



EUROPEAN COMMISSION

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**COMMUNICATION FROM THE COMMISSION
TO THE EUROPEAN PARLIAMENT**

pursuant to Article 294(6) of the Treaty on the Functioning of the European Union

concerning the

**position of the Council on the adoption of a Regulation of the European Parliament and
of the Council on certain provisions for fishing in the GFCM (General Fisheries
Commission for the Mediterranean) Agreement Area**

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1. BACKGROUND

Date of transmission of the proposal to the European Parliament and 16.09.2009.
to the Council
(document COM(2009) 477 final – 2009/0129 COD):

Date of the opinion of the European Economic and Social 17.03.2010.
Committee:

Date of the position of the European Parliament, first reading: 08.03.2011.

Date of transmission of the amended proposal: 29.03.2011.

Date of adoption of the position of the Council: 20.10.2011.

2. OBJECTIVE OF THE PROPOSAL FROM THE COMMISSION

The aim of the proposal is to transpose into EU law recommendations adopted in the framework of the Agreement for the establishment of the General Fisheries Commission for the Mediterranean (GFCM) and to amend Council Regulation 1967/2006. These international conservation and management measures are already in force and binding on the EU and the Member States. Transposition is nevertheless necessary in order to make these international measures applicable to natural or legal persons at EU level and to ensure legal certainty to that effect.

3. COMMENTS ON THE POSITION OF THE COUNCIL

3.1. General comments on Council position:

The Commission agrees that the transposition of new GFCM recommendations should be subject to the ordinary legislative procedure but it has always taken the position that the Commission should be vested with delegated powers to transpose into EU law at least amendments to all existing measures. The Council's position is a significant move vis-à-vis the Commission's original position, although it does not fully correspond with it. In order to avoid further delays in the transposition of binding GFCM measures into EU law that would result from a long second reading, the Council position can be supported.

3.2. Amendments by the European Parliament at first reading:

- integrated in the Council position at first reading: 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 40, 45, 46, 50, 51 and 52.
- not integrated in the Council position at first reading: 41, 42, 43 and 44 relating to delegation; 26 relating to the first deadline for transmission of the list of demersal trawlers in the Black Sea; 47 and 13 relating to the recitals on implementing and delegated acts respectively; 48 and 49 relating to implementing acts.

When preparing its Common Position the Council took over all those Parliament amendments which were uncontentious and made additional changes to reflect the outcome of the trilogue of 21 June 2011. The legal services and lawyer linguists of both institutions were mandated to make all the relevant adjustments to the text. The resulting document therefore represents the Commission proposal modified following agreed Parliament amendments and integrating the outcome of the trilogue on those sensitive issues.

3.3. New provisions introduced by the Council and Commission position in this regard:

Following the request of the Presidency, the Commission identified a list of Articles suitable for implementing acts: Article 9 (information - report on fisheries activities) Article 12(4) and (6) (on closed seasons), Article 14 (data collection), Article 15(3) on minimum mesh size in the Black Sea), Article 23 (cooperation and information) and Article 24(4) (statistical matrices). This list was communicated during the Council Working Party of 16 June 2011. No objections to this list were raised during the third informal trilogue of 21 June 2011.

The Council in its current position introduced those specifications, in respect of which the Commission has no objections.

Other minor changes result from the fact that the text has been revised by the legal-linguistic experts and has been aligned to the changes introduced by the Lisbon Treaty, to the standard wordings based on the new Comitology Regulation (EU) No 182/2011 and on the Common Understanding on Delegated Acts. The recitals are adapted to the final contents of the operational provisions of the Proposal.

The Commission has no objections with regard to these changes.

3.4. Problems encountered in the adoption of the position at first reading and Commission position in this regard:

The Commission proposal was prepared and presented before the entry into force of the Lisbon Treaty. Therefore the provisions on comitology had to be adapted to the Lisbon Treaty by foreseeing implementing and delegated acts in accordance with Articles 291 and 290 TFEU. This resulted in long discussions. The Commission position in this regard has always been that delegated powers should be conferred upon the Commission for the purposes of transposing into EU law at least amendments to all existing measures.

4. CONCLUSION

The Commission can agree with the Council position which is the result of the discussions with the European Parliament, in view of an early adoption of the Regulation. Nevertheless, the Commission is concerned that the limited powers delegated to it by the co-legislators may affect the EU's ability to ensure a timely transposition into EU law of measures established by the GFCM in the future, which revise or update the international conservation and management measures of this organisation. Consequently, the Commission makes the following declaration:

The Commission expresses concern that the limited powers delegated to it by the co-legislators may affect the EU's ability to ensure the timely transposition in EU law of measures taken by the GFCM in the future that revise or update the international conservation and management measures of this organisation.

The Commission therefore may propose amendments to the Regulation increasing the number of measures which should be adopted by delegated acts in case the transposition through the ordinary legislative procedure leads to delays which would jeopardise the EU's ability to comply with its international obligations.