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**Interinstitutional files:
2018/0193 (COD)**

WK 5984/2023 INIT

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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 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 - Selected rows from various tables

Delegations will find attached selected rows from tables on Sequence 4 ("Fishing without a vessel"), Sequence 9 ("Tracking of vessels"), Sequence 10 ("Enforcement, infringements and sanctions") and Sequence 13 ("Control in the supply chain") of the four-column document concerning the abovementioned proposal. Please note that WK 5984/2023 contains the entire table and can be used to provide context.

In the fourth column, the Presidency provides suggestions and comments 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, in particular, highlighted sections).

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 11 May 2023.

Sequence 4

Fishing without a vessel

	Commission Proposal	EP Mandate	2018/0193 (COD) Council Mandate	Presidency proposals on the way forward
Article 1, first paragraph, point (43a), amending provision, numbered paragraph (3)				
5081				Flexibility to accept the following text: 2a. Natural or legal persons conducting fishing without a vessel or their representative shall record the catches referred to in paragraph 2(b) and those records shall contain in particular the following information: (a) a unique fishing day identification number; (b) the unique identifier in the system referred to in point (a) of Article 54d(2); (c) the FAO alpha-3 code of each species and the relevant geographical area in which the catches were taken; (d) the date of catches; (da) the category of fishing gear, where applicable; (e) the quantities of each species in kilograms live weight or, where appropriate, the number of individuals, including the quantities or individuals below the applicable minimum conservation reference size, as a separate entry; (f) estimated discards of live-weight equivalent in volume for any species not subject to the landing obligation;

	Commission Proposal	EP Mandate	2018/0193 (COD) Council Mandate	Presidency proposals on the way forward
				(g) estimated discards in volume for any species not subject to the landing obligation pursuant to Article 15(4) and (5) of Regulation (EU) No 1380/2013; 2b. The records referred to in point b of paragraph 2 shall be submitted by electronic means at least once within 24 hours after the start of the fishing activity. Sequence 4
Article 1, first paragraph, point (43a), amending provision(3)				
508m			<u>3. This Article shall apply from ... [24 months after the date of application of this Regulation].</u>	To be discussed at a later stage. Sequence 4 Entry into force
Article 1, first paragraph, point (43a), amending provision(4)				
508n			<u>4. The Commission may, by means of implementing acts, lay down detailed rules on the format, content and submission of the record of the quantities caught as referred to in point (b) of paragraph 2. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 119(2).</u>	Flexibility to accept the following Presidency proposal (see, in particular, paragraph 2a(e) in row 508l): <u>4. The Commission may, by means of implementing acts, lay down detailed rules on the weighing of catches, format and submission of the catch declaration referred to in paragraph 3, taking into account, if necessary, the specificities of those fisheries. Those implementing acts shall be adopted in accordance with the</u>

	Commission Proposal	EP Mandate	2018/0193 (COD) Council Mandate	Presidency proposals on the way forward
				<u>examination procedure referred to in Article 119(2).</u> Sequence 4

Sequence 9

Row 507

	Commission Proposal	EP Mandate	2018/0193 (COD) Council Mandate	Draft Agreement
Article 1, first paragraph, point (43), amending provision, first paragraph				
501	" Article 50		" Article 50	" Article 50 Sequence 9
Article 1, first paragraph, point (43), amending provision, second paragraph				
502	Control of fishing restricted areas	" Control of fishing restricted areas and marine protected areas EP AM 145, EX AMs 604 (S&D) and ENVI 60	Control of fishing restricted areas	Control of fishing restricted areas Sequence 9
Article 1, first paragraph, point (43), amending provision(1)				
503	1. Fishing activities in fishing restricted areas located in Union waters shall be controlled by the coastal Member State. The coastal Member State shall have a system to detect and record the fishing vessels' entry into, transit through and exit from fishing restricted areas under its jurisdiction or sovereignty.	1. Fishing activities in fishing restricted areas and marine protected areas located in Union waters shall be controlled by the coastal Member State. The coastal Member State shall have a system to detect and record the fishing vessels' entry into, transit through and exit from fishing restricted	1. Fishing activities in fishing restricted areas located in Union waters shall be controlled by the coastal Member State. The coastal Member State shall have a system to detect and record the fishing vessels' entry into, transit through and exit from fishing restricted areas under its jurisdiction or sovereignty.	GA accepted. 1. Fishing activities in fishing restricted areas located in Union waters shall be controlled by the coastal Member State. The coastal Member State shall have a system to detect and record the fishing vessels' entry into, transit through and exit from fishing restricted

	Commission Proposal	EP Mandate	2018/0193 (COD) Council Mandate	Draft Agreement
		<u>areas and marine protected</u> areas under its jurisdiction or sovereignty. EP AM 146, EX AMs 606 (S&D) and ENVI 61		areas under its jurisdiction or sovereignty. Sequence 9
Article 1, first paragraph, point (43), amending provision(2)				
504	2. Fishing activities of Union fishing vessels in fishing restricted areas located in high seas or in third country waters shall be controlled by the flag Member States.	2. Fishing activities of Union fishing vessels in fishing restricted areas <u>and marine protected areas</u> located in high seas or in third country waters shall be controlled by the flag Member States. EP AM 147, EX AM 608 (S&D)	2. Fishing activities of Union fishing vessels in fishing restricted areas located in high seas or in third country waters shall be controlled by the flag Member States, <u>to the extent permitted under international law</u> .	Agreed in line with the revised mandate of 5.10.2023 2. Fishing activities of Union fishing vessels in fishing restricted areas located in high seas or in third country waters shall be controlled by the flag Member States. Sequence 9
Article 1, first paragraph, point (43), amending provision(3)				
505	3. Transit through a fishing restricted area is allowed for all fishing vessels that are not authorised to fish in such areas subject to the following conditions:	3. Transit through a fishing restricted area <u>or marine protected area</u> is allowed for all fishing vessels that are not authorised to fish in such areas subject to the following conditions: EP AM 148, EX AMs 612 (S&D) and ENVI 63	3. Transit through a fishing restricted area is allowed for all fishing <u>Catching</u> vessels that are not authorised to fish in <u>fishing restricted areas may only transit through</u> such areas subject to the following conditions:	Agreed in line with the revised mandate of 5.10.2023 3. Transit through a fishing restricted area is allowed for all fishing <u>3. Union and third country catching</u> vessels that are not authorised to fish in <u>conduct fishing activities in fishing restricted areas may only transit through</u> such areas subject to the following conditions: Sequence 9
Article 1, first paragraph, point (43), amending provision(3), point (a)				

	Commission Proposal	EP Mandate	2018/0193 (COD) Council Mandate	Draft Agreement
506	(a) all gears carried on board are lashed and stowed during the transit; and		(a) all gears <u>fishing gear</u> carried on board are <u>is</u> lashed and stowed during the transit; and	GA accepted. (a) all gears <u>fishing gear</u> carried on board are <u>is</u> lashed and stowed during the transit; and Sequence 9
Article 1, first paragraph, point (43), amending provision(3), point (b)				
507	(b) the speed during transit is not less than six knots except in case of force majeure or adverse conditions. In such cases, the master shall immediately inform the fisheries monitoring centre of its flag Member State which shall then inform the competent authorities of the coastal Member State.		(b) <u>the transit is continuous and</u> the speed during transit is not less than six knots except in ease <u>cases</u> of force majeure or adverse <u>conditions</u> . In such cases, the master shall immediately inform the fisheries monitoring centre of its flag Member State which shall then inform the competent authorities of the coastal Member State; and	Flexibility to accept the following compromise proposal: <u>(b) the transit is continuous and expeditious and</u> the speed during transit is not less than six knots except in ease <u>cases</u> of force majeure or adverse <u>conditions</u> . In such cases, the master of a Union catching vessel shall immediately inform the fisheries monitoring centre of its flag Member State which shall then inform the competent authorities of the coastal Member State, <u>and the master of a third country vessel shall immediately inform the competent authorities of the coastal Member State; and</u> Sequence 9
Article 1, first paragraph, point (43), amending provision(3), point (c)				
508	(c) the tracking device providing position of the vessels in accordance with Article 9 is functioning. "		(c) the tracking device providing position of the vessels in accordance with <u>as referred to in</u> Article 9 is functioning-	GA accepted. (c) the tracking device providing position of the vessels in

	Commission Proposal	EP Mandate	2018/0193 (COD) Council Mandate	Draft Agreement
				accordance with <u>as referred to in</u> Article 9 is functioning. Sequence 9

Sequence 10

Rows 855c and 864 (including criteria in Annex IV)

Article 1, first paragraph, point (69), amending provision(2), point (qc)				
855c				Reject the following EP proposal, as it overlaps with row 864 and the related part of Annex IV: EP proposal 17.11.2022 (s) the sale of fishery products from recreational fisheries. Sequence 10

Article 1, first paragraph, point (69), amending provision(3), point (h)				
864	(h) conducting recreational fishing activities in breach of rules of the common fisheries policy or selling of catches from recreational fisheries; or		(h) conducting recreational fishing activities in breach of <u>the</u> rules of the common fisheries policy or selling of catches <u>the sale of fishery products</u> from recreational fisheries; or	GA accepted. (h) conducting recreational fishing activities in breach of <u>the</u> rules of the common fisheries policy or selling of catches <u>the sale of fishery products</u> from recreational fisheries; or Sequence 10

Annex IV - Row 864

Infringement:

GA accepted.

(h) conducting recreational fishing activities in breach of the rules of the common fisheries policy or ~~selling of catches~~ the sale of fishery products from recreational fisheries;
~~or~~

Criteria	Proposals
A	In view of a compromise with the EP, flexibility to accept the following text: selling fishery products from recreational fisheries which represent a value equal to or greater than 50 € or quantities that are equal to or more than 10 kg;
B	Flexibility to accept the following EP proposal: EP (17.11.2022) 2 individuals 50% or more of specimen retained are unauthorized or 1 individual or more are prohibited species;
C	Flexibility to accept the following EP proposal: EP (17.11.2022) 25% or more of specimen retained are noncompliant with the minimum conservation reference size;
C	GA accepted. Council General Approach retaining quantities of species exceeding the bag or catch limits or exceeding by 50% applicable quotas;
D	Flexibility to accept the following PSY proposal: PSY (22.2.2023) the competent authority of a Member State has confirmed that the natural person or legal person concerned has committed or was held liable for a serious infringement under point (h) of Article 90(3) in final judgment or decision issued in the last 12 months before the date on which the present infringement was committed.

Row 865h (and linked recital)

	Commission Proposal	EP Mandate	2018/0193 (COD) Council Mandate	Draft Agreement
Article 1, first paragraph, point (69), amending provision, numbered paragraph (3c)				
865h				Flexibility to accept the following Presidency proposal (small adjustment of the recital): PSY 3.5.2023 The Commission shall be empowered to adopt delegated acts in accordance with Article 119a to amend the criteria set out in Annex IV of this Regulation where there are clear indications that this is necessary to ensure effective and proportionate enforcement of the rules of the common fishery policy by and across Member States. It shall take into account, in particular, advice of the expert group on compliance referred to in Article 37 of Regulation (EU) No 1380/2013 or the findings of the report drawn by the Commission under Article 118(2). Any such amendments shall not add any new criteria and only repeal criteria in exceptional cases. Recital: When exercising the power conferred to it to amend the criteria set out in Annex IV of this Regulation in view of ensuring effective and proportionate enforcement of the rules of the

	Commission Proposal	EP Mandate	2018/0193 (COD) Council Mandate	Draft Agreement
			PUBLIC	common fishery policy by Member States, the Commission should take into account, in particular, advice of the expert group on compliance referred to in Article 37 of Regulation (EU) No. 1380/2013, or the findings of the report drawn by the Commission under Article 118(2). Any such amendment should not add any new criteria and only repeal criteria in exceptional cases. Sequence 10

Annex III

"ANNEX III

POINTS TO BE ASSIGNED TO UNION FISHING LICENCE HOLDERS OR UNION MASTERS FOR SERIOUS INFRINGEMENTS

Reference and row of the provision ¹	Serious infringement	Presidency proposals on the way forward
Article 90(2)(ja) 848	Flexibility to agree to the following text: (j)(ia) engaging in directed fishing <u>fishing for, catching</u> , retaining on board, transshipping, transferring or landing <u>landing, storing, selling, displaying or offering for sale</u> species <u>for</u> which <u>such activities are prohibited</u> , are subject to a moratorium, a closed season or for which fishing is prohibited <u>the conditions set out in Articles 10 and 11 of Regulation (EU) 2019/1241</u> ; or	GA accepted. 7
Article 90(2)(jb) 848a	Flexibility to agree to the following text:	<u>Flexibility to accept:</u> <u>7 points</u>

¹ The order of appearance of the Articles with the same number of points will be adjusted later.

	<u>(jb) conducting fishing activities involving species subject to catch limits for which the operator does not have a quota or does not have access to the quota of the flag Member State, species for which the quota is exhausted, or species subject to a fishing moratorium, temporary prohibition or closed season, except accidental catches, unless the activity is a serious infringement under point (ja);</u>	Note: This is not a change in substance, but a matter of alignment with Art. 90(2)(ja). Art. 90(2)(j) (row 848) has been split. The GA had envisaged 7 points for this infringement.
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Sequence 13

Article 58

	Commission Proposal	EP Mandate	2018/0193 (COD) Council Mandate	Presidency proposals on the way forward
Article 1, first paragraph, point (46), amending provision, numbered paragraph (7a)				
582a				Flexibility to accept the following Commission proposal as adjusted by the Presidency: COM proposal 17.4.2023 7a. The Commission shall conduct a study on feasible traceability systems and procedures, including minimum traceability information, for fishery and aquaculture products falling under headings 1604 and 1605 of Chapter 16 of the Combined Nomenclature, in view of defining detailed rules for such products. The study shall include an analysis of available digital solutions or methods which meet the requirements on traceability in this regulation, while taking into account the impact on small operators. Sequence 13
New row				
582b				Flexibility to clarify that traceability rules for Chapter 16 products should require digital handling, similar to the rules for Chapter 3 products. Concrete textual proposal to be developed.

	Commission Proposal	EP Mandate	2018/0193 (COD) Council Mandate	Presidency proposals on the way forward
			PUBLIC	Flexibility to accept the following Presidency proposal: 7b. The Commission is empowered to adopt delegated acts in accordance with the Article 119a concerning the traceability requirements for lots of fishery and aquaculture products falling under headings 1604 and 1605 of Chapter 16 of the Combined Nomenclature on the basis of the results of the study conducted in accordance with paragraph 7a. These requirements shall apply from [5 years after the date of entry into force of this Regulation].

Definition of « processing »

	Commission Proposal	EP Mandate	2018/0193 (COD) Council Mandate	Draft Agreement
Article 1, first paragraph, point (1)(fb)				
144b		<i><u>(fb) point 21 is replaced by the following:</u></i> <i><u>21. ‘processing’ means the process by which the fishery or aquaculture products are prepared. It includes any kind of cutting, filleting, packing, canning, freezing, smoking, salting, cooking, pickling, drying or preparing</u></i>		Flexibility to accept the following proposal: ‘processing’ means the process by which the presentation was prepared. It includes <u>cutting</u>, filleting, packing, canning, freezing, smoking, salting, cooking, pickling, drying or preparing fish for market in any other manner; Sequence 13

	Commission Proposal	EP Mandate	2018/0193 (COD) Council Mandate	Draft Agreement
		<u>fisheries or aquaculture products for market in any other manner;</u> EP AM 45, EX CA 1B		

Article 59

	Commission Proposal	EP Mandate	2018/0193 (COD) Council Mandate	Draft Agreement
Article 1, first paragraph, point (47)				
591	(47) in Article 59, paragraph 3 is replaced by the following:		(47) in Article 59, paragraph 3 <u>is paragraphs 2 and 3 are</u> replaced by the following:	Sequence 13
Article 1, first paragraph, point (47), amending provision(2)				
591a			" <u>2. The buyer of the fishery products at first sale shall be registered with the competent authorities of the Member State where the first sale takes place. For the purpose of registration, each buyer shall be identified according to its VAT number, tax identification number or other unique identifier in national databases.</u>	Defend GA. Sequence 13

	Commission Proposal	EP Mandate	2018/0193 (COD) Council Mandate	Draft Agreement
Article 1, first paragraph, point (47), amending provision(3)				
592	" 3. Consumers acquiring up to an amount of 5kg of fishery product per day which are not thereafter placed on the market but used only for private consumption shall be exempted from this Article. "		3. Consumers acquiring up to an amount of 5kg of fishery product <u>This Article shall not apply to consumers purchasing fishery products not exceeding 15kg per consumer</u> per day which are not thereafter placed on the market <u>sold</u> but used only for private consumption shall be exempted from this Article. "	Flexibility to accept the following drafting changes: This article shall not apply to consumers acquiring directly from catching vessels or operators fishing without a vessel, fishery products which are not thereafter placed on the market but used only for private consumption, provided that those quantities do not exceed 10 kg of fishery products per consumer per day. For salmon (<i>Salmo salar</i>) caught in the Baltic Sea, that threshold shall be two individuals per consumer per day. Sequence 13