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NOTE

From:	Cypriot delegation
To:	General Secretariat of the Council
No. Cion doc.:	18021/13 PECHE 633 CODEC 3037+ ADD1 - COM(2013) 889 final
Subject:	Proposal for a Regulation of the European Parliament and of the Council amending council regulations (EC) no 850/98, (EC) no 2187/2005, (EC) no 1967/2006, (EC) no 1098/2007, no 254/2002, (EC) no 2347/2002 and (EC) no 1224/2009 and repealing (EC) no 1434/98 as regards the landing obligation

Delegations will find attached written comments by the Cypriot delegation on the above-mentioned proposal.

**Cyprus Comments
on**

Proposal for a Regulation of the European Parliament and of the Council amending council regulations (EC) no 850/98, (EC) no 2187/2005, (EC) no 1967/2006, (EC) no 1098/2007, no 254/2002, (EC) no 2347/2002 and (EC) no 1224/2009 and repealing (EC) no 1434/98 as regards the landing obligation (discard ban)

doc. 18021/13 PECHE 633 CODEC 3037

General comments

A central objective of the reformed CFP is the gradual elimination of discards, and Member States have committed, with the adoption of the basic regulation [Reg. (EU) 1380/2013], on the gradual introduction of a landing obligation in their fisheries. It is therefore of great importance that we move towards the implementation of the discard ban within the time framework that has been set, taking into account that in less than one year this will take effect for some species. We would like to thank the Commission for moving swiftly towards the fulfilment of this obligation with the Omnibus Proposal and for presenting it to the Parliament and the Council.

We welcome the Omnibus Proposal of the Commission regarding the landing obligation and we consider it to be a very comprehensive and inclusive proposal for amending existing legislation so as by 1st January 2015 there will be no contradictions. However, there are a few issues on the proposed control measures which need to be elaborated or amended, in order to practically achieve their implementation and cost-efficiency in the Mediterranean.

Cyprus once more wishes to stress its concern on the fact that since the implementation of the landing obligation in all European Union fisheries is horizontal, there is great need to provide the necessary tools in all the legislative acts that arise from the basic regulation to enable the application of a truly regional approach to this task and the fulfilment of the obligations of MS.

We consider that in the Mediterranean the landing obligation does not provide any incentive for the fishermen to perform more selective fishing for reducing unwanted catches, since it is not accompanied with catch limits (except for bluefin tuna) and in many cases it is not a restrictive factor on the available space on board for retaining catches since the catches are very small. At least in the case of Cyprus, there is the risk that the landing obligation not only will not function as a restrictive factor for catching undersized bycatch, but in contradiction of its aim it will provide incentives to fishermen to continue, or even increase, the current amount of undersized catches; undersized catches will even legally have a commercial value, and the “opportunities” for their illegal marketing will increase.

We consider that the landing obligation will be a successful measure for eliminating discards if it is implemented taking into account the specificities of the areas and the fisheries concerned, and not blindly implemented in a horizontal manner.

In the Proposal it should be taken into consideration that the fishing fleet in the Mediterranean is mostly composed of small scale inshore boats, usually old, with restricted ability to support technological systems and/or requirements on observers on board. In addition, the income per fishing trip from this fleet category is restricted. Control measures, including electronic means, should be cost effective and regionally adjusted to the specificities of the fisheries and fleets in question. Already the horizontal implementation of the Control Regulation (Reg. (EC) 1224/2009), without considering the regional specificities, has created an enormous administrative burden to the Member States and also heavy demands to the fishermen, resulting in further aggravation of the structural problems of the fisheries sector.

We would further like to receive a clarification whether the landing obligation applies also for the leisure fisheries, since Article 15 of Regulation (EU) 1380/2013 makes no reference or distinguishment on the catches from such fisheries. Considering that: i. there is no obligation for recording leisure catches (except for bluefin tuna, eel and sharks in the case of Mediterranean), ii. catches from leisure fisheries cannot be marketed and iii. It would be enormously difficult to control the implementation of the landing obligation by such fisheries, we consider that the landing obligation should not apply for the catches of leisure fisheries, at least for the stocks which are not under limits.

Specific comments (article-by-article)

Chapter 1 – Technical Measures

Articles 1-6: No comments

Chapter 2 – Control Measures

Article 7 - Amendments to Regulation (EC) No 1224/2009

Point 1- Article 7(1): No comments

Point 2(a),(b) – Article 14(1),(2): No comments

Point 2(c) – Article 14(3):

Having two margins of tolerance will create problems in enforcement as well as legal issues regarding possible infringements. For example: if a captain will estimate the weight of the catch of species X as 49 kg and the final verified weight is 58 kg then there is no infringement, as the estimated weight is within the tolerance of 20%. If though a captain will estimate the weight of the catch of species X as 50 kg and the final verified weight is 58 kg then there is an infringement as the estimated weight is outside the tolerance of 10%.

Cyprus proposes the following modification to the proposed Article 14(3):

“The permitted margin of tolerance in estimates recorded in the fishing logbook of the quantities in kilograms of fish retained on board shall be 10% **20%** for all species. ~~Where for one or more species, the respective total catch is below 50 kilograms, the permitted margin of tolerance shall be 20%.”~~

Point 2(d) – Article 14(4):

The proposed removal of the threshold of 50kg per species for recording the discards, without at least restricting the recording requirement to certain species, sets an excessive requirement for the fishermen which may hinder the normal operation of the fishing vessels. It is practically impossible to record every single individual of all the taxa of the marine fauna. At least in the Mediterranean where the biodiversity is great and with the multispecies character of the fisheries, even in the case that discards may not be a lot in volume, they are usually comprised by numerous species. It should

be reminded that the Data Collection Framework (DCF), which is responsible for the collection of the necessary data for the management of the fisheries, requires the estimation of discards for certain species; also, under DCF the discards are basically recorded by scientists on board and not by the fishing crew. Considering the above, a requirement to record discards from all species of any quantity in the logbooks seems unreasonable and not cost-effective.

We would therefore like to suggest the following addition:

"4. Masters of Union fishing vessels shall also record in their fishing logbook all estimated discards **above 10 kg of live-weight equivalent** in volume for any species."

Point 3: No comments

Point 4 (a),(b): No comments

Point 4 (c):

Having two margins of tolerance will create problems in enforcement as well as legal issues regarding possible infringements. For example: if a captain estimates the weight of the catch of species X as 49 kg and the final verified weight is 58 kg then there is no infringement, as the estimated weight is within the tolerance of 20%. If though a captain estimates the weight of the catch of species X as 50 kg and the final verified weight is 58 kg then there is an infringement as the estimated weight is outside the tolerance of 10%.

Cyprus proposes the following amendment to the proposed Article 21(3):

“The permitted margin of tolerance in estimates recorded in the fishing logbook of the quantities in kilograms of fish retained on board shall be ~~10%~~ **20%** for all species. ~~Where for one or more species, the respective total catch is below 50 kilograms, the permitted margin of tolerance shall be 20%.”~~

Point 5: No comments

Point 6 (insertion of Article 25a):

The remote electronic system has to be simple and suited to the different kinds of fisheries, cost effective and proportionate. Additionally, it must not lead fisheries to a non profitable economic industry. This Article, the way it is drafted, suits the EU Fisheries in the North and Northeast Atlantic and cannot be implemented in the Mediterranean taking into account the fleet composition and special characteristics. Furthermore the operational requirements of the cameras should be decided on a regional level. For example in long line fishery there is no reason to have sensors attached to the gear. The way that the article has been drafted suits more the trawling fishery in Northern Europe. It should be noted that this complexity in the systems will result in continues faults and mulfunctions. There is always the possibility that the cameras might remain on for the entire fishing trip, as electronic data storage devices have the capacity to record for long periods (several months) and the cost of these is relatively low compared to the cumbbersome systems of sensors and etc.

Therefore for the Article 25a it is proposed that:

- Paragraph 2(b) should be deleted
- Paragraph 3 should be deleted
- Paragraphs 5 & 6 should be merged and for both paragraphs apply the implementing acts rule and not delegated acts.

Point 7: No comments

Point 8: Insertion of Articles 49a, 49b, 49c

Comments on insertion of Article 49a- Separate stowage of catches below the minimum conservation reference size:

- Concerning paragraph 1, we have the following comments:

The placement of undersized catches by stock in different boxes is technically difficult when these catches are limited. Also, the utility of having this requirement for the undersized catches is questionable, especially since there is no requirement in placing retained catches above the minimum conservation reference size separately for each stock.

We propose the following modification:

“1. All catches below the applicable minimum conservation reference size retained on board a Union fishing vessel shall be placed in boxes, compartments or containers separately **from catches above the applicable minimum conservation reference size** ~~for each stock~~ in such a way that they are identifiable from other boxes, compartments or containers.”

- We propose the deletion of paragraph 2, since we consider it redundant to paragraph 1.
- Concerning paragraph 3, we have the following comments:

The proposed exception of “fishing vessels of less than 12 meters’ length where catches below the minimum conservation reference size have been sorted, weighed and recorded in the logbook” is not applicable in the Mediterranean, since the logbook for fishing vessels of less than 12m is completed after landing. The exception also does not apply for fishing vessels of less than 10 meters’ length in all areas, since these vessels have no obligation to record in logbooks.

Our proposed modifications of paragraph 3 are as follows:

“Paragraphs ~~1 2 and 3~~ shall not apply:

- where the catches contain more than 80% of Norway pout and sandeel caught for non-human consumption purposes or of one or more of the following species:
 - mackerel;
 - herring;
 - horse mackerel;
 - blue whiting;
 - boarfish;
 - anchovy;
 - argentine;
 - sardine;
 - sprat;
 - **round herring;**
 - **picarel.**
- to fishing vessels of less than 12 metres' length overall; where **such vessels are subject to obligation to record catches prior to landing**, catches below the minimum conservation reference size **shall be** ~~have been~~ sorted, weighed and recorded in the logbook.”

Concerning the first exemption of paragraph 3, we wish to receive a clarification whether the undersized catches that can be stored on board with fisheries products destined for human consumption, may also be stored with these products when landed, and marketed for human consumption. If so, Article 49c should be ammended accordingly.

Paragraph 4: No comments

Insertion of Article 49b - De minimis rule: No comments

Insertion of Article 49c - Landing of catches below the minimum conservation reference sizes: No comments

Points 9 – 18: No comments

Point 19- Insertion of 119a (Exercise of the delegation): Article 119a should be deleted.

Chapter 3 – Final Provisions

Articles 8-9: No comments

Annexes I-III to the Regulation

Annex I – Amendments of Annexes to Regulation (EC) No. 850/98: No comments

Annex II – Amendments of Annexes to Regulation (EC) No. 2187/2005: No comments

Annex III – Replacement of Annex III to Regulation (EC) No. 1967/2006

Comments: The proposed Annex III omits 2 of the species included in Annex III of Regulation 1967/2006 (specifically *Pagrus pagrus* and *Pagellus erythrinus*). From the presentation of the Commission on the Omnibus Proposal and the logic behind the replacement of Annex III of Regulation 1967/2006, we understand that the omission of the two species from the proposed Annex III was not intentional and will be corrected.

Although it is not the scope of this Proposal, Cyprus considers that, in the framework of regionalization process, the possibility of setting minimum conservation reference sizes on a sub-regional level should be examined in the future.
