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2016/0145 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

defining characteristics for fishing vessels (recast)

EXPLANATORY MEMORANDUM

1. In the context of a people's Europe, the Commission attaches great importance to simplifying and clarifying the law of the Union so as to make it clearer and more accessible to citizens, thus giving them new opportunities and the chance to make use of the specific rights it gives them.

This aim cannot be achieved so long as numerous provisions that have been amended several times, often quite substantially, remain scattered, so that they must be sought partly in the original instrument and partly in later amending ones. Considerable research work, comparing many different instruments, is thus needed to identify the current rules.

For this reason a codification of rules that have frequently been amended is also essential if the law is to be clear and transparent.

2. On 1 April 1987 the Commission decided¹ to instruct its staff that all acts should be codified after no more than ten amendments, stressing that this is a minimum requirement and that departments should endeavour to codify at even shorter intervals the texts for which they are responsible, to ensure that their provisions are clear and readily understandable.
3. The Conclusions of the Presidency of the Edinburgh European Council (December 1992) confirmed this², stressing the importance of codification as it offers certainty as to the law applicable to a given matter at a given time.

Codification must be undertaken in full compliance with the normal procedure for the adoption of acts of the Union.

4. The purpose of this proposal is to undertake a codification of Council Regulation (EEC) No 2930/86 of 22 September 1986 defining characteristics for fishing vessels³. The new Regulation will supersede the two acts incorporated in it⁴, fully preserving the content of the acts being codified. At the same time, it is also appropriate to make a substantive amendment to Article 5(3) of Regulation (EEC) No 2930/86, with a view to delegating powers to the Commission for adapting the requirements for the determination of continuous engine power to technical progress. Therefore, the proposal is being presented in the form of a recast.
5. The recast proposal was drawn up on the basis of a preliminary consolidation, in 23 official languages, of Regulation (EEC) No 2930/86 and the instrument amending it, carried out by the Publications Office of the European Union, by means of a data-processing system. Where the Articles have been given new numbers, the correlation between the old and the new numbers is shown in a table set out in Annex III to the recast Regulation.

¹ COM(87) 868 PV.

² See Annex 3 to Part A of the Conclusions.

³ Entered in the legislative programme for 2011.

⁴ See Annex II to this proposal.

↓ 2930/86 (adapted)

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43  (2)  thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee⁵,

Acting in accordance with the ordinary legislative procedure⁶,

Whereas:

↓ new

(1) Council Regulation (EEC) No 2930/86⁷ has been substantially amended⁸. Since further amendments are to be made, that Regulation should be recast in the interests of clarity.

↓ 2930/86 recital 1

(2) In the framework of the common fisheries policy, reference is made to the characteristics of fishing vessels, such as length, breadth, tonnage, date of entry into service and engine power.

⁵ OJ C [...], [...], p. [...].

⁶ OJ C [...], [...], p. [...].

⁷ Council Regulation (EEC) No 2930/86 of 22 September 1986 defining characteristics for fishing vessels (OJ L 274, 25.9.1986, p. 1).

⁸ See Annex II.

↓ 2930/86 recital 2 (adapted)

- (3) It is essential that identical rules for determining the characteristics of fishing vessels should be used in order to unify the conditions for the pursuit of the activity in the Union.
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↓ 2930/86 recital 3 (adapted)

- (4) The definitions laid down in this Regulation should be based upon initiatives already taken by specialist international organisations.
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↓ 2930/86 recital 4 (adapted) and
3259/94 recital 3 (adapted)

- (5) Therefore, account should be taken of the International Convention on Tonnage Measurement of Ships, signed in London on 23 June 1969 (1969 Convention), and the International Convention for the Safety of Fishing Vessels, signed in Torremolinos on 2 April 1977, both drawn up under the aegis of the International Maritime Organization (IMO).
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↓ 3259/94 recitals 7 and 9
(adapted)

- (6) For smaller fishing vessels less than 15 metres in length, the methodology laid down in Annex I to the 1969 Convention is in certain cases inappropriate. Therefore, for those vessels a simpler definition of gross tonnage is desirable.
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↓ 2930/86 recital 6 (adapted)

- (7) The International Organization for Standardization has drawn up standards on internal combustion engines which are widely applied in Member States.
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↓ new

- (8) In order to adapt certain requirements to technical progress, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the adoption of the necessary amendments in relation to the determination of the continuous engine power. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of [date]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts,

↓ 2930/86 (adapted)

HAVE ADOPTED THIS REGULATION:

Article 1

General Provision

The definitions of characteristics of fishing vessels laid down in this Regulation shall apply to all Union rules concerning fisheries.

↓ 2930/86

Article 2

Length

1. The length of a vessel shall be the length overall, defined as the distance in a straight line between the foremost point of the bow and the aftermost point of the stern.

For the purposes of this definition:

- (a) the bow shall be taken to include the watertight hull structure, forecastle, stem and forward bulwark, if fitted, but shall exclude bowsprits and safety rails;
- (b) the stern shall be taken to include the watertight hull structure, transom, poop, trawl ramp and bulwark, but shall exclude safety rails, bumkins, propulsion machinery, rudders and steering gear, and divers' ladders and platforms.

The length overall shall be measured in metres with an accuracy of two decimals.

↓ 2930/86 (adapted)

2. When the length between perpendiculars is referred to in Union legislation, it shall be defined as the distance measured between the forward and the after perpendiculars as defined by the International Convention for the Safety of Fishing Vessels.

The length between perpendiculars shall be measured in metres with an accuracy of two decimals.

Article 3

Breadth

↓ 3259/94 Art. 1 pt. 1 (adapted)

The breadth of a vessel shall be the maximum breadth as defined in Annex I to the International Convention on Tonnage Measurement of Ships (1969 Convention).

↓ 2930/86

The overall breadth shall be measured in metres with an accuracy of two decimals.

Article 4

Tonnage

↓ 3259/94 Art. 1. pt. 2

1. The gross tonnage of fishing vessels with an overall length equal to, or greater than, 15 metres shall be measured as specified in Annex I to the 1969 Convention.
 2. The gross tonnage of fishing vessels with an overall length of less than 15 metres shall be measured in accordance with the formula set out in Annex I to this Regulation.
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↓ 2930/86 (adapted)
⇒ new

3. When net tonnage is referred to in Union rules it shall be defined as specified in Annex I to the 1969 Convention.

Article 5

Engine power

1. The engine power shall be the total of the maximum continuous power which can be obtained at the flywheel of each engine and which can, by mechanical, electrical, hydraulic or other means, be applied to vessel propulsion. However, where a gearbox is incorporated into the engine, the power shall be measured at the gearbox output flange.

No deduction shall be made in respect of auxiliary machines driven by the engine.

The unit in which engine power is expressed shall be the kilowatt (KW).

2. The continuous engine power shall be determined in accordance with the requirements adopted by the International Organization for Standardization in its recommended International Standard ISO 3046/1, 2nd edition, October 1981.

3. ⇒ The Commission is empowered to adopt delegated acts in accordance with Article 7 concerning the amendments necessary for adapting the requirements referred to in paragraph 2 of this Article to technical progress shall be adopted in accordance with the procedure provided for in Article 14 of Regulation (EEC) No 170/83.

Article 6

Date of entry into service

The date of entry into service shall be the date of the first issue of an official safety certificate.

If an official safety certificate is not issued, the date of entry into service shall be the date of the first entry in an official register of fishing vessels.

However, in the case of fishing vessels which entered into service before 1 December 1986 , the date of entry into service shall be the date of the first entry in an official register of fishing vessels.

Article 7

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 5(3) shall be conferred on the Commission for an indeterminate period of time from [...].

3. The delegation of power referred to in Article 5(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of [date].

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 5(3) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.



Article 8

Repeal

Regulation (EEC) No 2930/86 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex III.

↓ 2930/86

Article 9

Final provisions

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President