Council of the European Union

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PECHE 317

PROPOSAL

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	25 August 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 495 final
Subject:	Proposal for a COUNCIL REGULATION amending Regulation (EU) 2023/194 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

Delegations will find attached document COM(2023) 495 final.

Encl.: COM(2023) 495 final

EUROPEAN
COMMISSION

Brussels, 25.8.2023
COM(2023) 495 final

2023/0304 (NLE)

Proposal for a

COUNCIL REGULATION

amending Regulation (EU) 2023/194 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

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

Council Regulation (EU) 2023/194[1] fixes for 2023 the fishing opportunities for certain fish stocks, applicable in EU waters and, for EU fishing vessels, in certain non-EU waters, as well as fixing for 2023 and 2024 such fishing opportunities for certain deep-sea fish stocks. Those fishing opportunities are amended several times during the period in which they apply to take account of the latest scientific advice and developments.

• Consistency with existing policy provisions in the policy area

The measures proposed are consistent with the objectives of the common fisheries policy ('CFP').

• Consistency with other Union policies

The measures proposed are consistent with other EU policies, in particular with the policies in the field of the environment.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The legal basis of this proposal is Article 43(3) of the Treaty on the Functioning of the European Union ('TFEU').

• Subsidiarity

The proposal falls under the exclusive EU competence as referred to in Article 3(1)(d) TFEU. Therefore, the subsidiarity principle does not apply.

• Proportionality

The proposal allocates fishing opportunities to Member States in accordance with the objectives of Regulation (EU) No 1380/2013 of the European Parliament and of the Council on the Common Fisheries Policy[2]. Pursuant to Articles 16 and 17 of Regulation (EU) No

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[1] 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).

[2] 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

1380/2013, Member States shall decide how the fishing opportunities available to them may be allocated to vessels flying their flag in accordance with certain criteria for the allocation of fishing opportunities. Therefore, Member States have the necessary margin of discretion when distributing the allocated total allowable catches ('TACs'), in line with the social/economic model of their choice to exploit the fishing opportunities available to them.

- **Choice of the instrument**

Regulation.

3. RESULTS OF *EX POST* EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable.

- **Stakeholder consultations**

The Commission has consulted stakeholders, in particular through the Advisory Councils, and Member States on its approach to the various proposals for fishing opportunities, on the basis of its annual Communication "*Towards more sustainable fishing in the EU: state of play and orientations for 2023"* (COM(2022) 253 final).

Stakeholders' responses to that annual Communication set out their views on the Commission's evaluation of the state of the resources and on the appropriate management response. The Commission considered the responses when formulating this proposal.

- **Collection and use of expertise**

The Commission consulted the International Council for the Exploration of the Sea ('ICES') on the methodology to be used. ICES scientific advice is based on a framework developed by its expert groups and decision-making bodies, and is issued in line with its framework partnership agreement with the Commission.

- **Impact assessment**

The scope of this proposal is circumscribed by Article 43(3) of the TFEU.

This proposal seeks to avoid short-term approaches in favour of long-term sustainability. It therefore takes account of initiatives by stakeholders and Advisory Councils if they have been positively reviewed by ICES and/or the Scientific, Technical and Economic Committee for Fisheries ('STECF'). The Commission's CFP reform proposal was based on an impact assessment (SEC(2011) 891) that considered that while achieving the MSY objective was a

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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).

necessary condition for environmental, economic and social sustainability, those three objectives cannot be achieved in isolation.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

The proposal respects fundamental rights and in particular those recognised by the Charter of Fundamental Rights of the European Union.

4. BUDGETARY IMPLICATIONS

The proposed measures will have no budgetary implications.

5. OTHER ELEMENTS

- **Detailed explanation of the specific provisions of the proposal**

The proposal seeks to modify Regulation (EU) 2023/194 as described below.

Regulation (EU) 2023/194, as amended by Council Regulation (EU) 2023/1324[3], sets a provisional TAC for anchovy (*Engraulis encrasicolus*) in ICES subareas 9 and 10 (Iberian waters and waters around the Azores) and EU waters of Committee for Eastern Central Atlantic Fisheries ('CECAF') division 34.1.1 (east of Madeira and of the Canary islands) for the period from 1 July to 30 September 2023, pending the publication by ICES of its scientific advice for the period from 1 July 2023 to 30 June 2024, and allows fishing for that stock to continue.

Following the publication of that advice[4] on 21 June 2023, the definitive TAC for the period from 1 July 2023 to 30 June 2024 should be set. The TAC should be set at the level of 20 555 tonnes, in accordance with that advice.

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[3] Council Regulation (EU) 2023/1324 of 29 June 2023 amending Regulation (EU) 2022/109 fixing for 2022 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, and Regulation (EU) 2023/194 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 166, 30.6.2023, p. 50).

[4] https://doi.org/10.17895/ices.advice.21907911.v1

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Council Regulation (EU) 2023/194[1] fixes for 2023 the fishing opportunities for certain fish stocks applicable in Union waters and, for Union fishing vessels, in certain non-Union waters.

(2) Regulation (EU) 2023/194, as amended by Council Regulation (EU) 2023/1324[2], sets a provisional total allowable catch ('TAC') for anchovy in International Council for the Exploration of the Sea ('ICES') subareas 9 and 10 and Union waters of Committee for Eastern Central Atlantic Fisheries ('CECAF') division 34.1.1 for the period from 1 July to 30 September 2023, pending the publication by ICES of its scientific advice for the period from 1 July 2023 to 30 June 2024, and allows fishing for that stock to continue. Following the publication of that advice[3] on 21 June 2023, the definitive TAC for the period from 1 July 2023 to 30 June 2024 should be set at the level of 20 555 tonnes, in accordance with that advice.

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1 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).

2 Council Regulation (EU) 2023/1324 of 29 June 2023 amending Regulation (EU) 2022/109 fixing for 2022 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, and Regulation (EU) 2023/194 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 166, 30.6.2023, p. 50).

3 https://doi.org/10.17895/ices.advice.21907911.v1.

(3) Regulation (EU) 2023/194 should therefore be amended accordingly.

(4) Given the urgency of avoiding the interruption of fishing activities, this Regulation should enter into force on the date of its publication in the *Official Journal of the European Union*.

(5) The TAC for anchovy in ICES subareas 9 and 10 and Union waters of CECAF division 34.1.1 should apply from 1 July 2023. Such retroactive application does not affect the principles of legal certainty and protection of legitimate expectations, as the fishing opportunities concerned are increased by the amendment.

HAS ADOPTED THIS REGULATION:

Article 1
Amendment of Regulation (EU) 2023/194

Annex IA to Regulation (EU) 2023/194 is amended in accordance with the Annex to this Regulation.

Article 2
Entry into force and application

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

It shall apply from 1 July 2023.

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

Done at Brussels,

For the Council
The President