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**NOTE**

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From: General Secretariat of the Council  
To: Delegations

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Subject: Proposal for a COUNCIL REGULATION fixing for 2023 the fishing opportunities for certain fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, as well as fixing for 2023 and 2024 such fishing opportunities for certain deep-sea fish stocks  
- Commission services non-paper

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Delegations will find in the Annex a non-paper on the above-mentioned subject, as received from the European Commission services.

## COMMISSION SERVICES NON PAPER

**5 DECEMBER 2022**

*This document serves as a basis for discussion at the Working Party on Fisheries Policy.*

*It cannot in any circumstances be regarded as the official position of the Commission.*

*It is intended solely for those to whom it is addressed.*

**Updates to Commission proposal for a Council Regulation fixing for 2023 the fishing opportunities for certain fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, as well as fixing for 2023 and 2024 such fishing opportunities for certain deep-sea fish stocks (COM(2022) 559)**

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## 1. AMENDMENTS IN RELATION TO SEABASS IN THE BAY OF BISCAY

### EXPLANATORY NOTE

In Article 11 of its proposal<sup>1</sup>, the Commission proposed that France and Spain should ensure that the fishing mortality of European seabass (*Dicentrarchus labrax*) in International Council for the Exploration of the Sea (ICES) divisions 8a and 8b (Bay of Biscay) from their commercial and recreational fisheries does not exceed the  $F_{MSY}$  point value.  $F_{MSY}$  point value is the fishing mortality value that gives the long-term maximum sustainable yield (MSY). Moreover, the Commission proposed that a maximum of two specimens for that stock may be caught and retained per fisher per day in recreational fisheries, including from shore.

On 1 December 2022, ICES published a technical service<sup>2</sup> on catch scenarios tables for seabass in ICES divisions 8a and 8b for 2023, disaggregating total catches into: (i) commercial catches, including landings and discards; and (ii) recreational catches. Table 4 of that technical service provides a catch scenarios table for the recreational fisheries management measure scenario of a two fish/day bag limit, as proposed by the Commission for 2023. It is therefore proposed to insert the figures for commercial catches, including landings and discards, and for recreational catches, for that recreational fisheries management measure scenario and for the  $F_{MSY}$  point value scenario.

### AMENDMENTS TO THE RECITALS

Recital (12) is replaced by the following:

“(12) In accordance with the Western Waters MAP established by Regulation (EU) 2019/472, the target fishing mortality for the stocks listed in Article 1(1) of that Regulation is to be maintained within the ranges of  $F_{MSY}$  defined in Article 2, point (2), of that Regulation, in

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<sup>1</sup> Proposal for a Council Regulation fixing for 2023 the fishing opportunities for certain fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, as well as fixing for 2023 and 2024 such fishing opportunities for certain deep-sea fish stocks (COM/2022/559 final).

<sup>2</sup> <https://doi.org/10.17895/ices.advice.21631958>

accordance with Article 4 thereof. The overall fishing mortality for European seabass (*Dicentrarchus labrax*) in ICES divisions 8a and 8b should therefore be set in accordance with ICES MSY advice and with the  $F_{MSY}$  point value, taking into account commercial catches, including landings (2 534 tonnes) and discards (146 tonnes), and recreational catches (720 tonnes) (totalling 3 400 tonnes according to the ICES technical service).  $F_{MSY}$  point value is the fishing mortality value that gives the long-term MSY. The relevant Member States (France and Spain) should take appropriate measures to ensure that the fishing mortality from their fleets and recreational fishers does not exceed the  $F_{MSY}$  point value, as required by Article 4(3) of Regulation (EU) 2019/472.”

## **2. AMENDMENTS IN RELATION TO NORWAY LOBSTER IN THE SOUTHERN BAY OF BISCAY AND CANTABRIAN SEA**

### **EXPLANATORY NOTE**

The fishery for Norway lobster (*Nephrops norvegicus*) in ICES division 8c, functional unit (FU) 31 (southern Bay of Biscay and Cantabrian Sea), was recently reopened in 2022, following a closure of the fishery since 2017. Moreover, in 2020 and 2021, limited fishing opportunities were established for that stock for catches taken as part of a sentinel fishery to collect catch per unit effort (CPUE) data with vessels carrying observers on board.

The calculation of the landing obligation exemptions deduction for that stock should take into account the recent reopening of the fishery in 2022. That calculation should therefore exceptionally be based on data for 2022 directly provided by Spain to the Commission services on 2 December 2022. It is therefore proposed to apply a landing obligation exemptions deduction of -28,06% to the EU quota for Norway lobster in ICES division 8c, FU 31, for 2023. The fishing opportunities for that stock for 2023 should be amended accordingly.

## AMENDMENTS TO THE ANNEXES

In Annex IA, Part A, the fishing opportunities table for Norway lobster (*Nephrops norvegicus*) in ICES division 8c, FU 31, is replaced by the following:

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Species:	Norway lobster <i>Nephrops norvegicus</i>	Zone:	8c, functional unit 31 (NEP/8CU31)
Spain	12	Analytical TAC	
France	0		
Union	12		
TAC	17		

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### 3. AMENDMENTS IN RELATION TO SOUTHERN HAKE

#### EXPLANATORY NOTE

An error of clerical nature has been detected in the Commission proposal. It is therefore proposed to add a reference to Article 7(2) of the Commission proposal in the fishing opportunities table for hake (*Merluccius merluccius*) in ICES division 8c, subareas 9 and 10 and Union waters of CECAF 34.1.1 (southern Bay of Biscay, Iberian waters and waters around the Azores) ('southern hake').

Pursuant to Article 7(2) of the Commission proposal, for the purposes of the derogation from the obligation to count catches against the relevant quotas, as provided for in Article 15(8) of Regulation (EU) No 1380/2013<sup>3</sup> ('inter-species flexibility'), the stocks of non-target species within safe biological limits referred to in that Article are identified in the fishing opportunities tables. Such inter-species flexibility was applied for southern hake in 2020 (Council Regulation (EU) 2020/123<sup>4</sup>). 2020 was the last year for which there was MSY advice for that stock and thus reference points could be identified, allowing the assessment of whether the requirement for applying inter-species flexibility of the stock being within safe biological limits was fulfilled. In accordance with the ICES MSY advice for 2023<sup>5</sup>, the biomass of southern hake is above MSY  $B_{\text{trigger}}$  in 2022. MSY  $B_{\text{trigger}}$  is the biomass below which management action is to be taken to allow a stock to rebuild above levels capable of producing MSY in the long term. For reasons of legal certainty, it is therefore proposed to identify southern hake as a non-target species within safe biological limits in Annex IA, Part A, in accordance with Article 7(2) of the Commission proposal. This is without prejudice to the conditions set out in Article 15(8) of Regulation (EU) No 1380/2013 which must be met in order to use the inter-species flexibility.

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<sup>3</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).

<sup>4</sup> Council Regulation (EU) 2020/123 of 27 January 2020 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 (OJ L 25, 30.1.2020, p. 1).

<sup>5</sup> <https://doi.org/10.17895/ices.advice.19448018>

## AMENDMENTS TO THE ANNEXES

In Annex IA, Part A, the fishing opportunities table for hake (*Merluccius merluccius*) in ICES division 8c, subareas 9 and 10 and Union waters of CECAF 34.1.1 is replaced by the following:

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Species:	Hake <i>Merluccius merluccius</i>	Zone:	8c, 9 and 10; Union waters of CECAF 34.1.1 (HKE/8C3411)
Spain	9 953	Analytical TAC	
France	956	Article 7(2) of this Regulation applies	
Portugal	4 645		
Union	15 554		
TAC	15 925		

”

#### **4. AMENDMENTS IN RELATION TO SEAFO**

##### **EXPLANATORY NOTE**

At its 2022 annual meeting, the South East Atlantic Fisheries Organisation (SEAFO) decided to maintain for 2023 the total allowable catches (TACs) set for 2022 for the species under its purview until its 2023 annual meeting.

##### **AMENDMENTS TO THE RECITALS**

Recital (36) is replaced by the following:

“(36) At its 2022 annual meeting, the South East Atlantic Fisheries Organisation (SEAFO) decided to maintain in 2023 most of the TACs set for 2022 for the species under its purview until its 2023 annual meeting.”

##### **AMENDMENTS TO THE ANNEXES**

Annex IE is replaced by the following:

## ANNEX IE

### SOUTH-EAST ATLANTIC OCEAN – SEAFO CONVENTION AREA

The TACs set out in this Annex are not allocated to the Contracting Parties of SEAFO and hence the Union's share is undetermined. Catches are monitored by the SEAFO Secretariat which will communicate to the SEAFO Contracting Parties when fishing is to be ceased due to a TAC exhaustion.

Species:	Alfonsinos <i>Beryx</i> spp.	Zone:	SEAFO (ALF/SEAFO)
TAC	200 <sup>(1)</sup>	Precautionary TAC	
<sup>(1)</sup> No more than 132 tonnes may be taken in subdivision B1 (ALF/*F47NA).			
Species:	Deep-sea red crabs <i>Chaceon</i> spp.	Zone:	SEAFO subdivision B1 <sup>(1)</sup> (GER/F47NAM)
TAC	162 <sup>(1)</sup>	Precautionary TAC	
<sup>(1)</sup> For the purpose of this TAC, the area open to the fishery is defined as having: – its western boundary on the longitude 0° E, – its northern boundary on the latitude 20° S, – its southern boundary on the latitude 28° S, and – the eastern boundary outer limits of the Namibian exclusive economic zone.			
Species:	Deep-sea red crabs <i>Chaceon</i> spp.	Zone:	SEAFO, excluding subdivision B1 (GER/F47X)
TAC	200	Precautionary TAC	
Species:	Patagonian toothfish <i>Dissostichus eleginoides</i>	Zone:	SEAFO subarea D (TOP/F47D)
TAC	261	Precautionary TAC	
Species:	Patagonian toothfish <i>Dissostichus eleginoides</i>	Zone:	SEAFO, excluding subarea D (TOP/F47-D)
TAC	0	Precautionary TAC	
Species:	Orange roughy <i>Hoplostethus atlanticus</i>	Zone:	SEAFO subdivision B1 <sup>(1)</sup> (ORY/F47NAM)
TAC	0 <sup>(2)</sup>	Precautionary TAC	
<sup>(1)</sup> For the purpose of this Annex, the area open to the fishery is defined as having: – its western boundary on the longitude 0° E, – its northern boundary on the latitude 20° S, – its southern boundary on the latitude 28° S, and – the eastern boundary outer limits of the Namibian exclusive economic zone.			
<sup>(2)</sup> Except for a by-catch allowance of four tonnes (ORY/*F47NA).			
Species:	Orange roughy <i>Hoplostethus atlanticus</i>	Zone:	SEAFO, excluding subdivision B1 (ORY/F47X)

TAC	50	Precautionary TAC
Species:	Pelagic armourheads <i>Pseudopentaceros</i> spp.	Zone: SEAFO (EDW/SEAFO)
TAC	135	Precautionary TAC

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