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NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 1026/2012 on certain measures for the purpose of the conservation of fish stocks in relation to countries allowing non-sustainable fishing - Analysis of the final compromise text with a view to agreement

I. BACKGROUND/INTRODUCTION

1. On 13 September 2024, the Commission submitted to the Council and the European Parliament a proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 1026/2012 on certain measures for the purpose of the conservation of fish stocks in relation to countries allowing non-sustainable fishing[1], which aims to increase legal certainty and to reinforce the process of cooperation with third countries before and after the EU takes such measures.

2. The draft Regulation is based on Articles 43(2) and 207 of the Treaty on the Functioning of the European Union (TFEU) (ordinary legislative procedure).

3. At its meeting on 11 December 2024, the Permanent Representatives Committee granted its mandate to enter into negotiations with the European Parliament[2].

[1] doc. 13384/24 + COR1
[2] doc. 16132/24

4. The European Economic and Social Committee delivered its opinion on 22 January 2025[3].

5. On 6 May 2025, the Plenary of the European Parliament endorsed the decision of the PECH Committee of the European Parliament to enter into interinstitutional negotiations on the basis of the PECH Committee Report adopted on 9 April 2025.

6. Interinstitutional negotiations at technical level were held on 13 May 2025. The Working Party on Fisheries Policy prepared those interinstitutional negotiations at its meeting on 12 May 2025 and discussed and agreed with the results of the negotiations on 16 May 2025. Denmark stated that it would abstain from voting on the proposal.

7. At a trilogue on 3 June 2025, a provisional agreement was reached between co-legislators, resulting in the final compromise text as set out in the annex to this note.

II. MAIN ELEMENTS OF THE FINAL COMPROMISE TEXT

8. Most changes to the Commission proposal set out in the Coreper mandate were retained in the final compromise text. For two examples of the 'failure to cooperate' by third countries, where both co-legislators proposed amendments, compromise solutions were found (Article 2(i)(4) and (8) of Regulation (EU) No 1026/2012[4]).

9. The final compromise text includes a definition of the notion of 'best available scientific advice' in a recital, which is identical to recitals in several other EU regulations on fisheries (recital (4a) of the amending regulation). Another new recital highlights the need for an accurate understanding of trade relations with third countries, including import patterns, when assessing appropriate measures (recital (6a) of the amending regulation).

10. The final compromise text repeatedly refers to regional fisheries management organisations (RFMOs) to clarify that the scope of the regulation includes situations where third countries fail to cooperate within the framework of those organisations (amongst others, Articles 2(i), 3(b)(i) and 7(1)(a) and (b)). In addition, in cases where the stock of common interest falls under the scope of an RFMO, it is clarified that the compliance body of that RFMO is

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3 doc. 5697/25

4 References to Articles throughout Section II of this Note are references to the final compromise text for amendments to Regulation (EU) No 1026/2012 as set out in the annex to this Note.

involved with a view to remedying the situation before the Commission adopts measures under the regulation (Article 6(2a)).

11. The final compromise text also requires the Commission to regularly update the Council and the Parliament on the application of the regulation against individual third countries (Article 6(1)).

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III. CONCLUSION

12. The Permanent Representatives Committee is invited to:

(a) confirm agreement on the final compromise text as set out in the annex to this note with a view to reaching an agreement at first reading with the European Parliament;

(b) authorise the Chair of the Permanent Representatives Committee to send a letter to inform the Chair of the European Parliament PECH Committee that, should the European Parliament adopt its position at first reading on the text of the proposal in the exact form as set out in the annex to this note, and subject to revision of that text by the lawyer-linguists of both institutions, the Council will approve the European Parliament's position and the act will be adopted in the wording which corresponds to the European Parliament's position.

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REGULATION *(EU) 2025/...*

OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

amending Regulation (EU) No 1026/2012 on certain measures for the purpose of the conservation of fish stocks in relation to countries allowing non-sustainable fishing

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) and ***Article*** 207 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[5],

Acting in accordance with the ordinary legislative procedure[6],

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5 *OJ C, C/2025/1191, 21.3.2025, ELI:* http://data.europa.eu/eli/C/2025/1191/oj.

6 Position of the European Parliament of ... (not yet published in the Official Journal) and decision of the Council of ...

Whereas:

(1) In line with the United Nations Convention on the Law of the Sea of 10 December 1982[7] ('UNCLOS') and the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 August 1995[8] ('UNFSA'), the management of certain straddling and highly migratory fish stocks requires the cooperation of all the countries whose fleets exploit that stock. ***Such cooperation may be established in the framework of regional fisheries management organisations ('RFMOs') or by means of ad hoc arrangements among the countries having an interest in the fishery concerned.***

(2) Regulation (EU) No 1026/2012[9] of the European Parliament and of the Council establishes a framework to allow for the identification and the adoption of measures with regard to third countries which fail to cooperate and allow ***non-sustainable*** fishing of a stock of common interest for the Union.

(3) In accordance with Regulation (EU) No 1026/2012 a country may be identified as allowing non-sustainable fishing if, among others, it fails to cooperate in the management of a stock of common interest in full compliance with the provisions of the UNCLOS and the UNFSA, or ***with*** any other international agreement or ***rule*** of international law**,** and if it fails to adopt necessary fishery management measures.

(4) A definition of "failure to cooperate" should be introduced ***in order*** to better define, for the purposes of Regulation (EU) No 1026/2012, the scope and meaning of the requirement to cooperate pursuant to UNCLOS and UNFSA.

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7 United Nations Convention on the Law of the Sea (OJ L 179, 23.6.1998, p. 3, ELI: http://data.europa.eu/eli/convention/1998/392/oj).

8 Agreement for the implementing of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling stocks and highly migratory fish stocks (OJ L 189, 3.7.1998, p. 17, ELI: http://data.europa.eu/eli/agree_internation/1998/414/oj).

9 Regulation (EU) No 1026/2012 of the European Parliament and of the Council of 25 October 2012 on certain measures for the purpose of the conservation of fish stocks in relation to countries allowing non-sustainable fishing (OJ L 316, 14.11.2012, p. 34, ELI: http://data.europa.eu/eli/reg/2012/1026/oj).

(4a) 'Best available scientific advice' should be understood to refer to publicly available scientific advice that is supported by the most up-to-date scientific data and methods and that has either been issued or reviewed by an independent scientific body that is recognised at Union or international level.

(5) It is also necessary to clarify that a country may be considered as allowing non-sustainable fishing if it does not implement ***or enforce*** the necessary fishery management measures, and that those measures include control measures***, including in the framework of RFMOs***.

(6) It is also appropriate to reinforce the procedures prior and subsequent to the adoption of measures in respect to countries allowing non-sustainable fishing***, including for countries within the framework of RFMOs***.

(6a) In order to assess the appropriate measures with regard to a country allowing non-sustainable fishing, it is necessary to provide for an accurate understanding of the trade relations with the third country under evaluation, including by assessing historical data for imported products that reflect the real import patterns in relation to that country.

(7) Regulation (EU) No 1026/2012 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

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Article 1

Regulation (EU) No 1026/2012 is amended as follows:

(1) Article 2 is amended as follows:

(a) point (b) is replaced by the following:

"(b) 'associated species' means any fish that belongs to the same ecosystem as the stock of common interest and that preys upon that stock, is preyed on by it, competes with it for food and living space or co-occurs with it in the same fishing area, and that is exploited or accidentally taken, including as by-catch, in the same fishery or fisheries;";

(b) point (f) is replaced by the following:

"(f) 'unsustainable state' means the condition where the stock is not continuously maintained at or above the levels that can produce maximum sustainable yield or, if these levels cannot be estimated, where the stock is not continuously maintained within safe biological limits in line with the precautionary approach to fisheries management as referred to in Article 6 of UNFSA; the stock levels determining whether the stock is in an unsustainable state are to be determined on the basis of best available scientific advice;";

(c) the following point is added:

"(i) 'failure to cooperate' means the failure ***by third countries*** to engage in good faith and have meaningful consultations***, including within RFMOs***, in which substantial effort is made, with a view to reaching an agreement on the adoption of necessary fishery management measures; examples of failure to cooperate include, but are not limited to:

(1) ***refusing*** to consult ***or to involve in the consultations all the relevant coastal States and/or fishing States***;

▌

(3) unjustified unilateral breaking off of consultations;

(4) undue delays***, including in replying to requests or engaging in consultations***;

(4a) withholding information relevant for consultations;

(5) ***making*** unreasonable information requests;

(6) ***disregarding*** agreed procedures;

(7) ***systematically refusing*** to take into consideration ***counter-proposals*** or other parties' interests;

(8) ***systematically*** insisting upon own positions ***for an extended period, irrespective of flexibilities offered by other parties in the consultations***;

(9) ***refusing*** to take into account the best available scientific advice ***or historic fishing activities*** regarding the relevant stock or stocks***;***

(10) pursuing consultations with a view to ***concluding partial sharing arrangements and/or, subsequently,*** concluding partial sharing arrangements excluding some relevant coastal States and/or fishing ***States*** for stocks of common interest, while consultations for comprehensive sharing arrangements are ▌ on-going.";

(2) in Article 3(b), ***points (i) and (ii) are*** replaced by the following:

"(i) it fails to adopt***,*** implement ***or enforce*** necessary fishery management measures, including control measures***, ensuring*** the effective conservation and management of stocks of common interest***, including in the framework of an RFMO or agreed bilaterally or multilaterally; or***

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(ii) it adopts fishery management measures, such as quotas or discriminatory measures, without due regard to the rights, interests and duties of other countries and the Union, and those fishery management measures, when considered in conjunction with measures taken by other countries and the Union, lead to fishing activities which could result in the stock being in an unsustainable state. This condition is considered to be complied with also where the fishery management measures adopted by that country did not lead to the stock being in an unsustainable state solely due to measures adopted by others.";

(3) Article 6 is amended as follows:

(a) the ***title*** is replaced by ***the following:***

"Procedures prior and subsequent to the adoption of measures in respect to countries allowing non-sustainable fishing";

(aa) paragraph (1) is replaced by the following:

"1. Where the Commission considers that it is necessary to adopt measures referred to in Article 4, it shall notify the country concerned of the intention to identify it as a country allowing non-sustainable fishing. In such cases, the European Parliament and the Council shall be immediately informed and regularly updated on the developments and actions taken.";

(ab) the following paragraph is inserted:

"2a. Where the stock of common interest falls under the scope of an RFMO, the Commission shall raise the matter of a third country allowing non-sustainable fishing practices at the compliance body of that RFMO prior to the notification under paragraph 1, as applicable, with a view to remedying the situation.";

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(b) paragraph (3) is replaced by the following:

"3. Prior to adopting measures referred to in Article 4, the Commission shall provide the country concerned with a reasonable opportunity to respond to the notification in writing and to provide any relevant information.;";

(c) the following paragraphs ***are added***:

"4. The Commission shall give to the country concerned ***a maximum of 90 days*** to reply to the notification and a reasonable time to remedy the situation.

5. Following the adoption of measures pursuant to Article 4, the Commission shall continue to engage ***and maintain an open dialogue and shall promote cooperation bilaterally and multilaterally, with a view to*** the country concerned ▌ ceasing to allow non-sustainable fishing.

6. Where the country concerned enters into consultations with the Union in good faith, the Commission shall engage in such consultations ***without delay***.".

(3a) in Article 7, paragraph (1) is replaced by the following:

"1. The measures referred to in Article 4 shall cease to apply when the country allowing non-sustainable fishing adopts appropriate corrective measures necessary for the conservation and management of the stock of common interest and those corrective measures:

(a) have either been adopted autonomously or have been agreed in the context of consultations with the Union and, where applicable, other countries concerned or within the framework of RFMOs; and

(b) do not undermine the effect of measures taken by the Union either autonomously, or in cooperation with other countries or within the framework of RFMOs, for the purpose of the conservation of the fish stocks concerned.".

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Article 2

This Regulation shall enter into force on the ***twentieth*** day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ▌ ,

For the European Parliament	*For the Council*
The President	*The President*

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