



Brussels, 18.10.2013
COM(2013) 732 final

2011/0194 (COD)

**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 the Regulation (EU) No .../2013 of the European Parliament and of the Council on the common organisation of the markets in fishery and aquaculture products, amending Council Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000

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1. BACKGROUND

Date of transmission of the proposal to the European Parliament and to the Council 13 July 2011.
(document COM(2011) 416 final – 2011/0194 (COD):

Date of the opinion of the European Economic and Social Committee: 28 March 2012.

Date of the opinion of the Committee of the Regions: 4 May 2012.

Date of the position of the European Parliament, first reading: 12 September 2012.

Date of transmission of the amended proposal: .

Date of adoption of the position of the Council: 17 October 2013.

2. OBJECTIVE OF THE PROPOSAL FROM THE COMMISSION

The aim of this proposal is to contribute to the objectives of the Common Fisheries Policy reform, and in particular to the sustainable management of fisheries and aquaculture resources. The Common Market Organisation (CMO) in Fishery and Aquaculture products intends to simplify the current legislation and reduce administrative burden, to implement a new intervention logic, to enhance the role of Producer Organisations (POs) and to better inform consumers.

3. COMMENTS ON THE POSITION OF THE COUNCIL

3.1 General comments on Council position:

The Commission agrees with the Council position, as the compromise political agreement between the European Parliament and the Council maintains the main lines of the Commission's proposal, namely, 1) the simplification of legislation, procedures and reporting obligations, as well as the reduction of administrative burden for operators, national administrations and the Commission, 2) the immediate elimination of withdrawal mechanisms of fish from the market and introduction of one single storage aid mechanism for fishery products intended for human consumption, 3) the empowerment of the POs to play a greater role in collective planning and

management of fishery and aquaculture activities to achieve sustainable fishing and aquaculture policy, including the elimination of discards.

3.2 Amendments by the European Parliament at first reading:

The European Parliament introduced 146 amendments on all parts of the Commission proposal. During trilogues, EP amendments were reviewed and negotiated. Some have been fully integrated in the Council position at first reading. This is the case for amendments 1, 7, 30, 89, 104, 130, 131 and 134, as well as the one concerning the fishing gear.

For the majority of EP amendments, the Council position is formulated in such a way that it represents the thrust of the Parliament's position. This has been the case for amendments 2, 3, 23, 27, 29, 32, 36, 38, 39, 74, 97, 111, 113, 128, 133, 135, 139. Amendment 123 creates the obligation for the Commission to submit a feasibility report on options for an eco-label scheme.

Amendments 43 and 44 removed the measure concerning the distribution by POs of landed products free of charge to philanthropic or charitable purposes.

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

The Council introduced new provisions concerning the functioning of POs and inter-branch organisations (new Art. 18 a), the mandatory information (Art. 42 points 2 to 5) and the commercial designation (Art. 43, points 2 and 3).

Council removed Art. 38 related the collective fund.

The Commission can accept these changes as these do not alter the main objective of the Commission proposal. However, it regrets the deletion of 4 articles providing for delegated acts which would have enabled the Commission to react flexibly to the steadily changing situations on the market and would have allowed the Commission to bring more details of technical nature in the rules to be adopted to provide the sector with more precision about the obligations they have to observe (Art. 24 concerning the conditions for recognition of POs and rules of checks to be carried out by Member States, Art. 33 related to the content of production and marketing plans, Art. 41 on the definition of common marketing standards and Art. 46 concerning mandatory information to consumers and definition of minimum criteria for voluntary information).

The Council also introduced a new Art. 53a concerning the continuation of the current rules establishing common marketing standards. In the absence of delegated acts on the definition of the standards, this provision is appropriate to specify that the acts currently in force will continue to apply.

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

During the finalisation of negotiations, the co-legislators have extended the implementing powers to the form of applications for recognition of POs and to the format and structure of the production and marketing plans, respectively. The Commission can accept this extension on grounds that it does not supplement any provision of the co-decision act but rather facilitates the uniform implementation of the CMO.

The Commission considers that the reform of CMO has missed an opportunity to further improve the information to consumers about fishery and aquaculture products by removing the provisions for the "date of catch/harvest" and for the labelling requirements for preserved and prepared products (commercial designation and provenance).

4. CONCLUSION

The Commission can agree with the Council position which is the outcome of the negotiations with the European Parliament. Nevertheless, the Commission makes a statement in relation to certain provisions on labelling, which is the following:

The Commission regrets that the agreement between the co-legislators have removed from the Commission's proposal the obligation to indicate the "date of catch" and the "date of harvest" for fishery and aquaculture products, respectively. The Commission considers that these dates provide essential information for consumers. The indication of dates of catch and harvest clearly benefit Union's small-scale fishers and farmers, and promote short distribution channels for fishery and aquaculture products. The Commission also regrets that the co-legislators have removed from the Commission's proposal the application of certain labelling requirements to preserved and prepared products, i.e. commercial name, production method and provenance. The Commission believes that these requirements respond to the growing public demand for information about the content of preserved and prepared products. This is also an essential matter for the credibility and value of Union's production.

The Commission would like to reiterate that the above labelling improvements proposed by the Commission would not impose any disproportionate burden on the fishing industry as they build on the existing traceability requirements.

The Commission does not agree with the change introduced by the lawyer linguists to Article 42(1)(e) of the text of the political agreement reached at the informal trilogue on 8 May 2013 on the Commission's proposal for a regulation on the common organisation of the markets in fishery and aquaculture products (new Article 35(1)(e) of document 12005/13). The Commission's position is that, as agreed during the informal trilogue on 8 May 2013, appropriate marking or labelling should indicate the date of minimum durability, without any further qualification, for all fishery and aquaculture products referred to in Article 42(1) (new Article 35(1) of document 12005/13) offered for sale to the final consumer. Introducing the words "where appropriate" at the end of Article 42(1)(e) (new Article 35(1)(e) of document 12005/13) will create legal uncertainty and jeopardise reaching the objective of improving transparency for consumers.