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NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2019/833 laying down conservation and enforcement measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation - Opinion of the European Economic and Social Committee

Delegations will find attached the opinion of the European Economic and Social Committee on the above-mentioned proposal.

OPINION

European Economic and Social Committee

Fisheries – NAFO

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) 2019/833 laying down conservation and enforcement measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation

[COM(2023) 108 final – 2023/0056 (COD)]

Dossier NAT/901

Rapporteur-general: **Stefano PALMIERI**

Referral	Council, 10/03/2023 European Parliament, 13/03/2023
Legal basis	Articles 43(2) and 304 of the Treaty on the Functioning of the European Union
Section responsible	Agriculture, Rural Development and the Environment
Adopted at plenary	15/06/2023
Plenary session No	579
Outcome of vote (for/against/abstentions)	151/0/1

1. Conclusions and recommendations

- 1.1 The EESC again reiterates the views it set out on the proposal for a regulation under consideration in opinions 2018/05155¹, 2020/02842² and 2022/01131³, the conclusions and recommendations of which were as follows.
- 1.2 The EESC believes that the conservation and enforcement measures adopted by the Northwest Atlantic Fisheries Organization (NAFO) should be transposed into EU law, with a view to achieving their uniform and effective implementation within the EU.
- 1.3 However, it considers that the proposal under consideration does not establish an efficient mechanism for transposing the measures adopted by NAFO, and does not resolve the issue of having to update these measures each year.
- 1.4 The Committee is in favour of a more efficient, simpler mechanism, and therefore proposes drafting a regulation that contains a single article stipulating that the European Union must, without fail, apply NAFO measures to its fleet.
- 1.5 The EESC stresses the risk involved in introducing a system of delegated acts, as this would give the Commission the power to legislate without being required to follow the ordinary procedures.

2. Gist of the legislative proposal

- 2.1 The main aim of the proposal under consideration is to transpose into EU law the conservation and enforcement measures adopted by NAFO in its annual meeting in September 2022.
- 2.2 It incorporates amendments concerning new duties for flag Member States related to the submission of research plans, and vessel requirements for participation in research activities; the regulation of trial tows upon first entry into a division on a fishing trip; adjustments for redfish closures in Division 3M; the prohibition of landing, transshipment and retention on board of Greenland shark; and the cross-listing of illegal, unreported and unregulated (IUU) vessels from other regional fisheries management organisations.

¹ [OJ C 159, 10.5.2019, p. 60.](#)

² [OJ C 429, 11.12.2020, p. 279.](#)

³ [OJ C 290, 29.7.2022, p. 149.](#)

- 2.3 The proposal delegates powers to the Commission to amend Regulation (EU) 2019/833 concerning the duties of Member States related to the submission of research plans, and vessel requirements to carry out research activities, should NAFO amend its measures in the future.

3. General comments

- 3.1 The EESC believes that the conservation and enforcement measures adopted at the last annual NAFO meeting should be transposed into EU law so as to ensure that they are applied uniformly throughout the EU.
- 3.2 The Committee believes, however, that the transposition procedure is still not based on an efficient mechanism, since these measures are amended every year and the EU's bureaucratic procedures are very slow, leading to a continuous time-lag between the rules adopted by NAFO and EU legislation.
- 3.3 The EESC reiterates the need to adopt a more efficient procedure, such as that proposed by the EESC in 2019, 2020 and 2021, which was also supported by the administrations of the Member States and the sectors concerned. This would be a simple regulation containing a single article, which would include a commitment by the European Union to apply the rules approved by NAFO each year to its fleet without fail. This simple regulation will be subject to the introduction of a clause stipulating that, where any measure adopted by NAFO is incompatible with EU law, it will not apply until the co-legislators agree on this issue.
- 3.4 The Committee again warns that continuing with this regulation could lead to conflicting rules or, at the very least, periods of legal uncertainty for administrations and even businesses themselves, which will not know whether they are required to comply with the previous rules, which would be those still in force in the EU, or with the new rules. Furthermore, it creates distortions in the application of measures with regard to non-EU fleets.
- 3.5 The EESC believes that the only thing that will make it easier to introduce the system of delegated acts is for the Commission to lay down rules without having to go through the ordinary procedures.

4. Specific comments

- 4.1 The EESC recognises the important role that research vessels play in monitoring and assessing the marine environmental status, in particular in relation to fisheries. Accurate characterisation of ecological communities with respect to their biodiversity and food-web

structure is essential for conservation. Local richness can show statistically significant, season-dependent changes within the catchment for fish that do not necessarily mirror those observed for biodiversity and functional feeding characteristics⁴.

- 4.2 Recently, the scientific community introduced an innovative approach to monitoring and assessing the status of the marine ecosystem, including through analysing and modelling environmental DNA (eDNA). This approach introduces techniques and concepts that can support effective governance and management of fisheries⁵. The EESC recognises that eDNA is complementary data providing useful information on the status of the trophic web and the marine ecosystem. Given that some research vessels collect eDNA during their observational campaigns, the EESC asks for the collection and storage of eDNA to be taken into account as valuable data to be integrated into fish catches.
- 4.3 Most countries comply with the pillars of the Nagoya Protocol, which entered into force on 12 October 2014 and stems from the Convention on Biological Diversity. Under this protocol, research and development activities must be carried out in accordance with any applicable access and benefit-sharing (ABS) regulation and must be traceable. Where applicable, all of the required ABS procedures must have been carried out with the competent authorities before the implementation of any research programme requiring the use and transfer of genetic resources, regardless of the supplier country. The majority of countries have signed the Nagoya Protocol, and few of them still need to ratify it⁶.
- 4.4 The proposal introduces obligations for research vessel operators to provide certain requested data, which may be inappropriate where external factors (e.g. weather conditions, specific information from satellites about the distribution of nutrients) impose or prompt quick changes in observational campaigns. Some requests, e.g. the need to have an observer with sufficient expertise on board and the obligation for vessels to change position in the event of by-catch, may also make the process less effective in supporting the conservation and management of healthy and productive marine ecosystems, especially if the information gathered is not communicated to the wider community.
- 4.5 Due to the difficulty in adapting the operational process to the legislative requirements, and vice versa, the EESC welcomes a more pragmatic approach based on the transparent circulation of information. In this context, the EESC proposes introducing an *ex post* publication of the curricula vitae of the experts identified as competent observers, and a brief report describing the rationale and details for the change of position in the event of by-catch.

⁴ [Blackman et al., Communications Biology \(2022\) 5:259.](#)

⁵ [Gilbey et al., Marine Policy \(2022\), 124, 104331.](#)

⁶ [https://www.cbd.int/abs/nagoya-protocol/signatories/.](https://www.cbd.int/abs/nagoya-protocol/signatories/)

Making this information publicly available could promote the sharing of best practices and improve the reputation of the stakeholders involved.

Brussels, 15 June 2023

Oliver Röpke

The president of the European Economic and Social Committee
