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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL DECISION on the position to be taken on behalf of the European Union in the framework of the Convention on Future Multilateral Co-operation in the North-East Atlantic Fisheries as regards the application for accession to that Convention submitted by the United Kingdom, and repealing Decision (EU) 2019/510

COUNCIL DECISION (EU) 2020/…

of …

on the position to be taken on behalf of the European Union in the framework of the Convention on Future Multilateral Co-operation in the North-East Atlantic Fisheries as regards the application for accession to that Convention submitted by the United Kingdom, and repealing Decision (EU) 2019/510

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43 in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) The Convention on Future Multilateral Cooperation in the North-East Atlantic Fisheries[1] ('the NEAFC Convention') was approved by Council Decision 81/608/EEC[2] and entered into force on 17 March 1982.

(2) The NEAFC Convention currently applies to the United Kingdom as a result of the Union being a Contracting Party to that Convention, while Article 20(4) of the NEAFC Convention excludes the accession of Member States to that Convention.

(3) Pursuant to Article 20(4) of the NEAFC Convention, any State can accede to the NEAFC Convention provided that an application for accession of that State is approved by three-fourths of all Contracting Parties to the Convention within 90 days from the date of notification by the Depositary of the receipt of the application.

(4) On 8 January 2019, the United Kingdom submitted an application to accede to the NEAFC Convention as a Contracting Party. On the same date, the Depositary notified the Commission thereof.

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1 OJ L 227, 12.8.1981, p. 22.

2 Council Decision 81/608/EEC of 13 July 1981 concerning the conclusion of the Convention on Future Multilateral Cooperation in the North-East Atlantic Fisheries (OJ L 227, 12.8.1981, p. 21).

(5) On 25 March 2019, the Council adopted Decision (EU) 2019/510[1]. That decision was favourable to the United Kingdom's accession to the NEAFC Convention and was adopted in order to anticipate the situation where the United Kingdom would leave the Union without a withdrawal agreement. Consequently, Decision (EU) 2019/510 only authorised the Commission to notify the Union's position in the event that no withdrawal agreement was concluded.

(6) The application for accession by the United Kingdom was not approved by the required number of the Contracting Parties to the NEAFC Convention as the quorum of three-fourths was not reached.

[1] Council Decision (EU) 2019/510 of 25 March 2019 on the position to be taken on behalf of the European Union in the framework of the Convention on future multilateral cooperation in the North-East Atlantic fisheries as regards the application for accession to that Convention submitted by the United Kingdom (OJ L 85, 27.3.2019, p. 22).

(7) Pursuant to Article 129(4) of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community[1] ('the Withdrawal Agreement'), during the transition period, the United Kingdom may negotiate, sign and ratify international agreements entered into in its own capacity in the areas of exclusive competence of the Union, provided that those agreements do not enter into force or apply during the transition period, unless so authorised by the Union. Council Decision (EU) 2020/135[2] sets out the conditions and procedure for granting such authorisations.

(8) By means of its letter of 3 April 2020, the United Kingdom notified the Commission of its intention to express its consent, in its own capacity, to be bound by the NEAFC Convention during the transition period. On 6 July 2020, the United Kingdom submitted a new application for accession to that Convention, seeking an accession which would take effect during the transition period in a manner consistent with the Withdrawal Agreement.

(9) Council Implementing Decision (EU) 2020/…[3+] authorises the United Kingdom to express its consent, in its own capacity, to be bound by the NEAFC Convention as the conditions set out in Article 3(1) of Decision (EU) 2020/135 are fulfilled.

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1 OJ L 29, 31.1.2020, p. 7.

2 Council Decision (EU) 2020/135 of 30 January 2020 on the conclusion of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ L 29, 31.1.2020, p. 1).

3 Council Implementing Decision (EU) 2020/… of … authorising the United Kingdom to express its consent, in its own capacity, to be bound by certain international agreements to be applied during the transition period in the area of the Union's common fisheries policy (OJ L …).

+ OJ: Please insert in the text the number of the Decision contained in document ST 10583/20 and insert the number, date and OJ reference of that Decision in the footnote.

(10) Pursuant to Articles 56, 63 and 116 of the United Nations Convention on the Law of the Sea[1] (UNCLOS), the United Kingdom has legitimate fishing interests within the Convention Area provided for in the NEAFC Convention (high seas) as a coastal State, insofar as the waters under the exclusive economic zone of the United Kingdom fall within that Convention Area.

(11) In order to prevent unsustainable fisheries, it is in the interest of the Union that the United Kingdom cooperate in the management of the stocks of common interest in full compliance with the provisions of UNCLOS and the United Nations Agreement on the implementation of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling fish stocks and highly migratory fish stocks[2] (UNFSA), and of any other international agreement or rule of international law.

(12) As provided for in Article 63(2) UNCLOS and in Article 8 UNFSA, where the same stock or stocks of associated species occur both within the exclusive economic zone and in an area beyond and adjacent to that zone, the coastal State and the States fishing for such stocks in the adjacent area are to cooperate with a view to agreeing upon the measures necessary for the conservation of those stocks in the adjacent area. Such cooperation can be established in the framework of regional fisheries management organisations. The accession of the United Kingdom to the NEAFC Convention will allow the United Kingdom to cooperate on the necessary fishery management measures, with a view to ensuring that fishing activities are carried out in a way that results in the sustainable exploitation of the stock or stocks concerned.

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1 OJ L 179, 23.6.1998, p. 3.
2 OJ L 189, 3.7.1998, p. 16.

(13) Accession before the expiry of the transition period would enable the United Kingdom to give full effect to the obligations resulting from UNCLOS with regard to conservation and management measures taking effect as from the moment the transition period ends and Union law ceases to apply to it. It is therefore in the interest of the Union to approve the application for accession to the NEAFC Convention submitted by the United Kingdom by the expiry of the notification period referred to in Article 20(4) of the NEAFC Convention.

(14) In the interests of clarity and legal certainty, Decision (EU) 2019/510 should be repealed,

HAS ADOPTED THIS DECISION:

Article 1

1. The position to be taken on behalf of the Union in the framework of the Convention on Future Multilateral Cooperation in the North-East Atlantic Fisheries ('the NEAFC Convention') shall be to approve the application for accession of the United Kingdom to the NEAFC Convention.

2. The Commission shall be authorised to notify the Depositary of the NEAFC Convention of the Union's position by the expiry of the notification period referred to in Article 20(4) of the NEAFC Convention.

Article 2

Decision (EU) 2019/510 is repealed.

Article 3

This Decision shall enter into force on the day of its adoption.

Done at …,

For the Council
The President