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From:	General Secretariat of the Council
To:	Delegations
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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 - 4-column document - additional German comments

Delegations will find attached additional written comments by the German delegation on the above-mentioned document.

25 August 2021

Additional German opinion on the 4-column document (10406/21) of 2 July 2021

Number of the inter-institutional dossier: 2018/0193 (COD)

In addition to the first German opinion delivered on 27 July 2021 (Document 10901/21 ADD 9)

Germany would like to submit the following comments on the so-called 4-column document to the Presidency:

Line 214a: Germany fails to see the need to provide for requirements for switching off the Automatic Ship Identification System (AIS) in Article 10 of the Control Regulation. The AIS is, first and foremost, not a monitoring system for fisheries policy. The International Maritime Organisation (IMO) specified the rules on the AIS as a standard. For the EU, they are contained in Directive 2002/59/EC and have therefore been transposed into national ship safety law. It is therefore not necessary to repeat these rules in fisheries legislation.

Lines 189, 230, 270, 351, 640, 687 and 693: The EP proposes at various places dates for the transmission of specific data or documents that differ from both the COM proposal as well as the Council mandate. Germany does not endorse this. This concerns, for instance, the time of transmission of logbook data for vessels under 12m in length in **line 270** ("before landing begins").

Germany also takes a critical view of the following proposed wordings of the EP, as they either hamper controls or render them impossible:

- the late transmission of the transport document ("within 48 hours of loading" - **line 687**) or the sales note ("within 48 hours after placing on the market" - **line 640**),
- the introduction of a margin of tolerance for transport (**line 693**) or a margin of tolerance deviating from Article 14(4) for transshipment declarations (**line 351**),
- the subsequent transmission of position data for vessels under 12m in length ("latest before the landing operation begins" - **line 189**)
- the modified entry of the information on the fishing gear used, such as for instance only the approximate dimensions of gear ("approximate dimension of gear") and the deletion of the "technical specifications" (**line 230**).

Lines 223a + 224: Finally, the EP stipulates in lines 223a, 224 that the logbook must be transmitted in a uniform format. This does not take into consideration that Member States are already using electronic logbooks and that a switch to a uniform system would cause considerable costs. Instead, it should be ensured that the data can be exchanged between the Member States and the European Commission.

Line 240a: We welcome the EP proposals to record data on the catches of protected species (sensitive species) in Article 12 (3a) of the Control Regulation. This enables a better data collection for protected species.

Line 293: The requirements for vessels over 12 m in length should not be lowered compared with the current Control Regulation in force. Germany therefore rejects the restriction in Article 17(1) of the Control Regulation stating that only vessels over 12m in length performing fishing trips longer than 24 hours are required to make a prior notification.

Line 499 (+ 949b et seqq): Germany rejects the EP proposals that all lost gears must be notified to the EFCA and that the information must be transmitted by the EFCA to other EU agencies (line 499). It is not clear what purpose this additional notification would serve. The logbooks already transmit the data on lost gear to the competent authorities and they are thus recorded in the database under Article 109 of the Control Regulation. No further recording is necessary.

Line 502 et seqq: The EP suggests for Article 50 of the Control Regulation that marine protected areas without specific fishing restrictions should also be covered by the specific rules governing the control of fishing restricted areas. Germany rejects this addition. Where marine protected areas envisage restrictions on fishing, these areas are subject to the rules and more stringent control requirements of the existing Control Regulation, including the obligations envisaged in Article 50(3).

Line 548: Germany opposes the application of Article 56a of the Control Regulation to also cover processed products under subchapters 1604 and 1605 of the Nomenclature. The requirements for the composition of the batches are not suitable for such processed fisheries and aquaculture products and lack practical relevance.

Line 562: Both the EP and the COM provide that each MS should ensure that companies use digital systems in order to transmit information pursuant to Article 58 of the Control Regulation. Germany believes that digitalisation, in principle, provides opportunities to improve the traceability of fisheries and aquaculture products. However, digital technologies must also keep smaller market operators in mind. Therefore, Germany does not endorse a one-size-fits-all solution for all market participants. Given the extensive trade in fisheries products within the EU, Germany would therefore welcome a system that is applied EU-wide. Yet, with a view to small fresh fish traders and the possible disproportionate effort involved, there would need to be specific exemptions for the establishment of a digital system at each stage of marketing.

Line 569: The date of "unloading of catches" specified in Article 58(5) of the Control Regulation is very imprecise. Neither is it usually recorded in catch certificates. It is thus questionable to what extent the addition made by the EP would safeguard enhanced traceability. Germany therefore rejects the addition by the EP.

Line 577: Germany cannot support the proposal by the EP according to which, for imported products, not only the FAO area must be indicated, but also whether the catch was made on the high seas or within the exclusive economic zone (EEZ).

Line 846: The proposed wording ("or benefitting from, supporting or engaging in IUU fishing including as operators, effective beneficiaries, owners, logistics and service providers, including insurance providers and other financial service providers") includes all operators who benefit in any way economically from IUU fishing, irrespective of whether that operator is unaware of the provenance of the products from IUU fishing or whether he or she acts intentionally. Therefore, the addition goes too far from the German point of view and cannot be endorsed in this form.

Line 847: The EP proposal explicitly provides for the mentioning of Natura 2000 areas. However, this addition is not required since these areas, to the extent that fisheries restrictions are envisaged, are covered by Article 50 of the Control Regulation as it now stands.

Line 855a: The Control Regulation is intended to implement the CFP. It is therefore important to avoid that the Control Regulation is also used to implement and enforce other areas of EU legislation. In particular, violations of environmental law (waste disposal), for instance, cannot be considered as infringements of the CFP, as the requirements arise from a completely different area of law. Germany therefore rejects the EP proposal in Article 90(2) ("intentionally discarding of fishing gears and marine litter at sea from fishing vessels" - line 855a).

Line 1084: Germany takes the view that the storage period of only one year envisaged in Article 112 is far too short. Germany clearly prefers the Council position.

Germany reserves the right to submit a further opinion.
