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## COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
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Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 19.6.2023 on the implementation of the Union's international obligations, as referred to in Article 15(2) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council, under the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, as regards piked dogfish

Delegations will find attached document C(2023) 3812 final.

Encl.: C(2023) 3812 final



Brussels, 19.6.2023  
C(2023) 3812 final

**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 19.6.2023**

**on the implementation of the Union's international obligations, as referred to in Article 15(2) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council, under the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, as regards piked dogfish**

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE DELEGATED ACT**

The European Union (EU) and the United Kingdom (UK) exercised their respective obligations by consulting each other for the setting of fishing opportunities for shared stocks for 2023, as Parties to the Trade and Cooperation Agreement (TCA)<sup>1</sup>. The position of the Union in these consultations was informed by i) Articles 498(2), 498(4) and 498(6) of the TCA; ii) the objectives and principles set out in Articles 2, 3, 28 and 33 of the Common Fisheries Policy (CFP) Regulation<sup>2</sup>; iii) Articles 4 and 5 of the Western Waters<sup>3</sup> and North Sea<sup>4</sup> multiannual plans (MAPs); and iv) the Council Decision establishing the position to be taken on behalf of the Union in the consultations with the UK to agree on total allowable catches<sup>5</sup>. In accordance with Article 494(3)(c) of the TCA, the EU based its position on the best available scientific advice, principally that provided by the International Council for the Exploration of the Sea (ICES).

These consultations were conducted, on the EU side, by the Commission in coordination with the Council. The European Parliament was informed as appropriate.

On 16 December 2022, the EU agreed with the UK on the setting of a large number of total allowable catches (TACs) for 2023 for jointly managed stocks listed in Annex 35 of the TCA. The agreement in principle was laid down in the Written Record for 2023, which was endorsed by the Council on 20 December 2022 and signed by the Heads of Delegation of the UK, and by the Commission representative on behalf of the EU, in accordance with Article 498(6) of the TCA and in line with Council Decision (EU) 2021/1875<sup>6</sup>.

Piked dogfish is a stock jointly managed with the UK and as such it was covered during the consultations. While between 2010 and 2022, all targeted fishery was prohibited, the ICES advice for 2023 indicated the possibility of reopening the fishery. The EU and the UK therefore agreed, as part of the consultations, to remove piked dogfish from the list of

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<sup>1</sup> Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part (OJ L 149, 30.4.2021, p. 10).

<sup>2</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 of 28.12.2013, p. 22).

<sup>3</sup> Regulation (EU) 2019/472 of the European Parliament and of the Council of 19 March 2019 establishing a multiannual plan for stocks fished in the Western Waters and adjacent waters, and for fisheries exploiting those stocks, amending Regulations (EU) 2016/1139 and (EU) 2018/973, and repealing Council Regulations (EC) No 811/2004, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007 and (EC) No 1300/2008 (OJ L 83 of 25.3.2019, p. 1).

<sup>4</sup> Regulation (EU) 2018/973 of the European Parliament and of the Council of 4 July 2018 establishing a multiannual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks, specifying details of the implementation of the landing obligation in the North Sea and repealing Council Regulations (EC) No 676/2007 and (EC) No 1342/2008 (OJ L 179 of 16.7.2018, p. 1).

<sup>5</sup> Council Decision (EU) 2021/1875 of 22 October 2021 concerning the position to be adopted on behalf of the Union in the annual consultations with the United Kingdom to agree on total allowable catches (OJ L 378, 26.10.2021, p. 6).

<sup>6</sup> Written Record of fisheries consultations between the United Kingdom and the European Union for 2023: [EU-UK for 2023 \(europa.eu\)](https://euparl.europa.eu/media/default/press/press.do?lang=en&id=12345678).

prohibited species and that the full amount of advised catches would inform the 2023 TACs, split into the three historical TACs pertaining to this stock (DGA/03-A, DGS/2AC4-C and DGS/15X14).

The Union and the UK agreed on an additional precautionary measure to deter directed fisheries targeting aggregations of mature females, in order to protect a component of the stock that is particularly vulnerable to fishing mortality. To this end, the Union and the UK agreed to introduce a maximum size of 100 cm. The overall level of discards of piked dogfish would in principle not be impacted, as it is possible to avoid the capture of specimen above the maximum size by avoiding to target aggregation of spawning females.

The measure was first introduced in Union law via Annex IA of Council Regulation (EU) 2023/194<sup>7</sup> because it is a measure functionally linked to the TAC for the stock, as without such measure, the TAC level would not ensure sufficient protection of pupping females, which constitute a particularly vulnerable part of the population.

The current delegated act aims at a more stable application of the measures by clarifying the application of the landing obligation established in Article 15(1) of Regulation (EU) 1380/2013<sup>8</sup> to the catches of piked dogfish of size above 100 cm, in line with the Union's international obligations agreed in the framework of consultations with the United Kingdom and with a view to ensure a level playing field for Union fishermen.

## **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

Experts from the Member States were consulted in a meeting in Brussels on 5 April 2023. As the delegated act is based on the empowerment provided in Article 15(2) of Regulation (EU) 1380/2013 and does not present a new policy initiative, there was no need to carry out an impact assessment.

## **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

Article 15(1) of Regulation (EU) 1380/2013 establishes a landing obligation, whereby all catches of species subject to catch limits and, in the Mediterranean, also catches of species subject to minimum sizes laid down in Annex III of the Regulation (EC) No 1967/2006, should be brought and retained on board, recorded, landed and counted against the fishing quotas.

Article 15(2) of the same Regulation states that the landing obligation is without prejudice to the Union's international obligations.

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<sup>7</sup> Council Regulation (EU) 2023/194 of 30 January 2023 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, OJ L 28, 31.1.2023, p. 1. <https://eur-lex.europa.eu/eli/reg/2023/194/oj>

<sup>8</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 of 28.12.2013, p. 22).

The Commission is empowered to adopt delegated acts in order to ensure that the EU's international obligations are complied with, and thus create legal certainty.

This delegated act will clarify the application of the landing obligation in relation to an obligation agreed internationally between the EU and the UK, during annual fisheries consultations.

In particular, this delegated act will clarify that, for catches of piked dogfish above 100 cm discarding will continue to apply.

#### **Legal basis**

Article 15(2) of Regulation (EU) 1380/2013.

# COMMISSION DELEGATED REGULATION (EU) .../...

of 19.6.2023

**on the implementation of the Union's international obligations, as referred to in Article 15(2) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council, under the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part, as regards piked dogfish**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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<sup>9</sup>, and in particular Article 15(2) thereof,

Whereas:

- (1) On 29 April 2021, the Council adopted Decision (EU) 2021/689 on the conclusion of the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part (hereinafter “Trade and Cooperation Agreement”)<sup>10</sup>. The Trade and Cooperation Agreement entered into force on 1 May 2021.
- (2) Article 498(2) of the Trade and Cooperation Agreement provides that the Parties shall hold consultations annually to agree, by 10 December of each year, the total allowable catches (TACs) for the following year for the stocks listed in Annex 35 of the Agreement. These consultations may also cover the additional matters referred to in Article 498(4) of the Agreement including list of stocks for which fishing is prohibited, the determination of the TAC for any stock which is not listed in Annex 35 or Annex 36 and the Parties' respective shares of those stocks, measures for fisheries management.
- (3) The Union conducts the annual consultations in line with the objectives and principles set out in Articles 2, 3, 28 and 33 of Regulation (EU) No 1380/2013, Articles 4 and 5

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<sup>9</sup> OJ L 354, 28.12.2013, p. 22.

<sup>10</sup> OJ L 149, 30.4.2021, p. 10.

of the Western Waters<sup>11</sup> and North Sea<sup>12</sup> multiannual plans, and Council Decision (EU) 2021/1875<sup>13</sup>.

- (4) The Union position during the annual consultations is based on the best available scientific advice, principally that provided by the International Council for the Exploration of the Sea (ICES) in accordance with Article 494(3)(c) of the Trade and Cooperation Agreement.
- (5) The Written Record documenting the arrangements made between the Parties as a result of those consultations shall be produced and signed by the heads of delegation of the Parties in accordance with the obligation set out in Article 498(6) of that Agreement.
- (6) On 16 December 2022, the Union agreed with the United Kingdom on the setting of a substantial number of TACs for 2022 for stocks listed in Annex 35 to the Trade and Cooperation Agreement. The outcome of the consultations was documented in the Written Record<sup>14</sup>, which was endorsed by the Council on 20 December 2022 and signed by the Head of Delegation of the United Kingdom and by the Commission representative on behalf of the Union, in accordance with Article 498(6) of the Trade and Cooperation Agreement and Council Decision (EU) 2021/1875.
- (7) Piked dogfish (*Squalus acanthias*) is a stock jointly managed by the Union and the United Kingdom. During the annual consultations, the Union and the United Kingdom agreed that, given the assessed improvement of the status of the piked dogfish stock, piked dogfish should no longer be a prohibited species. The relevant TAC levels fixed in that Written Record were subsequently implemented in Council Regulation (EU) 2023/194<sup>15</sup>.
- (8) The Union and the United Kingdom also agreed that, in order to protect a component of this stock that is particularly vulnerable to fishing mortality, it is appropriate to deter directed fisheries targeting aggregations of mature females. To this end, the Union and the United Kingdom agreed that a maximum catch size of 100 cm should be respected.

<sup>11</sup> Regulation (EU) 2019/472 of the European Parliament and of the Council of 19 March 2019 establishing a multiannual plan for stocks fished in the Western Waters and adjacent waters, and for fisheries exploiting those stocks, amending Regulations (EU) 2016/1139 and (EU) 2018/973, and repealing Council Regulations (EC) No 811/2004, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007 and (EC) No 1300/2008 (OJ L 83 of 25.3.2019, p. 1

<sup>12</sup> Regulation (EU) 2018/973 of the European Parliament and of the Council of 4 July 2018 establishing a multiannual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks, specifying details of the implementation of the landing obligation in the North Sea and repealing Council Regulations (EC) No 676/2007 and (EC) No 1342/2008 (OJ L 179 of 16.7.2018, p. 1).

<sup>13</sup> Council Decision (EU) 2021/1875 of 22 October 2021 concerning the position to be adopted on behalf of the Union in the annual consultations with the United Kingdom to agree on total allowable catches (OJ L 378, 26.10.2021, p. 6).

<sup>14</sup> Written Record of fisheries consultations between the United Kingdom and the European Union for 2023: [EU-UK for 2023 \(europa.eu\)](#).

15 Council Regulation (EU) 2023/194 of 30 January 2023 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 (OJ L 28, 31.1.2023, p. 1)

- (9) Pending the adoption of such a maximum catch size in Union law in accordance with Article 15(2) of Regulation (EU) No 1380/2013, the measure agreed with the United Kingdom was established in Annex IA of Council Regulation (EU) 2023/194. The measure was functionally linked to the TAC for piked dogfish, as, without such measure, the TAC level alone would not ensure sufficient protection of spawning females, which constitute a particularly vulnerable part of the population.
- (10) The current Regulation aims at excluding piked dogfish above 100 cm from the landing obligation, thereby ensuring that when caught accidentally, such specimen shall not be harmed and be promptly released back into the sea.
- (11) The Regulation provides a more stable legal framework, given the temporary nature of the measures adopted by the Council which, in accordance with Article 59(k) of Council Regulation (EU) 2023/194, will cease to apply on the date on which a delegated act introducing corresponding measures and regulating the treatment of catches of those stocks over 100 cm becomes applicable.
- (12) The current Regulation ensures compliance by the Union with its international obligations and create legal certainty and a level playing field for Union fishermen.
- (13) As the measures provided for in this Regulation have a direct impact on the conservation of the stock, this Regulation should enter into force immediately after its publication.
- (14) As the measures agreed in the Written Record between the Union and the United Kingdom expire on 31 December 2023, this Regulation should also cease to apply on that date.

HAS ADOPTED THIS REGULATION:

*Article 1*  
*Subject matter and scope*

This Regulation establishes a derogation from the landing obligation set out in Article 15 of Regulation (EU) No 1380/2013 for the purpose of implementing the Union's international obligations as regards shared stocks subject to the fisheries consultations held between the United Kingdom and the European Union under the Trade and Cooperation Agreement.

This Regulation applies to fishing activities in Union waters or by Union fishing vessels outside Union waters in waters not subject to third countries' sovereignty or jurisdiction.

*Article 2*  
*Piked dogfish (*squalus acanthias*)*

By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, it shall be prohibited to target, retain on board or tranship, land, transport, store, display or offer for sale, sell or market piked dogfish above 100 cm.

Any piked dogfish above that size when caught accidentally, shall not be harmed and specimens shall be promptly released back into the sea.



*Article 3*  
*Entry into force*

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

This Regulation shall apply until 31 December 2023.

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

Done at Brussels, 19.6.2023

*For the Commission*  
*The President*  
*Ursula VON DER LEYEN*