



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 22 February 2013

6625/13

**Interinstitutional File:
2011/0195 (COD)**

**PECHE 66
CODEC 362**

REPORT

from: Permanent Representatives Committee (Part 1)
to: Council

No. Cion prop.: 12514/11 PECHE 187 CODEC 1166 - COM(2011) 425 final

Subject: Proposal for a Regulation of the European Parliament and of the Council on the Common Fisheries Policy
- *General Approach*

INTRODUCTION

1. On 13 July 2011, the European Commission adopted a proposal for a new Basic Regulation on the Common Fisheries Policy (CFP).
2. This proposal relates also to a proposal to overhaul the Common Organisation of the Markets in Fishery and Aquaculture Products which was adopted on the same day¹, and the proposal for a new European Maritime and Fisheries Fund, which the Commission adopted on 2 December 2011.²

¹ Doc. 12516/11 PECHE 188 CODEC 1167 - COM(2011) 416 final.

² Doc. 17870/11 PECHE 368 CADREFIN 162 CODEC 2255 - COM(2011) 804 final.

3. The proposal's general objective is to ensure fisheries and aquaculture activities that provide long-term sustainable environmental, economic and social conditions, and contribute to the availability of food supply. New elements concern in particular:
- a landing obligation,
 - maximum sustainable yield as a compulsory reference for fisheries management,
 - regionalised decision-making,
 - individually transferable fishing quotas,
 - Union measures accompanying Member State obligations under environmental legislation.
4. The European Economic and Social Committee and the Committee of the Regions gave their opinions on 28 March 2012 and 4 May 2012, respectively.³
5. The Working Party on Internal and External Fisheries Policy completed its second reading in February 2012.⁴
6. After three orientation debates held in March, April and May 2012, the "Agriculture and Fisheries" Council reached a "general approach" in June 2012.⁵ This decision was not fully conclusive with respect to the following parts of the proposal:
- implementation of the discards ban and the possibility of by-catch quotas (Articles 15 and 16);
 - responsibilities to implement environmental obligations that impact on fishing activities (Article 12); and
 - definitions (Article 5), delegated acts (Articles 15, 26a, 26c, 37, 47, 55) and recitals.

³ OJ C 181, 21.6.2012, p.183; OJ C 225, 27.7.2012, p.20.

⁴ Doc. 5070//12 PECHE 7 CODEC 9 REV 2.

⁵ Doc. 11322/12 PECHE 227 CODEC 1654.

7. The Working Party examined on 14 and 15 February 2013 Presidency text proposals⁶ on outstanding issues of the general approach regarding definitions (Article 5) and environmental obligations (Article 12) and recitals. In addition the Working Party discussed the elements of the implementation of the discard ban and the question of special quotas for complying with the landing obligation on the basis of a Presidency discussion paper. The Presidency's approach to the operational details of the landing obligation is to provide in the Regulation on the Common Fisheries Policy a range of tools that can be used to tackle the various causes and constraints associated with the current practice of discarding, in a way that there is a response to each problem identified, which would then apply either directly through the Regulation, or through detailed rules in, for instance, multi-annual plans or regulations on fishing opportunities.⁷
8. The Permanent Representatives Committee examined the outstanding issues on 20 February 2013. It concluded on the changes to Article 5, while changes to Articles 12, 15 and 16 need to be further discussed at Council level. Changes to the recitals should be endorsed by Council bearing in mind that they will be revised to reflect the outcome of the Council's deliberations.
9. The European Parliament voted on its position at first reading on 6 February 2013.⁸

⁶ Docs. 6108/13 PECHE 46 CODEC 255 and DS 1130/13.

⁷ Doc. 6108/13 PECHE 46 CODEC 255 ADD 1.

⁸ Doc. 5255/13 CODEC 61 PECHE 39 PE 7.

II. OUTSTANDING ISSUES

10. On the following issues delegations continued to have divergent views:

a) *Modalities of the landing obligation:*

- Roll-out of the landing obligation (Article 15 para 1).
Two delegations considered the roll-out of the landing obligation in the draft general approach as not specific enough regarding the timing and the species to which it applies. Another delegation would like to incorporate into the text the possibility to extend the landing obligation to non-regulated species via agreement at the regional level. Reflecting on the European Parliament's amendment to start the landing obligation in demersal fisheries in 2016 rather than 2015, and on the delay in adopting the reform, a considerable number of delegations requested starting the roll-out later, at least by one year. Some delegations considered a full alignment with the EP roll-out feasible. Other delegations did not want to alter the time frame.

- De minimis discards and derogations for specific species (Article 15 para 3 (c)).
A considerable number of delegations opposed going beyond 5% as the limit for *de minimis* rules, considering that the discard ban's credibility is strongly affected by *de minimis* allowances. A similarly considerable number of delegations requested 10%. Concerning the possibility of having species-specific exemptions from the discard ban, a number of delegations agreed in principle, two delegations asking for individual authorisations through implementation measures, another one for preparatory pilot projects. A number of other delegations, and the Commission representative, showed concern about such a list, arguing that general *de minimis* exemptions should be able to cover special situations.

- Inter-annual flexibility, inter-species flexibility and catches in excess of quotas (Article 15 para 4).

Two delegations considered 10% of inter-species flexibility too high, in view of the detrimental effect on data collection and of cases where the by-catch species has a high value.

A considerable number of delegations concurred with the Presidency's suggestion of keeping the flexibility to land over-quota catches into fishmeal production during a short transitional period, although some of those delegations opposed that this tool should only be a secondary resort. A group of delegations would like to enlarge the use of such catches to charitable purposes (Article 15 (6)). Other delegations are not prepared to revisit this paragraph. Some delegations, and the Commission representative, raised concerns about the negative impacts that this tool might have.

b) TAC increases associated with the introduction of a landing obligation (Article 16 Ibis)

The Presidency suggested inserting into Article 16 a sentence that would reflect the recital developed for the general approach which highlights the need to foresee, under certain conditions, TAC increases at the moment of introducing a discard ban. The reactions of delegations were largely positive, but some considered that this should take the form of a recital or a declaration, because it reflects a temporary phenomenon.

c) Specific quotas to facilitate compliance with the landing obligation (Article 16.2)

The Presidency suggested establishing a provision whereby, following an expected increase in TAC's after the introduction of a landing obligation, a small amount of the TACs allocated to Member States could be reserved solely for use in exchanges with other Member States. TAC's, including the reserve amount for use in exchanges, would continue to be allocated on the basis of relative stability. The purpose of this provision is to improve the efficiency of the existing exchange system. One delegation insisted on the need for by-catch quotas, which should be based on relative stability and might be useable only under specific circumstances; otherwise some fleets might be forced to stop fishing, which would be against the principle that each Member State may use its share of the relative stability.

Some other delegations showed openness to establishing such a tool. A considerable number of delegations were against, arguing that restrictions on the use of such a special quota would amount to interfering with relative stability.

d) Member State responsibilities under environmental law (Article 12)

Most delegations reacted positively to the formulation of the scope and procedure for fisheries related measures in a zone of environmental protection. One delegation did not favour the approach, and two others would like to extend the scope to which these measures relate. Some delegations did not agree with the period of six months foreseen to agree on joint recommendations at the regional level.

11. The choice of the implementation procedure (delegated act/implementing act) has been kept for a later stage of the process.
12. In view of this outcome, the Presidency submits to Council its suggestions on the drafting of outstanding issues in document 6108/1/13 REV 1 PECHE 46 CODEC 255.

III. CONCLUSION

13. Council is invited to discuss the outstanding issues with the aim of finalising the general approach.
-