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NOTE

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 - Presidency proposal for a revised mandate for sequences 1 to 6 - Danish, Dutch, German and Estonian comments

Delegations will find attached written comments by the Danish, Dutch, German and Estonian delegations on the above-mentioned document.

Comments from the Danish delegation to

4-column document regarding

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 2018/0193(COD)

Doc: ST 14148/21 and ST 14148/2021 ADD 1

General comments

In general, the Danish Delegation welcomes the Presidency's debriefings in the Working Party.

Denmark appreciates having received the above-mentioned documents for comments.

As regards rows where the European Parliament and the Commission supports the General Approach of the Council, Denmark supports these, and as regards rows, where the Presidency has not indicated a possible compromise, Denmark maintains its position stated in previous written comments. Concerning rows where the Presidency has been given flexibility to explore possible new wordings, outcome of such an exercise should be presented in the Working Party for discussion and possible adoption.

Detailed comments

Row 136

Denmark supports the General Approach but it is prepared to offer flexibility for the Presidency to explore alternative drafting. However, we take scrutiny reservation as regards the possible outcome of this exercise in order to allow proper examination with a view to establish our position to such drafting.

Row 136f

Denmark can support the Presidency suggestion provided that “official” is inserted in front of “means”.

Row 136h

Denmark can support the Presidency suggestion.

Row 138a new

Denmark is prepared to give the Presidency flexibility to modify the definition as suggested.

Row 136j

Denmark can support the Presidency suggestion.

Row 146

Denmark can support the Presidency suggestion.

Row 150a

Denmark is not opposed to adding towing vessels and auxiliary vessels. As regards aquaculture vessels, Denmark wishes to see text, which explicitly excludes these. It is important that it is clear that only catching vessels are to be included in the calculations concerning capacity ceilings. For this reason, Denmark prefers that this is explicitly stated either here or in the article on these. Recitals should reflect the same.

Denmark is prepared to give the Presidency flexibility to explore the above-mentioned issue with the Legal Service. Denmark reserves its position to the outcome of this exercise and will establish its position after having examined the outcome.

Row 153

Denmark is unaware of issues related to the present definition. All vessels have to be licensed to be used for fishing, which means that a vessel equipped without license cannot be a catching vessel and therefore not be used for the purpose of the capture of marine biological resources. There might be incidences during the construction or scrapping of a fishing vessel where it might be considered equipped, which would mean that the measures of the Control Regulation should be applied, which would not be appropriate. Denmark is therefore hesitant to accommodate the request of the Presidency.

Row 153g

Denmark is prepared to give the Presidency flexibility to include definition as suggested.

Row 163a new

Denmark is prepared to give the Presidency flexibility to modify the heading as suggested.

Row 163b new

Denmark is prepared to give the Presidency flexibility to modify the text as suggested.

Row 169

Denmark is prepared to give the Presidency flexibility to agree alternatives to the General Approach. Denmark supports replacing “Union fishing vessels” with “Union catching vessels”.

Row 169a new

Denmark is prepared to give the Presidency flexibility to insert a new Article as suggested.

Row 181a

This is a task falling within the responsibility of another Danish agency than the one responsible for fisheries. This would therefore create a burden, which would not be countered by a corresponding advantages. In our view it should be regulated within the remit of Regulations which is referenced in the EP proposal. Although Denmark is supportive of the objective, we feel it is misplaced in the Control Regulation.

Row 400

Denmark is prepared to give the Presidency flexibility to compromise as suggested.

Row 491

Denmark is prepared to give the Presidency flexibility to make the suggested replacement.

Row 491a

Denmark is prepared to support the Presidency suggestion.

Row 499aa new

Denmark can agree to the Presidency suggestion.

Row 508f

Denmark is prepared to support the Presidency suggestion.

Row 508i

Denmark is prepared to support the Presidency suggestion.

Row 508l

Denmark is prepared to give the Presidency flexibility to set out details but reserves its position to the actual details, which we will give our opinion once they are presented.

Row 527e

Denmark is prepared to support the Presidency suggestion.

Row 1150

Denmark is prepared to support the Presidency suggestion.

Row 1151a

Denmark lacks a reasoning to explain the need to delete this provision, which very much is the core work being carried out by EFCA. Therefore, Denmark is reluctant to see this go.

Row 1151c

Denmark is prepared to support the Presidency suggestion.

Row 1151d

Denmark is prepared to support the Presidency suggestion.

Row 1154

In the spirit of compromise, Denmark is prepared to support the Presidency suggestion.

Row 1156

Denmark is prepared to support the Presidency suggestion.

Row 1156a

Denmark is prepared to support the Presidency suggestion as regards the text of the Article but thinks that this should not only cover the Environmental Agency but also other relevant agencies. The recital can be supported with the mentioned amendment to the text of the Article.

Row 1174a

Denmark is prepared to support the Presidency suggestion.

Row 1174b

Denmark is prepared to support the Presidency suggestion.

Row 1178a

Denmark is prepared to support the Presidency suggestion.

Row 1178b

Denmark is prepared to support the Presidency suggestion.

Row 1178c

Denmark cannot support giving membership to the Administrative Board to the European Parliament. As a compromise, an observer role may be offered. The recital should be amended accordingly.

Row 1191

Denmark is prepared to support the Presidency suggestion.

Row 1201

Denmark is prepared to support the Presidency suggestion.

Row 1230a

Denmark is prepared to support the Presidency suggestion.

Row 1230b

Denmark is prepared to support the Presidency suggestion.

Row 1233

Denmark is prepared to support the Presidency suggestion.

Row 1234

Denmark is prepared to support the Presidency suggestion.

Row 1303

Denmark is prepared to support the Presidency suggestion.

Annex 2

Denmark is prepared to support the Presidency suggestion.

Comments by the Netherlands on the presidency proposal for a revised mandate
(14148/21)

- **Row 136 concerning definition 'rules of the common fisheries policy'**

Flexible, provided it is ensured that only international obligations transposed into EU law are involved.

- **Row 138a concerning definition 'fishing authorisation'**

'Where relevant' is far too vague to use in a definition. A definition should only be a description of a term. Whether the authorisation is sometimes an addition to the licence must be regulated in the article itself. This is in line with the 'Joint Practical Guide' on drafting of EU legislation, in which is stated that definitions may not contain any normative provisions.

We propose the following text:

‘fishing authorisation’ means an authorisation issued in respect of a Union fishing vessel, ~~where relevant in addition to its fishing licence,~~ entitling it to carry out specific fishing activities during a specified period, in a given area or for a given fishery under specific conditions;”

- **Row 150 and 150a 138a concerning definition 'fishing vessel'**

1. There is a great need for uniformity of terms. In that light, it is undesirable for such a crucial term as 'fishing vessel' to have a different meaning in every CFP regulation. The proposed addition of towing vessels and auxiliary vessels again leads to a different definition than the definitions in the Basic Reg and in the external fleet Reg. The IUU Reg has yet another definition.

2. It is unclear what towing vessels and auxiliary vessels are. The external fleet Reg provides a definition of a 'support vessel'. Is that the same as an auxiliary vessel? And a towing vessel is, for example, also a vessel that tows a dredging vessel or offshore facility. Such an addition – although undesirable in our view (see previous point) – is only clear if these terms are also defined in a separate definition, as is the case with 'catching vessel', in which is clarified that these vessels are only included if they are [equipped or] used for [commercial] fishing activities.

3. **Our main point is that we are strongly against deleting the last sentence of recital 10.** After all, it must be clear that expanding the term of fishing vessel to include all kinds of vague categories of vessels only applies for the purposes of the Control Regulation and, for example, does NOT affect the capacity ceiling in the basic Regulation.

- **Row 153 concerning definition ‘catching vessel’**

We strongly prefer: vessel **equipped or** used for the purpose of

In order to avoid that every vessel used for recreational fishing is labelled as a catching vessel, it could be made explicit that it only concerns commercial fishing activities.

- **Row 153g concerning definition ‘fishing without vessels’**

OK to include a definition. Since this concerns the activity “capture of marine biological resources”, it must therefore be “Fishing without a catching vessel.” To avoid confusion with recreational fishing, it could be made explicit that it only concerns commercial fishing activities.

We propose the following text:

“fishing without a ~~fishing~~ **catching** vessel” means engaging in a **commercial** fishing activity without using a ~~fishing~~ **catching** vessel, such as on shore fisheries, shellfishing, fishing on foot or ice fishing

- **Row 169a concerning fishing authorisation other fishing vessels**

This wording obliges MS to authorize all fishing vessels. This is much too broad because authorisation would only be needed “to ensure that international obligations that require authorisations for vessels other than Union catching vessels”.

Therefore we propose to add a (new) paragraph 7 to the previous Article in which the EC is empowered to adopt delegated acts in accordance with Article 119a providing Union fishing vessels other than Union catching vessels may carry out fishing activities only if they have been authorised by their flag Member State, to ensure compliance with international obligations that require authorisations for vessels other than Union catching vessels.

- **Row 181a concerning the end of use fishing gears**

We are not against this concept, but this provision should not be included in the control regulation.

- **Row 508l concerning fisheries without a [catching] vessel**

We strongly prefer the wording “other alternative system” of the General Approach so that the Member State can introduce a system that limits administrative burdens.

Comments by Germany on the Presidency proposal for a revised mandate for sequences 1 to 6 (4-column-document) - St 14148/21 + ADD

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

26 November 2021

Germany thanks the Presidency for its proposal on a revised 4-column-document as well as the revised Annex II and overview of sequences and submits the following remarks.

Remarks on specific lines

Line 150a

The potential ramifications of deleting the last sentence (“...Vessels exclusively used for aquaculture...”) are not easily overseen (e.g. scope of the Control Regulation regarding aquaculture vessels; the CFP applying to marine biological resources). Germany requests more time to look into this to assess potential implications arising from the proposed changes and for the time being maintains strong reservations as regards the flexibilities enquired. A clarification of the CLS would be appreciated.

Line 153

Germany prefers option 2 (“equipped or used”) as it is more precise but could, if needed, be flexible in proceeding with both options.

1156a

Despite remaining concerns, Germany can agree with the compromise language suggested.

Line 1234

The IUU Regulation does not provide any measures for export, except re-export. It is unclear why export might be mentioned here, as the term re-export is already inserted. Germany is not in support of the wording "exportation". The IUU Regulation does not provide any article stating that documents are necessary for export from the EU (except for the re-export certificate in Annex II). Germany questions, if this addition "exportation" is justified. Potentially, it offers the risk of building documents into CATCH that have no legal basis in the IUU Regulation, except for this added term. The broad term creates the opportunity to move a variety of documents under the umbrella of the IUU Regulation. Germany challenges the reason to do so.

Estonian comments on Proposal for a Regulation as regards fisheries control
draft revised mandate for sequences 1 to 6

Estonia would like to extend its gratitude towards Slovenian Presidency for the work related with fisheries control regulation. We are happy to see that there is progress and we are certain that more will be made during this Presidency. We can say with pleasure that we are flexible towards the text proposals in revised mandate as shown in documents 14148/21 and 14148/21 ADD 1 with only two comments.

Row 153g regarding fishing without vessels – Estonia is flexible for the text proposal as it stands for now, but will reserve the right to change or specify its position depending on the outcome of technical discussions still to be had in the coming weeks.

Row 181a regarding end of use fishing gear – Estonia is of the opinion that further discussions on the matter are needed before taking a clear position on this issue. ALDFG is of course a very important problem to tackle and thus more time is needed to properly analyse the text proposal. It is not only a fisheries issue, but a wider question. For example connections with Marine Strategy Framework Directive and local bodies involved with reaching the relevant targets (HELCOM for Baltic Sea for example) should also be kept in mind. At this stage we are not convinced that regulating ALDFG issue in the control regulation in a way that is proposed in the revised mandate is the right way forward.