

#### COUNCIL OF THE EUROPEAN UNION



# **Council conclusions on a Communication from the Commission on the External dimension of the Common Fisheries Policy**

# 3155th AGRICULTURE and FISHERIES Council meeting Brussels, 19 and 20 March 2012

The Council adopted the following conclusions:

"THE COUNCIL OF THE EUROPEAN UNION

1. RECALLING the adoption on 16 June 2000 of its conclusions on Regional Fisheries Organisations<sup>1</sup> in which it stressed these organisations' fundamental role in managing fisheries at the international level, called for an increased Union participation and agreed on an efficient division of responsibilities between the Commission and Member States;

2. RECALLING the adoption on 19 July 2004 of its conclusions on fisheries partnership agreements with third countries<sup>2</sup> setting out the political framework for bilateral fisheries agreements with third countries which involve financial compensation from the Union;

3. WELCOMING that in the context of reforming the Common Fisheries Policy (CFP), the Commission has presented to the European Parliament and the Council a Communication on the External dimension of the Common Fisheries Policy<sup>3</sup>, in which the Commission presents its views on the external fisheries policy in its multilateral, regional and bilateral dimensions;

4. RECOGNISING that the 2000 and 2004 conclusions have provided valuable guidance for the external fisheries policy, and NOTING that the Commission's Communication provides the opportunity to revisit them and to combine their scope to cover the entire external dimension;

<sup>&</sup>lt;sup>3</sup> Cf. doc. 12517/11 PECHE 189; COM (2011)424 final.



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<sup>&</sup>lt;sup>1</sup> Cf. doc. 9108/00 PECHE 83.

<sup>&</sup>lt;sup>2</sup> Cf. doc. 11485/1/04 REV 1 PECHE 254.

5. CONSIDERING that key elements of the external dimension of the CFP should be incorporated in the legislative act adopted on the basis of the Commission's Proposal for a Regulation of the European Parliament and of the Council on the Common Fisheries Policy<sup>4</sup> and that these key elements, to the extent not already contained in the proposal, be developed by means of the present Conclusions;

6. RECALLING the political, environmental, economic and social importance of the external dimension of the Common Fisheries Policy, at both Union and international level, and RECALLING that according to Article 208 TFEU, the Union takes account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries;

7. STRESSING the need for the external dimension to follow the same principles and promote the same standards for fisheries management as applied in EU waters;

8. STRESSING likewise the need to promote a level playing field, inter alia to support transparent trade in fisheries products, which are subject to standards that are strictly observed and controlled;

9. UNDERLINING that the Commission should fully involve the Member States in the decisionmaking process on all aspects of external fisheries policy and WELCOMING continued cooperation with the European Parliament on the objectives of the CFP and framework for reaching those objectives.

Without prejudice to the final outcome of discussions on the scope and content of the provisions on the external dimension of the CFP to be included in the legislative act adopted by the European Parliament and the Council in accordance with the ordinary legislative procedure on the basis of the Commission's proposal, the Council concludes as follows:

## Long term sustainability worldwide

# 1. REAFFIRMS ITS WILLINGNESS:

- to guarantee and step up its actions in the United Nations and its Food and Agriculture Organisation and other multilateral contexts, with the aim of ensuring sustainable fisheries and preserving marine biodiversity worldwide and protecting the marine environment, in accordance with international law, including the United Nations Convention on the Law of the Sea of 10 December 1982 (UNCLOS) and the Agreement for the Implementation of the Provisions of the UNCLOS relating to the conservation and management of straddling fish stocks and highly migratory fish stocks of 4 December 1995 (1995 Straddling Stocks Agreement), and in accordance with the general principles as defined for the conservation and sustainable management of fisheries resources under the CFP;
- to continue promoting initiatives concentrating on the role of port states and flag states in combating illegal, unregulated and unreported (IUU) fishing;

<sup>&</sup>lt;sup>4</sup> Cf. doc. 12514/11 PECHE 187; COM(2011)425 final.

- to transform the Union's dialogues with its neighbours and main partners in fishing and markets activity into partnerships in order to ensure sustainability of global fishery and control of fishing activities, in particular to build joint mechanisms for combating IUU fishing; and
- to ensure a level playing field where stocks of common interest are shared with third countries emphasising the need for joint management initiatives and, if necessary, taking EU measures in response to failures by third countries, in accordance with international law, in order to guarantee the effectiveness of conservation efforts.

## **Regional Fisheries Management Organisations (RFMOs)**

2. REAFFIRMS that RFMOs play a fundamental role in the sustainable management of fisheries resources at international level and AGREES that efforts need to be stepped up to allow these bodies to deliver on their mandate in an efficient and effective way, in particular by :

- improving the governance within RFMOs, notably with regard to the decision making process;
- undertaking regular performance reviews preferably by external experts;
- exploring and implementing all possibilities to deliver high-standard scientific advice as a basis for sound fisheries management decisions; increasing the EU's investment and cooperation in data collection, applied research, scientific knowledge and in RFMO's scientific activities while encouraging other RFMO members to do the same;
- identifying reasons for lack of compliance (e.g. lack of capacity in developing countries) and addressing them in an appropriate, focused manner; ensuring compliance of RFMO members through periodical compliance reviews and appropriate remedial actions, including sanctions which need to be applicable in a transparent and non-discriminatory fashion;
- improving the monitoring of fishing capacity and promoting the establishment of a global fleet register within FAO, and adjusting fishing capacity to available resources in line with scientific advice;
- strengthening cooperation among RFMOs and consistency between their respective regulatory frameworks.

## Bilateral fisheries agreements involving financial compensation

3. SUPPORTS concluding and maintaining bilateral fisheries agreements involving financial compensation for the mutual benefit of the Union and partner countries, including its local population, with the aim of ensuring the sustainable exploitation of surpluses of marine living resources as well as a means of protecting this activity and the employment linked to the fleets operating within these agreements because of their special nature and their connection to regions which are highly dependent on fisheries;

4. RECALLS the objective to ensure coherence of Union initiatives, with particular regard to environmental, trade and development policies; and to strengthen consistency of actions taken by the Union, Member States and relevant international bodies, especially in the context of development cooperation and scientific, technical and economic cooperation;

5. STRESSES that in the framework of its bilateral fisheries relations with third coastal states which involve financial compensation, the Union must:

contribute towards resource conservation and environmental sustainability through rational and sustainable exploitation of living marine resources of the coastal state, in particular by directing fisheries exclusively at surplus resources and preventing the overfishing of stocks; in this context it is important that the coastal state shares information on the cumulative fishing effort expended by all national and foreign fleets in its waters.

Due account should be taken of the coastal state's priorities in favour of its own fishing sector, while the Union should seek an appropriate share of the surplus resources, fully commensurate with the EU fleets interests, when they also interest other foreign fleets, and avoid any discriminatory treatment towards EU vessels. Concerning straddling or highly migratory fish stocks, the determination of the resources available for access should take due account of scientific assessments conducted at (sub-)regional level as well as conservation and management measures adopted by the Regional Fisheries Management Organisation;

- seek to achieve terms for agreements concerning living marine resources that provide for adequate economic returns for the Union, based on expert evaluations of the economic value added, on the best available scientific advice and on the utilisation of fishing opportunities granted in the past;
- promote the respect of human rights and democratic principles that should constitute essential elements of entering into bilateral agreements, by allowing to suspend such agreements in case of serious violations of these human rights and democratic principles, in the case of ACP countries, taking into account the relevant provisions of the Cotonou Agreement, in particular its articles 8, 9 and 96;
- facilitate the integration of developing coastal states into the global economy, inter alia by promoting fair conditions of employment for the employees of the sector and by encouraging the creation of a secure environment that is favourable to private investment;
- foster better global governance of fisheries, in particular by contributing to the capacity building of coastal States;
- promote strategies for the sustainable management of fisheries as defined by the coastal state and in accordance with its capacity to absorb financial assistance. The design of such sectoral support should:
  - (i) contribute towards combating IUU fishing, in particular by stepping up in a non-discriminatory fashion the management, control and monitoring of fishing activities,
  - (ii) pay regard to the interests of the local fisheries sector as well as food security and other benefits to the local population,
  - (iii) contribute to improving the scientific and technical evaluation of the fisheries concerned and to promoting scientific and management cooperation of the coastal state with its neighbours in the fishing region,
  - (iv) address, where appropriate, the hygiene and safety on board requirements and the business environment of the sector.
    This should take account of the development programmes elaborated at national and/or regional level with Union assistance in accordance with cooperation or association agreements.
- take into account the interests of the Union's outermost regions located in their vicinity;

6. CONSIDERS that the continuous policy dialogue held with coastal states must be consolidated by a binding instrument which lays down the rights and obligations of the Parties and of stakeholders on both sides in the form of Fisheries Partnership Agreements (hereinafter referred to as «FPA»), notably by defining:

- the fishing opportunities accessible to Union operators, inter alia by establishing:
  - (a) conditions related to fishing activities applicable to all Union vessels, including measures to ensure the exclusive nature of the agreements and to discourage reflagging for purposes that are not in line with sustainable exploitation of surplus resources in a given coastal state;
  - (b) terms and detailed arrangements, which should be easy to implement and based on standard clauses for:
    - the granting of fishing authorisations, notably by ensuring that the level of fees payable by Union shipowners for their fishing activities is fair, nondiscriminatory and commensurate to the benefits provided through the access conditions;
    - (ii) the control and monitoring of fishing activities;
  - (c) other arrangements for activities linked to processing and marketing of fishery products;
- action to ensure that an adequate contribution from the financial envelope is made to assist the scientific and technical development of fisheries in the coastal state in question, as well as to assist the transfer of technology for the monitoring, control and surveillance in areas under the coastal state's jurisdiction;
- actions to improve the business environment in the coastal state(s) in question so as to develop positive framework conditions for the fisheries sector and related activities as a whole, including the measures and instruments to promote the transfer of capital, technology and know-how;
- procedures for implementing, monitoring and reviewing the FPA;

7. REQUESTS the Commission, in order to establish the regulatory and financial framework which will govern fisheries relations between the Union and one or more coastal states and to ensure that it is properly implemented, for each agreement to:

- carry out ex-ante and ex-post evaluation so that an assessment can take place not only of the environmental, economic and social impact of a partnership agreement, but also the opportunities which sustainable development of the fisheries sector provides and of the requirements of establishing responsible fishing for the concerned coastal state. Such evaluations must continue to be made available to the Member States in good time before the decision authorising the Commission to open negotiations is adopted and such evaluations should be rendered public;
- set up with its partners a bilateral scientific committee to advise on sustainable fishing possibilities within FPAs for stocks other than those of highly migratory fish;

- decouple the financial contribution for sector support from payments for fisheries access rights and seek to introduce stronger conditionality for the provision of financial contributions, so that payments would be linked to progress delivery;
- make sure that these financial contributions are deployed according to the budgetary procedures of the costal state and, regarding sectoral support, monitored in accordance with guidelines developed by the Commission and shared with the Member States;
- ensure that the FPA is permanently monitored and report periodically on its implementation in the light of relevant indicators elaborated by the Commission;
- commit, in cooperation with Member States, to requiring the optimal use of fishing opportunities in the context of Article 317 of the Treaty on the Functioning of the European Union to ensure value for money and respect for the principles of sound financial management;
- avoid interruption of fishing activities after the expiry of an agreement or the protocol thereto, inter alia by including, if deemed appropriate, a clause of provisional application, without prejudice to the provisions allowing for a suspension of the agreement or the protocol, particularly in case of serious violations of human rights and democratic principles.

# Bilateral and multilateral fisheries agreements on joint management of shared stocks, exchange of fishing opportunities and reciprocal access

8. UNDERLINES that in the framework of its bilateral and multilateral fisheries relations with its neighbouring countries, in particular the Northern states, on joint management of shared stocks, exchange of fishing opportunities and reciprocal access as an integral part of relative stability, the Union must:

- base cooperation on the principle of equitable and mutual benefit, seeking to achieve inter alia sustainable management and a balanced exchange of fishing opportunities that provide for adequate economic returns for the Union, based on the best available scientific advice, on the traditional fishing patterns and utilisation of fishing opportunities exchanged in the past;
- contribute to and cooperate on resource conservation and environmental sustainability through taking conservation measures based on the best available scientific advice in mutual agreement for jointly managed stocks, and after consultation and in a non-discriminatory fashion for stocks which are of common interest;
- contribute towards combating IUU fishing;
- insist on the bilateral relations being guided by UNCLOS and by the 1995 Straddling Fish Stocks Agreement, which establish a duty to cooperate for states the fleets of which exploit the same straddling or highly migratory fish stocks in order to conserve and manage those stocks in a sustainable way. In this respect, third countries should be urged to ratify and implement UNCLOS and the 1995 Straddling Stocks Agreement."