PECHE 307 CODEC 1684
 - + COR 1 (fr, nl)
 - + COR 2 (fr)
 - + REV 1 (cs)
 - + REV 2 (nl)
 - + ADD 1 REV 1
- approved by Coreper, Part 1, on 16.10.2013

The Council approved its position at first reading, in accordance with Article 294(5) of the Treaty on the Functioning of the European Union. (Legal basis: Article 43(2) of the TFEU).

Council Statement **on multi-annual plans**

"The Council is committed to working with the European Parliament and the Commission to address inter-institutional issues and agree a way forward that respects the legal position of both the Parliament and the Council to facilitate the development and introduction of multi-annual plans on a priority basis under the terms of the Common Fisheries Policy.

The Council further proposes that an inter-institutional taskforce be established to help find the most appropriate way forward."

Statement by the European Parliament and by the Council on data collection

"The European Parliament and Council request the Commission to fast track the adoption of a proposal to amend EU Regulation 199/2008 in order that the principles and objectives for data collection that are essential to support the reformed Common Fisheries Policy and set out in the new CFP Reform Regulation can be given practical effect as early as possible."

Statements by the Commission

Ad Article 18

"(on paragraphs 1 and 3) The Commission underlines that the empowerment of the Commission to adopt measures set out in the Member States' joint recommendations by means of implementing or delegated acts cannot affect the Commission's discretion to adopt such acts.

(on paragraph 7) The ability of the Member States having a direct management interest to prepare common joint recommendations cannot affect the Commission's exclusive right of initiative to submit proposals in the Common Fisheries Policy field.

(on paragraph 8) In the light of Article 2(1) TFEU, paragraph 8 cannot be understood as conferring automatically, in the absence of further Union legislation, an authorization on Member States to adopt legally binding acts in an area of exclusive Union competence. In case the Commission considers that such acts are not compatible with the Common Fisheries Policy objectives, Member States should act in accordance with the principle of loyal cooperation in order to remove any incompatibility with Union law."

Ad Part VI and in particular Article 28 paragraph 3

"The provisions of Part VI on the External policy are not susceptible to affect the validity of Council decisions or negotiating directives from the Council to the Commission in accordance with Article 218 TFEU or of agreements concluded with third states or organizations in accordance with Article 218 TFEU."

Ad Article 47 paragraph 2 second part

"The Commission underlines that it is contrary to the letter and to the spirit of Regulation 182/2011 (OJ L 55 of 28.2.2011, p. 13) to invoke Article 5 § 4, subparagraph 2, point b) in a systematic manner. Recourse to this provision must respond to a specific need to depart from the rule of principle which is that the Commission may adopt a draft implementing act when no opinion is delivered. Given that it is an exception to the general rule established by Article 5 § 4 recourse to subparagraph 2, point b) cannot be simply seen as a "discretionary power" of the Legislator, but must be interpreted in a restrictive manner and thus must be justified."

Statement by France, Germany, Poland, Denmark, Belgium, Latvia, Portugal and Malta

"France, Germany, Poland, Denmark, Belgium, Latvia, Portugal and Malta recall that Member States have the primary responsibility for the definition and management of national allocation systems of fishing opportunities and, therefore, consider that Article 16a should be interpreted in this context."

Statements by Spain

Ad Article 2

"Spain considers that, since the maximum sustainable yield cannot be obtained simultaneously for all the species in a mixed fishery, a level that maximizes the yields of the different species of each fishery must be sought, keeping the stocks within safe biological limits."

Ad Articles 10(1) and 15(5)

"Spain considers that *de minimis* exception, the upper limit of which is 5 % of the annual catches of species subject to an obligation to land, should be implemented in a flexible way by setting different percentages, either higher or lower than 5 %, in each of the different management plans at the time of their approval."

Ad Article 15

"Spain would point out that a serious incentive for illegal trade in undersized catches is created by the obligation to land such catches in the Mediterranean and in the Gulf of Cádiz. For this reason, Spain will argue for the adoption of special measures in the management plans for these fisheries so that, within the current legal framework, they prevent this illegal trade."

Ad Article 28

"Spain reaffirms that investments by EU companies in third countries constitute one of the instruments through which the objectives of the external fisheries policy of the EU are fulfilled and that, therefore, they must be defended by the institutions of the EU."

3. **Directive of the European Parliament and of the Council amending Directive 2004/109/EC of the European Parliament and of the Council on the harmonisation of transparency requirements in relation to information about issuers whose securities and admitted to trading on a regulated market, Directive 2003/71/EC of the European Parliament and of the Council on the prospectus to be published when securities are offered to the public or admitted to trading and Commission Directive 2007/14/EC laying down detailed rules for the implementation of certain provisions of Directive 2004/109/EC [First Reading] (LA)**

PE-CONS 37/13 EF 115 ECOFIN 439 DRS 107 CODEC 1296

The Council approved the amendment set out in the European Parliament's position at first reading and adopted the proposed act amended accordingly, pursuant to Article 294(4) of the Treaty on the Functioning of the European Union. (Legal basis: Articles 50 and 114 of the TFEU).

4. **Amendments of the European Parliament to the Council's position on the draft budget for 2014**

14633/13 FIN 615 INST 529 PE-L 81

approved by Coreper, Part 2, on 16.10.2013

The Council confirmed that it could not accept all the amendments adopted by the European Parliament concerning the 2014 EU budget, in accordance with Article 314(4)(c) of the Treaty on the Functioning of the European Union.