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**NOTE**

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From:	Presidency
To:	Permanent Representatives Committee/Council
No. Cion doc.:	13438/19 + ADD 1-2 - COM(2019) 483 final
Subject:	Proposal for a COUNCIL REGULATION fixing for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters - <i>Political agreement</i>

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**I. INTRODUCTION**

1. On 24 October 2019, the Commission submitted to the Council its proposal for a Council Regulation fixing for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and for Union fishing vessels in certain non-Union waters. The proposal aims at fixing for 2020 the maximum fishing quantities for specific stocks.
2. The European Parliament's participation in the procedure and the Opinion of the Economic and Social Committee are not required (Art. 43.3 TFEU).
3. DK, IE, NL and UK entered parliamentary reservations.

4. The Working Party on Internal Fisheries Policy examined the Commission proposal<sup>1</sup> and non-papers<sup>2</sup> at its meetings between 31 October and 5 December 2019. Delegations pointed out a number of general principles to be followed in the setting of the TACs. Moreover, a list of stocks on which it could be considered that no additional discussions on the TAC levels are necessary could be identified<sup>3</sup>. This approach is based on the principle that nothing is agreed until everything is agreed.
5. In general, and **unless there are particular circumstances applying to specific stocks**, the Presidency believes that the following principles should guide the discussions and the final decision:
- A strong commitment to the objectives of the Common Fisheries Policy (CFP) as laid down in art. 39 of the TFEU and art. 2 of the CFP<sup>4</sup>, including the achievement of MSY no later than 2020;
  - The compliance with the provisions of the multi-annual plans which are in force;
  - Basing decisions on the best available scientific advice;
  - For data-limited stocks with indicative scientific advice, a case-by-case approach, taking into consideration the stock trends:
    - 1) where the trends are positive, a moderate increase in the TAC should apply;
    - 2) where the trends are negative, a moderate decrease in the TAC should apply;
    - 3) where the trends are stable, a roll-over of the TAC should apply;
  - Where no scientific advice is available, there should be a case-by-case examination of each relevant stock.

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<sup>1</sup> doc. 13438/19 + ADD 1 - 2

<sup>2</sup> docs. 13761/19, 14385/19, 14558/19, 14724/19, 14767/19

<sup>3</sup> cf. Annex to this note

<sup>4</sup> Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

6. A number of outstanding issues remain. These issues are presented in part II below. More details regarding delegations' positions on these issues can be found in the written comments<sup>5</sup> and the outcome of proceedings ("bible")<sup>6</sup>.

## II. OUTSTANDING ISSUES

7. The following concerns have been voiced by delegations:

- a. Delegations support the approach of **achieving MSY by 2020** as set out in the CFP. However, in specific cases, some delegations consider that more flexibility would be appropriate, in particular in the context of **mixed fisheries**, the effective implementation of the **landing obligation** and the consideration of **socio-economic aspects**. In this context, delegations call for the full use of the **ranges provided in the multi-annual plans**, where possible, instead of systematically aiming for the lower point value. Some delegations also oppose the legal interpretation of the so-called **ICES advice rule**, and defend flexibility in assessing the different ICES catch scenarios when setting TACs. The Commission emphasised that, when MSY advice was available, TAC proposals were based on this approach. Consequently, delegations contest some of the proposed TAC levels.
- b. Many delegations highlight the difficulties faced in relation to **mixed fisheries**, in particular the issue of **choke species**, where, in the context of the landing obligation, low levels of (by-catch) quotas or zero TACs may cause a vessel to stop fishing even if they still have a quota for other species. Several delegations support the continuation of the pool mechanism for quota exchanges (Article 8) agreed at the 2018 AGRIFISH Council, whilst emphasising that the proposed TACs are in some cases insufficient for the mechanism to operate. In setting those TACs, delegations expressed disagreement with the Commission's approach, notably questioning the legal interpretation of the ICES advice rule as well as the "use-it or lose-it" approach where TACs are based on current uptake levels only.

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<sup>5</sup> doc. 14471/19 + ADD 1 - 21

<sup>6</sup> doc. 14485/1/19 REV 1 + ADD 1 REV 1 + ADD 2 REV1

- c. In the context of the above, delegations also expressed their concerns with the remedial measures proposed by the Commission in Article 13 in relation to **gadoids in the Celtic Sea**. Several delegations noted the importance of protecting the stocks and their willingness to discuss possible **technical measures** but not necessarily in the context of this Regulation. The Commission insisted that, in the case of mixed fisheries in the Celtic Sea, meaningful remedial measures are to be agreed upon and included in the present Regulation.
- d. A majority of delegations question the legal and practical feasibility of **control measures** proposed in this Regulation (Article 13 and in footnotes for other TACs).
- e. For **data-limited stocks**, a majority of delegations would favour a case-by-case approach giving due consideration to the best available scientific advice and trends in the indicators. Among the specific concerns expressed by the delegations are the systematic precautionary TAC cuts, cuts due to low utilisation levels, or the setting of a single TAC for several species while ICES advice is only provided for one.
- f. For **bycatch stocks**, two delegations question the setting of the TAC following MSY advice instead of the precautionary approach.
- g. A number of delegations ask to include or increase the levels of **inter-area flexibility**, as well as **inter-species flexibility**. In this regard, certain delegations also recall the pre-requisite of meeting several conditions and raise concerns on the potential impact on vulnerable species. As regards **inter-annual flexibility**, a few delegations question the legality of the provision prohibiting the use of Article 15(9) of the CFP and indicated potential support for the approach agreed upon in the context of the 2020 Baltic TACs and Quotas.
- h. In light of the more positive scientific advice for **seabass** (Article 10), several delegations would support an increase in bycatch levels and more flexibility in the management of such bycatches for the Northern stock. On recreational fisheries, certain delegations would support to keep the proposed bag limit while extending it to the entire year. Other delegations request a higher bag limit during a specific period in the year.
- i. Two delegations indicate that they reserve the right to invoke and/or counter invoke the **Hague preferences**, while other delegations oppose the use of such instruments.

- j. The implementation of some **bilateral agreements** (e.g. EU-Norway, EU-Faroes) remains to be clarified since the consultations with third countries only takes place very shortly before the Council. In the context of the EU-Norway consultations, the main issue relates to cod and the setting of remedial measures. Delegations stress the importance of concluding these bilateral agreements and maintain a scrutiny reservation until the final figures are known. For stocks where no agreement was reached during the respective RFMO annual meetings, delegations ask to ensure a level playing field with third countries. Some delegations also reiterate the need to find a pragmatic solution in order to make use of the **snow crab** fishing opportunities.

### III. CONCLUSION

8. The Committee of the Permanent Representatives/Council is invited to address the outstanding issues mentioned above under point II with a view to finding a political agreement at Council.
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## Annex

### Annex IA:

- Sandeel in 2a, 3a and 4
- Greater Silver smelt in 1 and 2
- Greater Silver Smelt 3a and 4
- Tusk in 1, 2 and 14
- Tusk in 3a
- Herring in 5b, 6b and 6aN
- Herring 6aS, 7b, 7c
- Herring in 7a
- Herring in 7e and 7f
- Herring in 7g, 7h, 7j and 7k
- Megrims in 2a and 4
- Megrims in 5b and 6
- Anglerfish in 7
- Anglerfish in 8abde
- Haddock in 6b, 12 and 14
- Haddock in 7a
- Hake in 3a
- Blue ling in 12
- Blue ling in 2 and 4
- Blue ling in 3a
- Ling in 4
- Ling in 5
- Norway lobster in 6 and 5b
- Norway lobster in 8abde
- Plaice in 5b, 6, 12 and 14
- Plaice 7a
- Plaice in 7bc
- Pollack in 8c

- Pollack in 9 and 10, Union waters of CECAF 34.1.1
- Saithe in 7, 8, 9 and 10, Union waters of CECAF 34.1.1
- Skates and rays in 3a
- Skates and rays in 6a, 6b, 7a-c and 7e-k
- Small-eyed ray in 7f and 7g
- Undulate ray in 9
- Common sole in 6, 5b, 12 and 14
- Common sole in 7bc
- Common sole in 7d
- Common sole in 7fg

Stocks of Annex IA concluded in international negotiations:

- Tusk in Union and international waters of 5, 6 and 7
- Tusk in Norwegian waters of 4
- Herring in 3a (directed)
- Herring in Union and Norwegian waters of 4 north of 53° 30' N
- Herring in Norwegian waters south of 62° N
- Herring in 3a (by-catches)
- Herring in 4a, 7d and Union waters of 2a (directed fishery)
- Herring in 4c, 7d (by-catches)
- Herring in Union and international waters 5b, 6b and 6aN
- Cod in Skagerrak
- Cod in 4; Union waters of 2a; that part of 3a not covered by the Skagerrak and Kattegat
- Cod in Norwegian waters south of 62° N
- Cod in 7d
- Anglerfish in Norwegian waters of 4
- Haddock in 3a
- Haddock in 4, Union waters of 2a
- Haddock in Norwegian waters south of 62° N
- Haddock in Union and international waters of 5b and 6a
- Whiting in 3a

- Whiting in 4, Union waters of 2a
- Whiting and Pollack in Norwegian south of 62° N
- Blue Whiting in Norwegian waters of 2 and 4
- Blue whiting in Union and international waters of 1-7, 8abde, 12 and 14
- Blue Whiting in Union waters of 2, 4a, 5, 6 north of 56°30' N and 7 west of 12°W
- Blue Whiting in 8c, 9 and 10; Union waters of CECAF 34.1.1
- Blue ling in Union and international waters of 5b, 6 and 7
- Ling in Norwegian waters of 4
- Ling in Union and international waters of 6-10, 12 and 14
- Norway Lobster in Norwegian waters of 4
- Northern Prawn in 3a
- Northern Prawn in Norwegian waters south of 62° N
- Plaice in Skagerrak
- Plaice in 4, Union waters of 2a, that part of 3a not covered by the Skagerrak and the Kattegat
- Saithe in 3a and 4, Union waters of 2a
- Saithe in 6, Union and international waters of 5b, international waters of 12 and 14
- Saithe in Norwegian waters south of 62° N
- Greenland Halibut in Union waters of 2a and 4; Union and international waters of 5b and 6
- Mackerel in 3a and 4, Union waters of 2a, 3bc and subdivisions 22-32
- Mackerel in 6, 7, 8abde, Union and international waters of 5b, international waters of 2a, 12 and 14
- Mackerel in 8c, 9 and 10, Union waters of CECAF 34.1.1
- Mackerel in Norwegian waters of 2a and 4
- Common sole in Union waters of 2a and 4
- Sprat in 3a
- Horse Mackerel in Union waters of 4b, 4c and 7d
- Horse Mackerel in Union waters of 2a , 4a; 6, 7a-c,7e-k, 8abde; Union and international waters of 5b; international waters of 12 and 14
- Norway pout in Norwegian waters of 4
- Industrial fish of Norwegian waters of 4
- Other species in Norwegian waters of 4



All stocks for:

Annex IB - North East Atlantic and Greenland, ICES subareas 1, 2, 5, 12 and 14 and Greenland waters of NAFO 1

Annex IC - North West Atlantic - NAFO Convention Area

Annex IF - South East Atlantic Ocean - SEAFO Convention Area

Annex IG - Southern bluefin tuna – areas of distribution

Annex IH - WCPFC Convention Area

Annex IJ - SPRFMO Convention Area

Annex IK - IOTC Area of Competence

Annex IL - SIOFA Agreement Area

Annexes II-VIII

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