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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 proposal for a regulation of the European Parliament and  
of the Council amending Regulation (EC) No 812/2004**

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**1. BACKGROUND**

Date of transmission of the proposal to the European Parliament and 8 August 2012  
to the Council  
(document COM(2012) 447 final – 2012/0216 (COD):

Date of the opinion of the European Economic and Social 14 November 2012  
Committee:

Date of the opinion of the Committee of the Regions: No opinion

Date of the position of the European Parliament, first reading: 16 April 2013

Date of adoption of the position of the Council: 3 March 2014

**2. OBJECTIVE OF THE PROPOSAL FROM THE COMMISSION**

The overall objective of the proposal is to align the provisions of the Council Regulation (EC) No 812/2004 laying down measures concerning incidental catches of cetaceans in fisheries and amending Regulation (EC) No 88/98 with the provisions of the Lisbon Treaty by reclassifying the powers conferred upon the Commission to measures of delegated and implementing nature.

**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 reclassification of the powers as it figures in the Commission's proposal. The Council has defined the scope of the delegated act concerning acoustic deterrent devices in more specific terms to improve clarity. The Commission can accept this compromise. The Council also limited the duration of the delegation of powers to four years in agreement with the European Parliament. The Commission can accept this limitation, given that it contains a tacit-renewal clause.

**3.2. Amendments by the European Parliament at first reading:**

The European Parliament introduced 4 amendments, which did not challenge the reclassification of the powers conferred upon the Commission. The most important of these amendments restricted the duration of the delegation of powers to three years and introduced an obligation to review this regulation and submit an amendment proposal by the 31 December 2015.

During the trilogue, the amendments of the European Parliament were reviewed and negotiated. As a result, the delegation of powers was limited to four years and the obligation to review the provisions of the regulation was formulated in a way to respect Commission's right to initiative.

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

The Council and Parliament have agreed to add an obligation for the Commission to review the provisions of this Regulation by the end of 2015 and, if appropriate to submit a new legislative proposal. The Commission can accept this as it protects the Commission's right to initiative and also provides a reference to the development of measures under regionalisation, which is a key objective of the Common Fisheries Policy.

Council did specifically define the scope of the delegation of powers in respect of the specifications and use of acoustic deterrent devices. The Commission can accept this on the basis that provides clarity.

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

During finalisation of negotiations an agreement was reached on the empowerment of the Commission. The Commission can accept the agreed arrangements.

However, concerning the obligation to review this regulation and submit an overarching legislative proposal if appropriate, the Commission sees the need to make a statement to clarify its position.

## **4. CONCLUSION**

The Commission can agree with the Council position which is the outcome of the negotiations with the European Parliament. Nevertheless, the Commission sees the need to make a statement in relation to Article 7.3, as follows.

### ***Ad Article 7.3***

***Commission will consider coming forward with a proposal for a new technical measures framework including mitigating measures to minimise incidental catches of cetaceans and other sensitive species and allow the development of specific measures tailored to the specificities of fisheries at a regional level if appropriate. Once this is achieved, this regulation will be repealed.***