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PROPOSAL

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| From: | Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director |
| date of receipt: | 2 September 2024 |
| To: | Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union |
| No. Cion doc.: | COM(2024) 392 final |
| Subject: | Proposal for a COUNCIL REGULATION amending Regulation (EU) 2024/257 fixing for 2024, 2025 and 2026 the fishing opportunities for certain fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2023/194 fixing for 2023 and 2024 such fishing opportunities |

Delegations will find attached document COM(2024) 392 final.

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EUROPEAN
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Brussels, 2.9.2024
COM(2024) 392 final

2024/0216 (NLE)

Proposal for a

COUNCIL REGULATION

amending Regulation (EU) 2024/257 fixing for 2024, 2025 and 2026 the fishing opportunities for certain fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2023/194 fixing for 2023 and 2024 such fishing opportunities

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

Council Regulation (EU) 2024/257¹ fixes for 2024, 2025 and 2026 the fishing opportunities for certain fish stocks, applicable in EU waters and, for EU fishing vessels, in certain non-EU waters. In addition, Council Regulation (EU) 2023/194² fixes for 2023 and 2024 such fishing opportunities for certain deep-sea fish stocks. The proposal amends those fishing opportunities for 2024 and 2025 to take account of the latest scientific advice and other developments.

- **Consistency with existing policy provisions in the policy area**

The measures proposed are consistent with the objectives and rules 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 the 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 Policy³. Pursuant to Articles 16 and 17 of Regulation (EU) 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

¹ Council Regulation (EU) 2024/257 of 10 January 2024 fixing for 2024, 2025 and 2026 the fishing opportunities for certain fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2023/194 (OJ L, 2024/257, 11.01.2024, ELI: <http://data.europa.eu/eli/reg/2024/257/oj>).

² 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).

³ 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).

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**

Given that the proposal amends an existing regulation, the most appropriate legal instrument is a 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, on the basis of its annual Communication “Sustainable fishing in the EU: state of play and orientations for 2024” (COM(2023) 303).

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 those responses when formulating the proposal.

- **Collection and use of expertise**

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

- **Impact assessment**

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

The proposal seeks to avoid short-term approaches in favour of long-term sustainability. It takes account of initiatives by stakeholders and advisory councils if they have been positively reviewed by ICES. The Commission’s CFP reform proposal was based on an impact assessment (SEC(2011) 891) that considered that while achieving the maximum sustainable yield) MSY objective was a 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 amend Council Regulation (EU) 2024/257 and Council Regulation (EU) 2023/194 as described below.

Anchovy in Atlantic Iberian waters

Regulation (EU) 2024/257, as amended by Regulation (EU) 2024/1856⁴, set a provisional TAC for anchovy (*Engraulis encrasicolus*) in ICES subareas 9 and 10 (Atlantic 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 2024 to 30 September 2024 at the level of 4 997 tonnes, pending the publication by ICES of its scientific advice for anchovy in ICES division 9a (Atlantic Iberian waters) for that period, and allowed fishing to continue.

Following the publication of that advice⁵ on 21 June 2024, the definitive TAC for anchovy in Atlantic Iberian waters for the period from 1 July 2024 to 30 June 2025 should be set. ICES provides MSY advice for two different populations of anchovy occurring in ICES division 9a: (i) west of a line running south-west from Sagres, Portugal; and (ii) south of that line. It is proposed to set the TAC for anchovy in ICES subareas 9 and 10 and EU waters of CECAF division 34.1.1 at the level of the sum of those pieces of advice. In addition, it is proposed to establish a special condition under which catches in the southern part of the TAC area (i.e. part of the TAC area south of the line running south-west from Sagres, Portugal) may not exceed 969 tonnes, in accordance with the ICES advice for the population occurring in that area. Moreover, it is proposed for that TAC and that special condition to apply retroactively from 1 July 2024.

However, taking into account that catches may already have occurred under the provisional TAC, it is also proposed that Member States may report catches of anchovy in the southern part of the TAC area during the period from 1 July 2024 to 30 September 2024 in addition to the special condition of 969 tonnes, provided that:

- the 969 tonnes have been fully used; and
- those catches do not exceed the provisional TAC level (4 997 tonnes) minus the 969 tonnes (4 028 tonnes), as allocated to Member States in accordance with the principle of relative stability.

To avoid flexibility that would allow Member States to report catches further exceeding the scientific advice level, it is also proposed to prohibit quota exchanges between Member States for those additional quantities.

Pollack in Cantabrian Sea and in Atlantic Iberian waters

Regulation (EU) 2024/257 set the TACs for pollack (*Pollachius pollachius*) in ICES division 8c (Cantabrian Sea) and for pollack in ICES subareas 9 and 10 and EU waters of CECAF

⁴ Council Regulation (EU) 2024/1856 of 28 June 2024 amending Regulation (EU) 2024/257 fixing for 2024, 2025 and 2026 the fishing opportunities for certain fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and Regulation (EU) 2023/194 fixing for 2023 such fishing opportunities (OJ L, 2024/1856, 1.7.2024, ELI: <http://data.europa.eu/eli/reg/2024/1856/oj>).

⁵ <https://doi.org/10.17895/ices.advice.25019153.v1>

division 34.1.1 (Atlantic Iberian waters) for 2024 and 2025 in accordance with the ICES advice⁶ for pollack in ICES subarea 8 and division 9a for 2024 and 2025⁷.

Further to the statement by Spain that those TACs set by the Council would result in a premature closure of the mixed fisheries in the Cantabrian Sea and the Atlantic Iberian waters, and the subsequent submission of data by Spain on 7, 10 June and 5 July 2024 and by Portugal on 21 June 2024, the Commission requested the Scientific, Technical and Economic Committee for Fisheries (STECF) to assess the socio-economic impact of maintaining those TACs for 2024 at the level advised by ICES in its scientific advice. The Commission also asked STECF to indicate what would be the level of those TACs needed to avoid the phenomenon of ‘choke species’⁸ in the targeted fisheries of respectively hake and sole in the Cantabrian Sea and in the Atlantic Iberian waters. The Commission provided the STECF with an ad-hoc contract report, providing an assessment of the socio-economic impact of setting those TACs for 2024 at the level advised by ICES compared to setting those TACs at other levels, as well as documents submitted by Spain on 7, 10 June and 5 July 2024 and by Portugal on 21 June 2024⁹.

On 29 July 2024, the STECF published its assessment¹⁰ of the socio-economic impact of setting those TACs for 2024 at the level advised by ICES in its scientific advice.

In its advice, STECF noted, *inter alia*, the following.

Pollack in both the Cantabrian Sea (ICES division 8c) and in Atlantic Iberian waters (ICES subareas 9 and 10 and CECAF division 34.1.1)

First, STECF concludes that *“the studies and data provided [ad-hoc contract report and data provided by Spain and Portugal] are globally consistent in identifying potential choke situation and socio-economic effects for the Spanish fleets if the 53% TAC reduction would be applied to the pollack TAC[s] in both areas (Cantabrian and Iberian Atlantic waters), assuming full implementation of the landing obligation and closing of the fishery after exhaustion of the TAC[s].”*

Second, STECF notes that *“there is not a mixed fisheries bio-economic model in where the pollack stock is included”*. However, the STECF *“analysed the species composition for the main Spanish métiers catching pollack in divisions 8c and 9a based on the in ICES Fisheries Overview report”* and found that *“three métiers which have a technical interaction with pollack ... [set gillnets, trammel nets and set longlines] in divisions 8c and 9a, all of which are mixed fisheries. These technical interactions may impact landings of hake and common sole which are target species within these fisheries that could be choked due to a lower TAC of pollack”*.

Pollack in the Cantabrian Sea (ICES division 8c)

⁶ <https://doi.org/10.17895/ices.advice.21841014.v1>

⁷ Taking into account the current distribution of fishing opportunities between the three TACs covered by that advice: (i) TAC for pollack in ICES divisions 8a, 8b, 8d and 8e (80%); TAC for pollack in ICES division 8c (9%); and (iii) TAC for pollack ICES subareas 9 and 10 and EU waters of CECAF division 34.1.1 (11%).

⁸ As recital 8 of Regulation (EU) 2024/257 explains, ‘choke species’ are species with a lack of quota that can cause one or more fishing vessels to stop fishing even if they still have quota for other species.

⁹ <https://stecf.jrc.ec.europa.eu/documents/d/stecf/stecf-plen-24-02-background>

¹⁰ <https://stecf.jrc.ec.europa.eu/documents/d/stecf/stecf-plen-24-02>

STECF refers to the ad-hoc contract report's findings for pollack in the Cantabrian Sea noting that: *"The choke effect, for Spanish fleets, which is simulated in the scenarios using the Minimum effort deployment level, may be significant. The activity of the Spanish fleets has been more intense in the last and first quarter of the past years. Choke is simulated to occur in Q4 (TAC=108 and 78), Q3 (TAC=108 and 78) or even in Q2 (TAC=78) using the higher catchability observed in 2022 and assuming no swaps from France to Spain."* In addition, STECF notes that: *"The minimum annual TAC in division 8c (Cantabrian Sea) required to deploy the total effort simulated in the scenarios using the Minimum deployment effort option (...) ranges from 150 tonnes (swaps and mean catchability) to 169 tonnes (no swaps and 2022 catchability)."*

In addition to the STECF's assessment, the Commission notes that the ad-hoc contract report, as reviewed by the STECF, considers that a TAC for pollack in the Cantabrian Sea set at the level advised by ICES leads to a reduction of total income of concerned Spanish fleets of EUR 12 million (-36%) compared to the average income in the period from 2020 to 2022 (assuming 2022 catchability). The Commission further notes that the ad-hoc contract report indicates that, in order to maintain fisheries at current effort until the end of 2024, the TAC for pollack in the Cantabrian Sea would need to be set at the level of 166 tonnes and that such a level would lead to a small reduction of total income of 1,5%. Finally, the Commission notes that Spain is disproportionately affected by any reduction of that TAC as it currently depends on quota exchanges and year-to-year flexibility. The use of those flexibilities would under a reduced TAC and reduced Member States' quotas become more difficult.

Based on the outcome of the STECF's assessment, the additional elements summarised in the previous paragraph and the difficulty of fishing all stocks at MSY at the same time, especially in situations where that would lead to a premature closure of one or more fisheries, it is proposed, pursuant to Article 5(3) of Regulation (EU) 2019/472 of the European Parliament and of the Council¹¹ ('Western Waters multiannual plan', Western Waters MAP), to:

- increase the TAC for pollack in ICES division 8c for 2024 from 78 to 108 tonnes. According to the ICES advice, that level corresponds to the landings of that stock in 2022, i.e. the most recent year for which data is available. Setting the TAC at 108 tonnes will ensure that the current fishing pressure on pollack in ICES division 8c does not increase. That should contribute to the recovery of the biomass of that stock, which scientific advice by ICES estimates to be currently below the biomass index trigger value (I_{trigger}). In addition, setting the TAC at the level of 108 tonnes will allow the TACs for hake and sole to be fished. Moreover, while that level will decrease the total income of fleets, in particular of the Spanish fleets, according to the ad-hoc contract report, fishers will be able to continue fishing until 18 September 2024; and
- increase the minimum conservation reference size for pollack in ICES division 8c for 2024 from 30 cm to 42 cm. According to the 2023 ICES benchmark for that stock and the relevant ICES working group report¹², 42 cm corresponds to the length-at-maturity for that stock. Consequently, this measure will ensure that immature

¹¹ 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, 25.3.2019, p. 1).

¹² <https://doi.org/10.17895/ices.pub.23372990.v1>
<https://doi.org/10.17895/ices.pub.23541168.v1>

individuals are protected to a greater extent and thus contribute to the recovery of the biomass of that stock, which scientific advice by ICES estimates to be currently below I_{trigger} . Moreover, without this measure, the level of the TAC for pollack in ICES division 8c for 2024 would have to be reduced further to allow pollack in ICES subarea 8 and division 9a to recover. This measure should apply only until the adoption of a delegated act adopted in accordance with Article 15(2) of Western Waters MAP to amend Annex VII, Part A, of that Regulation by amending the corresponding technical measure.

In addition, pursuant to Article 5(3) of the Western Waters MAP, it is proposed to prohibit the targeting of pollack in ICES division 8c.

Pollack in Atlantic Iberian waters (ICES subareas 9 and 10 and CECAF division 34.1.1)

STECF refers to the ad-hoc contract report's findings for pollack in Atlantic Iberian waters noting that: *"The activity of the Spanish fleets has been more intense in the last and first quarter of the past years. Choke is simulated to occur in Q4 (TAC=132 and 96 tonnes) or Q3 (TAC=96 tonnes) assuming that any of the available flexibilities are applied"*. In addition, STECF notes that: *"The minimum annual TAC in 9-10 CECAF 34.1.1 (Atlantic Iberian waters) required to deploy the total effort simulated in the scenarios using the Minimum deployment effort option (...) ranges from 129 tonnes (swaps, flexibilities and mean catchability) to 142 tonnes (no swaps and 2022 catchability)."*

In addition to the STECF's assessment, the Commission notes that the ad-hoc contract report, as reviewed by the STECF, considers that a TAC for pollack in Atlantic Iberian waters set at the level advised by ICES leads to a reduction of total income of concerned Spanish fleets of EUR 3,9 million (-34%) compared to the average income in the period from 2020 to 2022 (assuming 2022 catchability). The Commission further notes that the ad-hoc contract report indicates that, in order to maintain fisheries at current effort until the end of 2024, the TAC for pollack in Atlantic Iberian waters would need to be set at the level of 141 tonnes and that such a level would lead to a small reduction of total income of 2,4%. Finally, the Commission notes that Spain would be disproportionately affected by any reduction of that TAC as it currently depends on year-to-year flexibility. The use of that flexibility would under a reduced TAC and reduced Member States quotas become more difficult.

Based on the outcome of the STECF's assessment, the additional elements summarised in the previous paragraph and the difficulty of fishing all stocks at MSY at the same time, especially in situations where that would lead to a premature closure of one or more fisheries, it is proposed, pursuant to Article 5(3) of the Western Waters MAP, to:

- increase the TAC for pollack in ICES subareas 9 and 10 and EU waters of CECAF division 34.1.1 for 2024 from 96 to 132 tonnes. According to the ICES advice, that level corresponds to the landings of that stock in 2022, i.e. the most recent year for which data is available. Setting the TAC at 132 tonnes will ensure that the current fishing pressure on pollack in ICES subarea 8 and division 9a does not increase. That should contribute to the recovery of the biomass of that stock, which scientific advice by ICES estimates to be currently below I_{trigger} . In addition, setting the definitive TAC at the level of 132 tonnes will allow the TACs for hake and sole to be fished. Moreover, while that level will decrease the total income of fleets, in particular of the Spanish fleets, according to the ad-hoc contract report, fishers will be able to continue fishing until 8 December 2024; and

- for the same reasons and under the same conditions as for pollack in division 8c, increase the minimum conservation reference size for pollack in ICES subareas 9 and 10 and EU waters of CECAF division 34.1.1 for 2024 from 30 cm to 42 cm.

In addition, pursuant to Article 5(3) of the Western Waters MAP, it is proposed to prohibit the targeting of pollack in ICES subareas 9 and 10 and EU waters of CECAF division 34.1.1.

Additional landing obligation exemptions deductions

Taking into account the application of the landing obligation, the EU quotas set by Regulation (EU) 2024/257 take account of discards based on established exemptions; these quantities are not required to be landed and counted against the quotas and are therefore deducted from the EU quotas. Those deductions for 2024 were calculated by the Commission services in November 2023, which set out the approach used for those calculations and the deductions in a supporting document¹³.

Due to an error, those deductions for certain stocks for 2024 were not calculated by the Commission services in November 2023. Those additional deductions have now been calculated by the Commission services in line with the approach already followed for all other relevant stocks for 2024. Therefore, it is proposed to amend, where relevant, the EU quotas and Member States quotas for those stocks for 2024 to take into account the required landing obligation exemptions deductions.

ICCAT

On 13 March 2024, the European Parliament and the Council adopted Regulation (EU) 2024/897¹⁴ implementing into EU law certain fisheries management, conservation and control measures in the International Commission for the Conservation of Atlantic Tunas (ICCAT) Convention area.

Regulation (EU) 2024/897 amends Article 9(4) and Article 12, points (f) and (g), of Regulation (EU) 2017/2107¹⁵ by inserting new provisions in that latter regulation. Those new provisions: (i) require Member States to ensure that no more than 300 fish-aggregating devices (FADs) per vessel with operational boys are active at the same time; and (ii) *inter alia* require the transmission by Member States of historical data on fishing gear set around FADs by purse seine vessels flying their flag. To avoid overlapping provisions on the same subject matter, it is therefore appropriate to amend Article 28 of Regulation (EU) 2024/257.

¹³ https://oceans-and-fisheries.ec.europa.eu/document/download/fb2e7f71-b504-4c18-8921-9df35e72fe8b_en?filename=Atlantic-FOs-2024-regulation-Supporting%20document-Deductions.pdf

¹⁴ Regulation (EU) 2024/897 of the European Parliament and of the Council of 13 March 2024 amending Regulation (EU) 2017/2107 laying down management, conservation and control measures applicable in the Convention area of the International Commission for the Conservation of Atlantic Tunas (ICCAT) and Regulation (EU) 2023/2053 establishing a multiannual management plan for bluefin tuna in the eastern Atlantic and the Mediterranean (OJ L, 2024/897, 19.3.2024, ELI: <http://data.europa.eu/eli/reg/2024/897/oj>).

¹⁵ Regulation (EU) 2017/2107 of the European Parliament and of the Council of 15 November 2017 laying down management, conservation and control measures applicable in the Convention area of the International Commission for the Conservation of Atlantic Tunas (ICCAT), and amending Council Regulations (EC) No 1936/2001, (EC) No 1984/2003 and (EC) No 520/2007 (OJ L 315, 30.11.2017, p. 1).

Red seabream in Atlantic Iberian waters

Regulation (EU) 2023/194, set a TAC for red seabream (*Pagellus bogaraveo*) in ICES subarea 9 (Atlantic Iberian waters) for 2024 at the level of 114 tonnes.

ICES published its advice¹⁶ for red seabream in ICES subarea 9 for 2025 and 2026 on 16 August 2024. For 2025 and 2026, ICES for the first time provided advice for two different populations of red seabream in that area. ICES explains that this is because, firstly, two populations of red seabream occur in ICES subarea 9: (i) red seabream distributed in ICES subarea 9 except for the Atlantic part of the Strait of Gibraltar (i.e. Galician and Portuguese coast); and (ii) red seabream distributed in the Atlantic part of the Strait of Gibraltar and in the western Mediterranean. Secondly, ICES explains that the advice of the General Fisheries Commission for the Mediterranean (GFCM) Scientific Advisory Committee on Fisheries (SAC) for red seabream in GFCM geographical subareas 1 and 3 (western Mediterranean) covers the red seabream population distributed in the western Mediterranean and in the Atlantic part of the Strait of Gibraltar. In addition, according to the latest draft advice of the SAC for that stock for 2025¹⁷: (i) the biomass has been below B_{lim} ¹⁸ since 2011; (ii) the stock's biomass in 2024 is at 30% of B_{lim} ; (iii) the biomass will remain below B_{lim} even with no fishing in 2025; and (iv) the fishing mortality is currently at 204% of the F_{MSY} ¹⁹ proxy. Moreover, ICES advised for red seabream in the Atlantic part of the Strait of Gibraltar for 2025 and 2026 that “*catches should be minimized*”. Consequently, fishing for red seabream in the Atlantic part of the Strait of Gibraltar in the remainder of 2024, under the TAC for red seabream in ICES subarea 9 for 2024, may pose a serious threat to that stock. That serious threat should be addressed urgently.

Therefore, in accordance with Articles 4(7) and 8(2) of the Western Waters MAP, it is proposed to suspend the fishery for red seabream in the Atlantic part of the Strait of Gibraltar as soon as possible, following entry into force of this regulation (i.e. from 1 October 2024).

¹⁶ <https://doi.org/10.17895/ices.advice.26728699.v1>

¹⁷ Draft advice set out in report of the ‘Benchmark session for blackspot seabream in geographical subareas 1 and 3 – Working Group on Stock Assessment of Demersal Species (WGSAD)’:
<https://www.fao.org/gfcm/technical-meetings/detail/en/c/1696537/>

¹⁸ ‘ B_{lim} ’ is the spawning stock biomass reference point below which there may be reduced reproductive capacity.

¹⁹ ‘ F_{MSY} ’ is estimated fishing mortality that with a given fishing pattern and under current average environmental conditions gives the long-term MSY.

Proposal for a

COUNCIL REGULATION

amending Regulation (EU) 2024/257 fixing for 2024, 2025 and 2026 the fishing opportunities for certain fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2023/194 fixing for 2023 and 2024 such fishing opportunities

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) 2024/257²⁰ fixes for 2024, 2025 and 2026 the fishing opportunities for certain fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters. Those fishing opportunities should be amended to take into account the publication of scientific advice.
- (2) Regulation (EU) 2024/257, as amended by Regulation (EU) 2024/1856²¹, set a provisional total allowable catch (TAC) for anchovy (*Engraulis encrasicolus*) in 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 2024 to 30 September 2024 at the level of 4 997 tonnes, pending the publication by the International Council for the Exploration of the Sea (ICES) of its scientific advice for anchovy in ICES division 9a for that period, and allowed fishing to continue. Following the publication of that advice on 21 June 2024, the definitive TAC for anchovy in ICES subareas 9 and 10 and Union waters of CECAF division 34.1.1 for the period from 1 July 2024 to 30 June 2025 should be set at the level advised by ICES for the western and the southern populations occurring in that area. In addition, a special condition should be established under which catches in the southern part of the TAC area may not exceed 969 tonnes, in accordance with the ICES advice for the population occurring in that area. Moreover, to take into account that catches may already have occurred under the provisional TAC, catches of anchovy in the southern part of the TAC area during the period from 1 July 2024 to 30 September 2024 in addition to the special condition of 969 tonnes should be allowed, provided that certain conditions are met.

²⁰ Council Regulation (EU) 2024/257 of 10 January 2024 fixing for 2024, 2025 and 2026 the fishing opportunities for certain fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2023/194 (OJ L, 2024/257, 11.01.2024, ELI: <http://data.europa.eu/eli/reg/2024/257/oj>).

²¹ Council Regulation (EU) 2024/1856 of 28 June 2024 amending Regulation (EU) 2024/257 fixing for 2024, 2025 and 2026 the fishing opportunities for certain fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and Regulation (EU) 2023/194 fixing for 2023 such fishing opportunities (OJ L, 2024/1856, 1.7.2024, ELI: <http://data.europa.eu/eli/reg/2024/1856/oj>).

- (3) On 29 July 2024, the Scientific, Technical and Economic Committee for Fisheries (STECF) published its advice on the socio-economic impact of maintaining the TACs for pollack (*Pollachius pollachius*) in ICES division 8c and in subareas 9 and 10 and Union waters of Committee for Eastern Central Atlantic Fisheries (CECAF) division 34.1.1 for 2024 at the level advised by ICES²². STECF indicates the level of those TACs required to avoid the phenomenon of ‘choke species’²³. Therefore, the TACs for 2024 set by Regulation (EU) 2024/257 should be increased. Pursuant to Article 5(3) of Regulation (EU) 2019/472 of the European Parliament and of the Council²⁴ (‘Western Waters multiannual plan’, Western Waters MAP), those TACs should be set at a level of 108 tonnes in ICES division 8c and 132 tonnes in subareas 9 and 10 and Union waters of CECAF division 34.1.1 which, according to that advice, will allow the fleets to continue operating until 18 September 2024 and 8 December 2024 respectively and therefore reduce: (i) the phenomenon of ‘choke species’ and a premature closure of the relevant fisheries; and (ii) associated socio-economic impacts on the fisheries sector.
- (4) For certain additional stocks, both the EU quotas and Member States quotas for 2024 should be amended to take into account the required landing obligation exemptions deductions.
- (5) On 13 March 2024, the European Parliament and the Council adopted Regulation (EU) 2024/897²⁵ implementing into Union law certain fisheries management, conservation and control measures in the International Commission for the Conservation of Atlantic Tunas (ICCAT) Convention area. Regulation (EU) 2024/897 amends Article 9(4) and Article 12, points (f) and (g), of Regulation (EU) 2017/2107²⁶ by inserting new provisions in that latter regulation. To avoid overlapping provisions on the same subject matter, Article 28 of Regulation (EU) 2024/257 should be amended accordingly.
- (6) Regulation (EU) 2023/194, set a TAC for red seabream (*Pagellus bogaraveo*) in ICES subarea 9 for 2024 at the level of 114 tonnes. ICES published its advice for that stock for 2025 and 2026 on 16 August 2024. For 2025 and 2026, ICES for the first time provided advice for two different populations of red seabream in that area. ICES explains that this is because, firstly, two populations of red seabream occur in ICES subarea 9: (i) red seabream distributed in ICES subarea 9 except for the Atlantic part

²² <https://doi.org/10.17895/ices.advice.21841014.v1>

²³ ‘Choke species’ is a species with a lack of quota that can cause one or more fishing vessels to stop fishing even if they still have quota for other species.

²⁴ 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, 25.3.2019, p. 1).

²⁵ Regulation (EU) 2024/897 of the European Parliament and of the Council of 13 March 2024 amending Regulation (EU) 2017/2107 laying down management, conservation and control measures applicable in the Convention area of the International Commission for the Conservation of Atlantic Tunas (ICCAT) and Regulation (EU) 2023/2053 establishing a multiannual management plan for bluefin tuna in the eastern Atlantic and the Mediterranean (OJ L, 2024/897, 19.3.2024, ELI: <http://data.europa.eu/eli/reg/2024/897/oj>).

²⁶ Regulation (EU) 2017/2107 of the European Parliament and of the Council of 15 November 2017 laying down management, conservation and control measures applicable in the Convention area of the International Commission for the Conservation of Atlantic Tunas (ICCAT), and amending Council Regulations (EC) No 1936/2001, (EC) No 1984/2003 and (EC) No 520/2007 (OJ L 315, 30.11.2017, p. 1).

of the Strait of Gibraltar (i.e. Galician and Portuguese coast); and (ii) red seabream distributed in the Atlantic part of the Strait of Gibraltar and in the western Mediterranean. Secondly, ICES explains that the advice of the General Fisheries Commission for the Mediterranean (GFCM) Scientific Advisory Committee on Fisheries (SAC) for red seabream in GFCM geographical subareas 1 and 3 (western Mediterranean) covers the red seabream population distributed in the western Mediterranean and in the Atlantic part of the Strait of Gibraltar. In addition, according to the latest draft advice of the SAC for that stock for 2025: (i) the biomass has been below B_{lim} ²⁷ since 2011; (ii) the stock's biomass in 2024 is at 30% of B_{lim} ; (iii) the biomass will remain below B_{lim} even with no fishing in 2025; and (iv) the fishing mortality is currently at 204% of the F_{MSY} ²⁸ proxy. Moreover, ICES advised for red seabream in the Atlantic part of the Strait of Gibraltar for 2025 and 2026 that “*catches should be minimized*”. Consequently, fishing for red seabream in the Atlantic part of the Strait of Gibraltar in the remainder of 2024, under the TAC for red seabream in ICES subarea 9 for 2024, may pose a serious threat to that stock. That serious threat should be addressed urgently. Therefore, in accordance with Articles 4(7) and 8(2) of the Western Waters MAP, the fishery for red seabream in the Atlantic part of the Strait of Gibraltar should be suspended.

- (7) Regulations (EU) 2024/257 and (EU) 2023/194 should therefore be amended accordingly.
- (8) The provisions of this Regulation amending provisions of Regulation (EU) 2024/257 regarding: (i) pollack in ICES division 8c and in subareas 9 and 10 and Union waters of CECAF division 34.1.1, except for the prohibition of directed fisheries; and (ii) ICCAT, should apply from 1 January 2024, in line with the application period of the amended provisions. The TAC for anchovy in ICES subareas 9 and 10 and Union waters of CECAF division 34.1.1 should apply from 1 July 2024, again in line with the application period of the amended provision. Such retroactive application does not affect the principles of legal certainty and protection of legitimate expectations, as the level of the fishing opportunities are maintained or increased.
- (9) Given the urgency of avoiding interruptions to fishing activities, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) 2024/257

Regulation (EU) 2024/257 is amended as follows:

- (1) Article 12a is replaced by the following:

²⁷ ‘ B_{lim} ’ is the spawning stock biomass reference point below which there may be reduced reproductive capacity.

²⁸ ‘ F_{MSY} ’ is estimated fishing mortality that with a given fishing pattern and under current average environmental conditions gives the long-term MSY.

*“Article 12a
Measures on pollack in ICES divisions 8a to 8e, subareas 9 and 10 and Union waters of
CECAF division 34.1.1*

A minimum conservation reference size of 42 cm shall apply for:

- (a) catches of pollack in ICES divisions 8a, 8b, 8d and 8e; and
- (b) catches of pollack in ICES division 8c, subareas 9 and 10 and Union waters of CECAF division 34.1.1.”

- (2) Article 28 is replaced by the following:

*“Article 28
FADs for tropical tunas*

- 1. It shall be prohibited to use FADs in the ICCAT Convention area from 1 January 2024 to 12 March 2024.
- 2. From 17 December 2023 to 31 December 2023, Member States shall ensure that their fishing vessels do not deploy FADs.”

- (3) In Article 59, point (aa) is replaced by the following:

- “(aa) Article 12a, point (a), shall apply from 1 July 2024 to 31 December 2024 or to the date on which a delegated act adopted in accordance with Article 15(2) of Regulation (EU) 2019/1241 and amending Annex VII, Part A, of that Regulation regarding the minimum conservation reference size for pollack in ICES divisions 8a, 8b, 8d and 8e becomes applicable, whichever is earlier.”

- (4) In Article 59, the following point (ab) is inserted:

- “(ab) Article 12a, point (b), shall apply from 1 October 2024 to 31 December 2024 or to the date on which a delegated act adopted in accordance with Article 15(2) of Regulation (EU) 2019/1241 and amending Annex VII, Part A, of that Regulation regarding the minimum conservation reference size for pollack in ICES subareas 9 and 10 and Union waters of CECAF division 34.1.1 becomes applicable, whichever is earlier.”

- (5) In Article 59, the following point (ia) is inserted:

- “(ia) In Annex IA, Part A, Tables 18 and 19, footnote 1 shall apply from 1 October 2024 to 31 December 2024;”

- (6) Annex IA, Part A, is amended in accordance with Annex I, Part I, to this Regulation.

- (7) Annex IA, Part B, is amended in accordance with Annex I, Part II, to this Regulation.

Article 2
Amendments to Regulation (EU) 2023/194

Regulation (EU) 2023/194 is amended as follows:

- (1) In Article 59, the following points (ha) and (hb) are inserted:
- “(ha) In Annex IA, Part E, table for red seabream (*Pagellus bogaraveo*) in Union and international waters of ICES subarea 9, footnote 1 shall apply from 1 January 2024 to 31 December 2024;
- (hb) In Annex IA, Part E, table for red seabream (*Pagellus bogaraveo*) in Union and international waters of ICES subarea 9, footnote 2 shall apply from 1 October 2024 to 31 December 2024;”
- (2) Annex IA, Part E, is amended in accordance with Annex II to this Regulation.

Article 3
Entry into force and application

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

It shall apply from 1 January 2024.

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

Done at Brussels,

For the Council
The President