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NOTE

From:	General Secretariat of the Council
To:	Delegations
N° Cion doc.:	ST 9317/18
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 - Tables on part of Sequence 9 and on Sequence 16 for a revised mandate in view of the next trilogue

Delegations will find attached a table on part of Sequence 9 ("Tracking of fishing vessels and fishing restricted areas") relating to the exemption from the obligation to use VMS, and a table on Sequence 16 ("Margins of tolerance (MOTs)") of the four-column document concerning the abovementioned proposal.

In the fourth column, the Presidency provides comments and suggestions on changes to the General Approach in order to reach a compromise in the inter-institutional negotiations. Delegations are kindly requested to provide input on individual rows (see highlighted sections).

The Presidency will provide suggestions on the way forward for Sequence 13 ("Control in the supply chain") and Sequence 14 ("Control of fishing capacity including Engine power") in a separate WK document. The Presidency aims to prepare a revised mandate comprising parts of Sequence 9 and Sequences 13, 14 and 16 in order to prepare for the next political trilogue.

For Sequence 15 ("Control of the landing obligation - CCTVs"), the Presidency will defend the position set out in the revised mandate of 17 June 2022 (doc. 10027/22).

Delegations are reminded that the institutions work under the premise that "nothing is agreed until everything is agreed". Recitals will be examined once an agreement has been reached on the related articles and are thus currently excluded from the tables.

This document will be discussed in the Working Party on Fisheries Policy on 3 November 2022.

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)

Selected rows of Sequence 9 (“Tracking of fishing vessels and fishing restricted areas”) pertaining to the VMS-exemption

	Commission Proposal	EP Mandate	2018/0193 (COD) Council Mandate	Presidency proposals on the way forward
Article 1, first paragraph, point (6), amending provision(3a)				
189b			<u>3a. Without prejudice to obligations under other Union legal acts, a Member State may exempt Union fishing vessels of less than 9 metres' length overall flying its flag from the requirement to be fitted with a vessel monitoring system if they:</u>	In view of a compromise solution, accept VMS for all vessels, with a transition period for certain vessels under 9 metres' length overall and under the conditions set out in the General Approach (see rows 189c to 189f for the specific conditions): <u>3a. Without prejudice to obligations under other Union legal acts, a Member State may exempt, until 31 December 2029, Union fishing vessels of less than 9 metres' length overall flying its flag from the requirement to be fitted with a vessel monitoring system if they:</u> Sequence 9
Article 1, first paragraph, point (6), amending provision(3a)(a)				
189c			<u>(a) use only passive gear;</u>	In view of a compromise solution, flexibility to extend the exemption from using VMS during a

	Commission Proposal	EP Mandate	2018/0193 (COD) Council Mandate	Presidency proposals on the way forward
				<p>transitional period to some vessels using active gear, in line with the proposal set out in row 189b:</p> <p>Note that all other conditions for vessels exempted during a transition period, i.e. those set out in 189b, and 189d to 189f, remain unchanged.</p> <p>Sequence 9</p>
Article 1, first paragraph, point (6), amending provision(3a)(b)				
189d			<p><u>(b) operate exclusively in the waters up to six nautical miles from baselines under the sovereignty and jurisdiction of the flag Member State; and</u></p>	<p>Defend GA, in line with the proposal set out in row 189b.</p> <p>Sequence 9</p>
Article 1, first paragraph, point (6), amending provision(3a)(c)				
189e			<p><u>(c) never spend more than 24 hours at sea from the time of departure from port to the return to port;</u></p>	<p>Defend GA, in line with the proposal set out in row 189b.</p> <p>Sequence 9</p>
Article 1, first paragraph, point (6), amending provision(3a)(d)				
189f			<p><u>(d) are not subject to restrictions applicable in any fishing restricted area in which they operate.</u></p>	<p>Defend GA, in line with the proposal set out in row 189b.</p> <p>Sequence 9</p>

	Commission Proposal	EP Mandate	2018/0193 (COD) Council Mandate	Presidency proposals on the way forward
Article 1, first paragraph, point (6), amending provision(3b)				
189g			<u>3b. The masters of Union fishing vessels exempted from the requirement to be fitted with a vessel monitoring system under paragraph 3a shall notify the time of departure from port or landing place to the responsible authority before their departure and record the geographical position of setting the gear and the time of the haul in the fishing logbook and submit it in accordance with Article 15(2).</u>	Flexibility to withdraw GA, in line with the proposal set out in row 189b. Sequence 9
Article 1, first paragraph, point (11), amending provision(2)(e1)				
229a			<u>(e1) the geographical position of setting the gear and the time of the haul, for vessels exempted from the requirement to be fitted with a vessel monitoring system under Article 9(3a);</u>	Linked to row 189g. Flexibility to withdraw GA, in line with proposal set out in row 189b. Sequence 9 Sequence 7

Sequence 16 (“Margins of tolerance (MOTs)”)

	Commission Proposal	EP Mandate	2018/0193 (COD) Council Mandate	Presidency proposals on the way forward
Article 1, first paragraph, point (11), amending provision(4), first subparagraph				
241	4. When compared with the quantities landed or the result of an inspection, 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 % per species. For species retained on board that do not exceed 50kg live weight equivalent, the permitted margin of tolerance shall be 20% per species.	4. When compared with the quantities landed or the result of an inspection, 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 % per species. For <u>mixed fisheries, small pelagic purse-seine vessels or</u> species retained on board that do not exceed 50kg <u>100kg</u> live weight equivalent, the permitted margin of tolerance shall be 20% <u>20 %</u> per species. <u>For tuna species, it shall be 25 %.</u> EP AM 81, EX AM 326 (S&D0	4. When compared with the quantities landed or <u>with</u> the result of an inspection, 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 % per species. For species retained on board that do not exceed 50kg live weight equivalent, the permitted margin of tolerance shall be 20% <u>per each</u> species.	Defend GA. <u>Sequence 16</u>
Article 1, first paragraph, point (11), amending provision(4), second subparagraph				
241a			<u>The tolerance limitation referred to in the first subparagraph shall not apply to any species retained on board, irrespective of whether it is landed sorted or unsorted, the quantity of which does not exceed 50 kg live weight equivalent.</u>	Linked to row 241. <ul style="list-style-type: none"> Defend GA for quantities not exceeding 50kg; Accept EP amendment, i.e. 20% MOT, for quantities above 50kg and not exceeding 100kg. <u>Sequence 16</u>
Article 1, first paragraph, point (11), amending provision(4), second subparagraph, introductory part				
242	By derogation to the first	By <u>way of</u> derogation to <u>from</u> the	<u>4a.</u> By <u>way of</u> derogation to <u>from</u>	Defend GA with flexibility to accept

	Commission Proposal	EP Mandate	2018/0193 (COD) Council Mandate	Presidency proposals on the way forward
	subparagraph for fisheries referred to in the first and third indents of Article 15(1)(a) of Regulation (EU) No 1380/2013 which are landed unsorted, the tolerance limitations set out in this paragraph shall not apply to catches of species which meet both of the following conditions:	first subparagraph for fisheries referred to in the first and third indents of Article 15(1)(a) of Regulation (EU) No 1380/2013 which are landed unsorted, the tolerance limitations set out in this paragraph shall not apply to catches of species <u>small pelagic fisheries (mackerel, herring, horse mackerel, blue whiting, boarfish, anchovy, Argentinian silverside, sardine and sprat) and industrial fisheries (inter alia capelin, sand eel and Norway pout) which meet both of</u> <u>the following conditions</u> <u>exceptions shall be made:</u> Plenary AM 328 (RENEW)	the first subparagraph for of <u>paragraph 4, in the case of</u> fisheries referred to in the first and third indents of <u>point (a) of</u> Article 15(1)(a) <u>15(1)</u> of Regulation (EU) No 1380/2013, <u>for species</u> which are landed unsorted, the tolerance limitations set out in this paragraph shall not apply to catches of species which meet both of the following conditions and which are covered by a sampling plan referred to in Article 60(1a), the following margins of tolerance shall apply:	specific control measures for this derogation with the following principle: landings above 10 tonnes shall be monitored by an independent accredited operator. Sequence 16
Article 1, first paragraph, point (11), amending provision(4), second subparagraph(a)				
243	(a) they represent less than 1% in weight of all species landed; and	(a) they represent less than 1% in weight of all <u>the tolerance limitations set out in this paragraph shall not apply to catches of</u> species landed; and <u>which meet one of the following conditions:</u> Plenary AM 328 (RENEW)	(a) they represent less than 1% in weight of all species landed; and	Defend GA, reject EP amendment. Linked to row 242. Sequence 16
Article 1, first paragraph, point (11), amending provision(4), second subparagraph(a)(1)				
243a		<u>(1) they represent less than 1% in weight of all species landed; or</u> Plenary AM 328 (RENEW)		Reject EP amendment. Linked to row 242. Sequence 16
Article 1, first paragraph, point (11), amending provision(4), second subparagraph(a)(2)				

	Commission Proposal	EP Mandate	2018/0193 (COD) Council Mandate	Presidency proposals on the way forward
243b		<u>(2) their total weight is less than 100kg;</u> Plenary AM 328 (RENEW)		Reject EP amendment. Linked to row 242. Sequence 16
Article 1, first paragraph, point (11), amending provision(4), numbered paragraph (4a) (a)				
243c			<u>(a) for small pelagic species and species for industrial purposes, the permitted margin of tolerance in estimates recorded or not in the fishing logbook of the quantities in kilograms of fish retained on board shall be 10 % of the total quantity of all species recorded in the fishing logbook, per each species;</u>	Defend GA, while granting flexibility as set out in row 242. Sequence 16
Article 1, first paragraph, point (11), amending provision(4), second subparagraph(b)				
244	(b) their total weight is less than 100 kg.	(b) their total weight is less than 100 kg. <u>for Member States which have adopted a risk-based sampling plan, approved by the Commission, for weighing unsorted landings, the following margins of tolerance shall apply:</u> Plenary AM 328 (RENEW)	(b) their total weight is less than 100 kg.	Defend GA, reject EP amendment. Linked to row 242. Sequence 16
Article 1, first paragraph, point (11), amending provision(4), second subparagraph(b)(i)				
244a		<u>(i) for small pelagics, and industrial fisheries, the permitted margin of tolerance in estimates recorded in the fishing logbook of the quantities in kilograms of fish</u>		Reject EP amendment. Linked to row 242. Sequence 16

	Commission Proposal	EP Mandate	2018/0193 (COD) Council Mandate	Presidency proposals on the way forward
		<u>retained on board shall be 10 % of the total volume of all species recorded in the logbook for each species;</u> Plenary AM 328 (RENEW)		
Article 1, first paragraph, point (11), amending provision(4), second subparagraph(b)(ii)				
244b		(ii) <u>for other non-target species, the permitted margin of tolerance in estimates, whether recorded in the logbook or not, of the quantities in kilograms of fish retained on board shall be 200 kg or 1 % of the total volume of all species recorded in the logbook for each species; and</u> Plenary AM 328 (RENEW)		Reject EP amendment. Linked to row 242. Sequence 16
Article 1, first paragraph, point (11), amending provision(4), second subparagraph(b)(iii)				
244c		(iii) <u>for the total quantity of all species, the permitted margin of tolerance in estimates recorded in the logbook of the total quantity in kilograms of fish retained on board shall be 10 % of the total volume of all species recorded in the logbook.</u> Plenary AM 328 (RENEW)		Reject EP amendment. Linked to row 242. Sequence 16
Article 1, first paragraph, point (11), amending provision(4), numbered paragraph (4a)(b)				
244d			(b) <u>for all other species, the permitted margin of tolerance in estimates recorded or not in the fishing logbook of the quantities in</u>	Defend GA, while granting flexibility as set out in row 242.

	Commission Proposal	EP Mandate	2018/0193 (COD) Council Mandate	Presidency proposals on the way forward
			<u>kilograms of fish retained on board shall be 200 kg or 1 %, whichever is greater, of the total quantity of all species recorded in the fishing logbook, per each species.</u>	Sequence 16
Article 1, first paragraph, point (11), amending provision(4), second subparagraph(ba)				
244e		<p><u>(ba) By way of derogation from the first paragraph, for the tropical tuna purse seine fishery, for species covered by a risk-based sampling plan approved by the Commission, the tolerance allowed in the estimate recorded in the fishing logbook of the total quantities in kilograms of fish kept on board, all species combined, shall be 10% of the total quantities landed of all species combined.</u></p> <p>Plenary AM 328 (RENEW)</p>		<p>Linked to row 244g.</p> <p>Accept EP amendment for tropical tuna fisheries, with flexibility to improve the drafting and to accept:</p> <ul style="list-style-type: none"> • additional control measures for this derogation with the following principle: vessels shall be equipped with CCTV; • to limit the derogation in time, but to no less than 5 years. <p>Sequence 16</p>
Article 1, first paragraph, point (11), amending provision, first paragraph				
244f			<u>Notwithstanding the provisions set out in points (a) and (b), for the total quantity of all species, the permitted margin of tolerance in estimates recorded in the fishing logbook of the total quantity in kilograms of fish retained on board shall be 10 % of the total quantity of all species recorded in the fishing logbook.</u>	<p>Defend GA, while granting flexibility as set out in row 242.</p> <p>Sequence 16</p>

Commission Proposal		EP Mandate	2018/0193 (COD) Council Mandate	Presidency proposals on the way forward
Article 1, first paragraph, point (11), amending provision, numbered paragraph (4b)				
244g			<u>4b. By way of derogation from the first sub-paragraph of paragraph 4, in the case of fisheries targeting species whose morphological similarity has been certified by a Union or international scientific body and in the case of unsorted mixed fisheries, the permitted margin of tolerance in estimates recorded in the fishing logbook of the quantities in kilograms of fish retained on board of those species shall be 10 % of the total quantity of those species recorded in the fishing logbook, provided that those species are covered by a sampling plan referred to in Article 60(1a).</u>	<p>Linked to row 244e.</p> <p>Withdraw GA.</p> <p>Sequence 16</p>
Article 1, first paragraph, point (11), amending provision(8a)				
258a			<u>8a. Paragraphs 1 to 4 and 5 to 8 of this Article shall apply from ... /24 months after the date of application of this Regulation].</u>	<p>Defend GA, but flexibility to shorten the period between entry into force of the regulation and the date of application of the rules on MOT for small pelagics (rows 243c, 244d and 244f) and tropical tuna (rows 244e).</p> <p>Sequence 7 Sequence 16</p>
Article 1, first paragraph, point (11), amending provision(9), first subparagraph, introductory part				
259	9. The Commission may, by means of implementing acts,		9. The Commission may, by means of implementing acts, <u>establish conversion factors and lay down detailed rules on:</u>	<p>GA accepted. Linked to row 260.</p> <p>9. The Commission may, by means of implementing acts, <u>establish conversion factors and lay down</u></p>

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				detailed rules on: Sequence 7
Article 1, first paragraph, point (11), amending provision(9)(a)				
260	(a) lay down detailed rules on the implementation of the margin of tolerance as defined in paragraph 3;		(a) lay down detailed rules on the implementation of the margins of tolerance referred to in paragraphs 34, 4a and 4b ;	Flexibility to delete reference to paragraphs 4a and 4b. Linked to proposal set out in row 258a, i.e. that certain provisions on the MOT apply earlier. Sequence 16 Sequence 7
Article 1, first paragraph, point (11), amending provision(9), second subparagraph				
263	Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 119(2). ”		Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 119(2). <u>Implementing acts referred to in point (a) of this paragraph shall be adopted by ... [18 months after the entry into force of this Regulation].</u> ”	Defend GA. Sequence 7 Sequence 16
Article 1, first paragraph, point (20), amending provision(3)				
351	3. When compared with the quantities landed or the result of an inspection, the permitted margin of tolerance in estimates recorded in the transshipment declaration of the quantities in kilograms of fish retained on board shall be 10 % per species.	3. When compared with the quantities landed or the result of an inspection, the permitted margin of tolerance in estimates recorded in the transshipment declaration of the quantities in kilograms of fish retained on board shall be 10 15 % per species.	3. When compared with the quantities landed or <u>with</u> the result of an inspection, the permitted margin of tolerance in estimates recorded in the transshipment declaration of the quantities in kilograms of fish retained on board shall be 10 % per species <u>that as set</u>	Defend GA. Sequence 16

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		EP AM 107, EX AMs 432 and 433 (S&D)	out in Article 14(4).	
Article 5				
1314	Article 5 Amendments to Regulation (EU) No 2016/1139		Article 5 Amendments to Regulation (EU) No 2016/1139	Defend GA. Sequence 16
Article 5, first paragraph				
1315	In Regulation (EC) No 2016/1139, Articles 12 and 13 are deleted.		In Regulation (EC) No 2016/1139, Articles 12 and 13 are deleted.	Defend GA. Sequence 16