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NOTE

From: Presidency

To: Permanent Representatives Committee

Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Council Regulation (EC) No 1224/2009, and amending Council Regulations (EC) No 768/2005, (EC) No 1967/2006, (EC) No 1005/2008, and Regulation (EU) No 2016/1139 of the European Parliament and of the Council as regards fisheries control

- Progress Report

The Permanent Representatives Committee will find a progress report on the proposal mentioned in the subject above.

The present report has been drawn up under the responsibility of the Presidency and is without prejudice to particular points of interest or further contributions of individual delegations. It sets out the work done so far in the Council's preparatory bodies and gives an account of the state of play in the examination of the above mentioned proposal.

PRESIDENCY PROGRESS REPORT ON THE PROPOSAL FOR A REGULATION AMENDING COUNCIL REGULATION (EC) No 1224/2009, AND AMENDING COUNCIL REGULATIONS (EC) No 768/2005, (EC) No 1967/2006, (EC) No 1005/2008, AND REGULATION (EU) No 2016/1139 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AS REGARDS FISHERIES CONTROL

I. INTRODUCTION

1. The Commission proposal¹, presented on 30 May 2018 aims to revise a set of regulations related to the Union fisheries control system in place, and in particular the Council Regulation (EC) No 1224/2009² (the 'Control regulation'), establishing the Union fisheries control system, one of the main pillars of the Common Fisheries Policy (CFP). Article 1 of the Commission proposal proposes amendments to Articles 4 to 119a of the current Control regulation.
2. After a first examination of the proposal in the Internal and External Fisheries Working Party, a first compromise proposal was examined during the Croatian Presidency. A final Presidency's compromise text received broad support of delegations but a few important issues remained open. A progress report on the state of play was presented to COREPER on 24 June 2020 and discussed at the informal Videoconference of Ministers of Agriculture and Fisheries on 29 June 2020.

II. PROGRESS DURING THE GERMAN PRESIDENCY

3. The German Presidency continued to work on a compromise text with the aim of reaching a partial general approach on as many provisions as possible at the end of the Presidency

¹ Doc. 9317/18.

² Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).

4. To this aim, the German Presidency presented a revised compromise text on Article 4 to article 68 to the Fisheries WP. In addition, the Presidency prepared a compromise text on Articles 71 to 88. On the basis of written comments from delegations different Presidency compromises were discussed on Articles 4 to Article 88 (with the exclusion of Article 39 to Article 41a).
5. A final revised Presidency compromise proposal was presented at the Working Party on 29 October. This final revised Presidency compromise proposal received broad support from delegations for a large number of provisions, including on some of the most contentious ones. However, certain issues remained for further discussion, as the views of delegations continue to diverge, or some delegations consider their requests not to be sufficiently reflected.
6. The present report focusses on the state of play on the core issues identified by the Presidency.

a) Core provisions that gathered broad support from delegations

7. Use of electronic reporting tools by small scale fleets (Articles 14, 15, 19, 21 to 24 and 64, 66 and 68)

Use of electronic reporting tools by small scale fleets was largely opposed by several delegations as it was considered that installation and operation of these tools represent significant administrative burden, financial and technical challenges for both national administrations and fishers. In order to address those concerns and to streamline and simplify those provisions, the German Presidency introduced some amendments. First, to include the possibility for Member States that do not want to develop their own system for fishing electronic logbooks for vessels below 12 meters' length to request the Commission to develop it at Union level. Secondly, the final compromise text contains only two sets of rules: for vessels below and for vessels above 12 meters' length. Thirdly, the transition period for all those provisions has been extended to 48 months after the publication of the Regulation. These modifications allow sufficient time to develop and implement the new electronic reporting and monitoring tools for small vessels and avoid confusion made by the parallel existence of different logbook requirements and control regimes for vessels below and above 12 meters' length. All those modifications have been largely supported but there

are still some Member States that oppose the extension of the obligations to the small scale fleet, in general.

8. Regionalisation (new Chapter IIIa and Article 46a)

The Presidency notes that after further discussions at the technical meeting of Control experts held on 7 September and without further changes in the provision, there is a large support for the introduction of Article 46a, providing for additional control rules for specific regions through delegated acts based on joint recommendations.

9. Recreational Fisheries (Article 55)

In reply to strong requests by several delegations, the German Presidency removed the obligation for a registration and licensing system for vessels involved in recreational fisheries as well as the power for the Commission to lay down detailed rules on the reporting obligation for anglers. Instead, details of the obligation of registration of anglers and the reporting of catch data for certain species will only be defined in the national law of each Member State. Almost all delegations supported the proposed revision.

10. Traceability of fishery and aquaculture products (Article 56a- 58)

In reply to numerous comments by delegations, the Presidency reviewed and reduced the scope of Article 56a and Article 58. The Presidency proposed that Article 56a sets out rules about the composition of lots only for fresh fishery products³ and Article 58 applies to fresh fishery products and seaweeds and algae products⁴. Following comments by many delegations the Presidency excluded prepared and preserved fishery products and crustaceans and molluscs⁵. The Presidency also introduced an obligation for the Commission to submit a report evaluating the feasibility to develop a harmonised digital system. This report, together with a legislative proposal, if appropriate, should be submitted to the Parliament and the Council within 24 months after the date of application of the regulation. These proposed changes enjoyed a broad support by Member States. Nevertheless, some delegations requested to integrate in the regulation a legal basis to

³ Products falling under Chapter 03 of Combined nomenclature established by Council Regulation (EEC) No 2658/87.

⁴ Products falling under Chapter 03 and Chapter 1212 21 of the Combined nomenclature, established by Council Regulation (EEC) No 2568/87.

⁵ Products falling under headings 1604 and 1605 of the Combined nomenclature, established by Council Regulation (EEC) No 2568/87

establish an electronic system in the Control regulation and called for more clarity about the methods of providing the due information by the operators and procedures of exchanging that information between Member States.

11. Surveillance (Article 71-73), Inspection and proceedings (Articles 74-79), Inspections outside the waters of the inspecting Member State and proceedings of infringements detected (Article 80-88)

Modifications introduced in Articles 71 to 88 have largely supported by delegations. The most important modifications relate to Articles 78 and 79:

Electronic Database (Article 78)

Following comments from delegations on the substantial additional administrative burden the Presidency decided to take out the obligation imposed on Member States to integrate in the national database inspection reports of other Member States and of third countries. The Presidency considers that there is broad support of delegations for the proposed changes.

Union Inspectors (Article 79)

The Commission's proposal extended the rights of Union inspectors to conduct inspections in the territory of Member States. While most delegations supported the final proposal of the Presidency to allow inspections in the territory and in the territorial waters of Member States conditioned upon authorization and obligation for presence of national officials, a few delegations still resist accepting the extension of competency of the Union inspectors, in general.

b) Core provisions that gathered considerable support but require further examination

12. Extension of Vessels Monitoring System (VMS) to small scale fleets (Article 9)

The presidency compromise text introduced the possibility for the Member States to request the Commission to develop a vessel monitoring system (VMS) for vessels below 12 meters' length, as well as the possibility to exclude vessels below 8 meters' length from the requirement of using VMS while introducing at the meantime additional obligations to guarantee proper monitoring. Besides some editorial comments and call for small adjustments in the final version of the compromise, an important number of Member States

welcomed these modifications. Nevertheless, some delegations considered this derogation not broad enough to meet their main concerns regarding administrative burden and required to apply it for all vessels below 12 meters' length. On the other side, some delegations emphasized that the aim of the current revision of the Control regulation is to enhance monitoring for all vessels and in particular to improve the monitoring and data availability of smaller vessels. The Presidency considers that the amendments enjoyed support of many delegations and provide an important step forward but further reflection and examination would be necessary.

13. Remote electronic monitoring (REM) (new Article 13)

Significant changes have also been introduced in Article 13. In reply to the request by many delegations, the Presidency excluded the possibility for the Commission to determine by an implementing act the use of REM for monitoring and control of compliance with other rules than the landing obligation. Moreover, the final compromise text proposes detailed rules regarding the method of risk assessment and the respective roles of the Commission, Member States and the European Fishery Control Agency (EFCA). Those rules are based on the current practice of risk assessment in the framework of the specific control inspection programs. Delegations broadly supported the abovementioned modifications in Article 13. However, some enquired to integrate a legal basis for all vessels to be obliged to use the REM system, based on the risk assessment instead of limiting the scope of the obligation only to vessels above 24 meters' length.

Following comments by many delegations that were against of explicit mentioning of cameras on board (CCTV) as a requirement for REM systems, the Presidency proposed that REM systems do not necessarily have to include CCTV, but have to be able to effectively monitor and control the landing obligation. While most Member States welcomed this modification, one delegation insisted on making CCTV compulsory for the REM systems.

Finally, for other delegations including equal access of the coastal and the flag Member State to the data of REM systems has been noted with great concern.

14. Additional issues

While provision on the margin of tolerance (Article 14 (4)) was supported by majority of delegations at the end of the Croatian Presidency the extension of the transition period for provisions on the new electronic reporting tools and obligations (Article ,15, 19, 21 to 24

and 64, 66 and 68) resulted accordingly to an extension of the transition period as well for the “margin of tolerance” provision. One Member State raised serious concerns regarding the late applicability of this new provision. In addition to that concern, some Member States asked for further derogations on the margin of tolerance for certain fisheries (“tuna”).

The Presidency considers that the provision regarding the margin of tolerance need further examination and discussion.

III. CONCLUSION

15. The Presidency considers that the compromise proposal, even though not formally supported as a whole at this stage, constitutes a good milestone and basis for further discussions on the regulations subject of the revision, with a view to have an agreement on a Council position.
16. The Permanent Representative Committee (Part 1) is invited to take note of the present progress report from the Presidency.