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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 annual Conference of the Parties to the Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea and repealing Decision (EU) 2019/866

COUNCIL DECISION (EU) 2023/...

of

**on the position to be taken on behalf of the European Union
in the annual Conference of the Parties to the Convention
on the Conservation and Management of Pollock Resources
in the Central Bering Sea
and repealing Decision (EU) 2019/866**

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 Republic of Poland is a Contracting Party to the Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea ('Bering Sea Convention'). The Union is not a Party to that Convention. In accordance with Article 6(9) of the 2003 Act of Accession, fisheries agreements concluded by Member States with third countries are managed by the Union and the Union should implement any decisions established under the Bering Sea Convention.
- (2) Council Decision 7277/16 of 11 April 2016 authorised the Republic of Poland to negotiate, in the interest of the Union, an amendment to the Bering Sea Convention with a view for the Union to become a Party to that Convention. In October 2016, Poland submitted the proposal for such an amendment to the Bering Sea Convention to the Depositary of that Convention.
- (3) Council Decision (EU) 2023/575¹ authorised Poland to ratify, in the interest of the Union, the amendment to the Bering Sea Convention that would allow the participation of the Union as a party to that Convention. It is understood that upon the acceptance of the Union as a full party to the Bering Sea Convention, the Republic of Poland will withdraw its membership from the Convention.

¹ Council Decision (EU) 2023/575 of 9 March 2023 authorising Poland to ratify, in the interest of the European Union, the amendment to the Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea (OJ L 75, 14.3.2023, p. 15).

- (4) The annual Conference of the Parties to the Bering Sea Convention (‘the annual Conference of the Parties’) is responsible for the management and conservation of the Pollock Resources in the Bering Sea Convention Area. Such measures may become binding upon the Union.
- (5) Regulation (EU) No 1380/2013 of the European Parliament and of the Council¹ provides that the Union is to ensure that fishing and aquaculture activities are environmentally sustainable in the long term and are managed in a way that is consistent with the objectives of achieving economic, social and employment benefits, and of contributing to the availability of food supplies. It also provides that the Union is to apply the precautionary approach to fisheries management and is to aim to ensure that exploitation of living marine biological resources restores and maintains the population of harvested species above levels which can produce the maximum sustainable yield. It further provides that the Union is to take management and conservation measures based on the best available scientific advice, to support the development of scientific knowledge and advice, to gradually eliminate discards and to promote fishing methods that contribute to more selective fishing and the avoidance and reduction, as far as possible, of unwanted catches, to fishing with low impact on marine ecosystem and fishery resources. Furthermore, Regulation (EU) No 1380/2013 specifically provides that those objectives and principles are to be applied by the Union in the conduct of its external fisheries relations.

¹ 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).

- (6) In line with the Communications from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions ‘EU Biodiversity Strategy for 2030 Bringing nature back into our lives’, ‘Forging a climate-resilient Europe — the new EU Strategy on Adaptation to Climate Change’ and ‘A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system’, it is essential to protect nature and reverse the degradation of ecosystems. Climate change and loss of biodiversity are not to jeopardise the availability of the goods and services that healthy marine ecosystems provide to fishers, coastal communities and humanity at large.
- (7) The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions ‘A European Strategy for Plastics in a Circular Economy’ refers to specific measures to reduce plastics and marine pollution as well as the loss or abandonment at sea of fishing gear. Furthermore, the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions ‘Pathway to a Healthy Planet for All EU Action Plan: Towards Zero Pollution for Air, Water and Soil’ aims at reducing by 50 % plastic litter at sea and by 30 % micro-plastics released into the environment.

- (8) The Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions ‘Setting the course for a sustainable blue planet’ emphasises the importance of marine biodiversity protection and conservation under the Union’s external action. The Union is the most prominent actor in Regional Fisheries Management Organisations (RFMOs) and fisheries bodies worldwide. There, the Union promotes the sustainability of fish stocks, promotes transparent decision making based on sound scientific advice, enhances scientific research, and strengthens compliance.
- (9) It is appropriate to establish the position to be taken on the Union’s behalf in the meetings of the annual Conference of the Parties to the Bering Sea Convention for the period 2024-2028, as the Bering Sea Convention conservation and enforcement measures will be binding on the Union and capable of decisively influencing the content of Union law, namely, Council Regulations (EC) No 1005/2008¹ and (EC) No 1224/2009², and Regulation (EU) 2017/2403 of the European Parliament and of the Council³.

¹ Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999 (OJ L 286, 29.10.2008, p. 1).

² Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).

³ Regulation (EU) 2017/2403 of the European Parliament and of the Council of 12 December 2017 on the sustainable management of external fishing fleets, and repealing Council Regulation (EC) No 1006/2008 (OJ L 347, 28.12.2017, p. 81).

- (10) Currently, the position to be taken on the Union's behalf in the meetings of the annual Conference of the Parties is established by Council Decision (EU) 2019/866¹. It is appropriate to repeal that Decision and to replace it by a new Decision which would cover the period 2024-2028.
- (11) Under current practice, the Commission, as the external representative of the Union with regard to the exclusive Union competence in fisheries, represents the Republic of Poland and the Union at the annual Conference of the Parties.
- (12) In view of the evolving nature of fishery resources in the Bering Sea Convention Area and the consequent need for the Union's position to take account of new developments, including new scientific and other relevant information presented before or during the meetings of the annual Conference of the Parties, procedures should be established, in line with the principle of sincere cooperation among the Union institutions enshrined in Article 13(2) of the Treaty on European Union, for the year-to-year specification of the Union's position for the period 2024-2028,

HAS ADOPTED THIS DECISION:

¹ Council Decision (EU) 2019/866 of 14 May 2019 on the position to be taken on behalf of the European Union in the annual Conference of the Parties to the Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea, and repealing the Decision of 12 June 2017 establishing the position to be adopted, on behalf of the Union, in that annual Conference (OJ L 140, 28.5.2019, p. 66).

Article 1

The position to be taken on the Union's behalf in the meetings of the annual Conference of the Parties is set out in Annex I.

Article 2

The year-to-year specification of the Union's position to be taken in the meetings of the annual Conference of the Parties shall be conducted in accordance with Annex II.

Article 3

The Union's position set out in Annex I shall be assessed and, where appropriate, revised by the Council upon a proposal from the Commission, at the latest for the annual Conference of the Parties to the Bering Sea Convention in 2029.

Article 4

Decision (EU) 2019/866 is hereby repealed.

Article 5

1. Without prejudice to the prerogatives of the Commission on the external representation of the Union, this Decision is addressed to the Republic of Poland until the accession of the Union to the Bering Sea Convention.
2. After the accession of the Union to the Bering Sea Convention, this Decision is addressed to the Commission which shall represent the Union at the meetings of the annual Conference of the Parties.
3. This Decision shall enter into force on the date of its adoption.

Done at ...,

For the Council

The President

ANNEX I

The position to be taken on the Union's behalf in the annual Conference of the Parties

1. PRINCIPLES

In the framework of the Bering Sea Convention, the Union shall:

- (a) ensure that measures adopted within the annual Conference of the Parties are consistent with international law, and in particular with the 1982 UN Convention on the Law of the Sea, the 1995 UN Agreement relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, the 1993 Food and Agriculture Organization (FAO) Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas, and the 2009 FAO Port State Measures Agreement;
- (b) promote the objectives of the Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction and at the 15th Conference of the Parties to the Convention on Biological Diversity, in particular as regards stepping up the protection of marine biodiversity and the protection of 30 % of the world's ocean through marine protected areas;

- (c) contribute to the implementation of the European Green Deal, in line with the Council Conclusions of 23 October 2020 on Biodiversity – the need for urgent action, the Council Conclusions of 10 June 2021 on Forging a climate-resilient Europe – the new EU Strategy on Adaptation to Climate Change, notably concerning the protection of nature, and with the Council Conclusions of 19 October 2020 on the Farm to Fork Strategy, and a stronger Europe in the world;
- (d) act in accordance with the objectives and principles pursued by the Union within the common fisheries policy, notably through the precautionary approach and the aims related to the maximum sustainable yield as laid down in Article 2(2) of Regulation (EU) No 1380/2013, to promote the implementation of an ecosystem-based approach to fisheries management, to avoid and reduce, as far as possible, unwanted catches, and gradually eliminate discards, and to minimise the impact of fishing activities on marine ecosystems and their habitats, as well as, through the promotion of economically viable and competitive Union fisheries, to provide a fair standard of living for those who depend on fishing activities and taking account of the interests of consumers;
- (e) be in line with the Council Conclusions of 19 March 2012 on the Commission Communication on the external dimension of the common fisheries policy;
- (f) be in line with the Council Conclusions of 13 December 2022 on International Ocean Governance for safe, secure, clean, healthy and sustainably managed oceans and seas regarding marine biodiversity conservation;

- (g) work towards an appropriate involvement of stakeholders in the preparation phase for Bering Sea Convention measures and ensure that measures adopted within the Bering Sea Convention are in accordance with the objectives of the Bering Sea Convention;
- (h) promote positions consistent with the best practices of regional fisheries management organisations (RFMOs);
- (i) seek consistency and synergy with the policy that the Union is pursuing as part of its bilateral fisheries relations with third countries, and ensure coherence with its other policies notably in the field of external relations, employment, environment, trade, development, research and innovation;
- (j) aim to create a level playing field for the Union fleet within the Bering Sea Convention Area based on the same principles and standards as those applicable under Union law, and to promote the uniform implementation of those principles and standards;
- (k) promote coordination between the Bering Sea Convention, existing RFMOs and regional sea conventions and cooperation with global organisations, as applicable, within their mandates, where appropriate;
- (l) promote cooperation mechanisms amongst non-tuna RFMOs similar to the so-called Kobe process for tuna RFMOs.

2. ORIENTATIONS

The Union shall, where appropriate, endeavour to support the adoption of the following actions by the annual Conference of the Parties:

- (a) measures to promote the conservation and restoration of biodiversity and to promote the sustainability of stocks, and the integration of climate change considerations in the decision-making process;
- (b) conservation and management measures for fisheries resources in the Bering Sea Convention Area based on the best scientific advice available, including allowable harvest level and individual national quotas or effort regulation for living marine biological resources regulated by the annual Conference of the Parties, including changing the Annex to the Bering Sea Convention, which would achieve the maximum sustainable yield exploitation rate on a progressive, incremental basis. Where necessary, those conservation and management measures shall include specific measures for stocks which suffer from overfishing to keep the fishing effort in line with available fishing opportunities;
- (c) measures to promote data collection, scientific research and science-based management decisions, the strengthening of its compliance committee, a culture of compliance and periodical independent performance reviews;

- (d) measures to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing activities in the Bering Sea Convention Area, including IUU vessel listing and cross-listing with other RFMOs, and measures to promote the traceability of fish and fishery products based on the Voluntary Guidelines for Catch Documentation Schemes;
- (e) monitoring, control and surveillance measures in the Bering Sea Convention Area in order to ensure efficiency of control and compliance with measures adopted within the Bering Sea Convention including the strengthening of control on transshipment operations based on the FAO Voluntary Guidelines for Transshipment;
- (f) measures to minimise the negative impact of fishing activities on marine biodiversity and marine ecosystems and their habitats, including protective measures for vulnerable marine ecosystems in the Bering Sea Convention Area in line with the Bering Sea Convention and the FAO International Guidelines for the Management of Deep-sea Fisheries in the High Seas, measures to avoid and reduce as far as possible unwanted catches, including in particular vulnerable marine species, and to gradually eliminate discards;
- (g) measures to reduce marine pollution and prevent the discharge of plastics at sea and reduce the impact on marine biodiversity and ecosystems of plastics present at sea, including measures to reduce the impact of Abandoned, Lost or Otherwise Discarded Fishing Gear in the ocean and to facilitate the identification and recovery of such gear based on the FAO Voluntary Guidelines on the Marking of Fishing Gear;

- (h) measures aimed at the prohibition of fisheries conducted solely for the purpose of harvesting shark fins and requiring that all sharks are landed with each fin naturally attached;
- (i) recommendations, where appropriate and to the extent permitted under the relevant constituent documents, encouraging the implementation of the Work in Fishing Convention of the International Labour Organisation;
- (j) common approaches with other RFMOs, where appropriate, in particular those involved in fisheries management in the same region;
- (k) approaches related to tackling the impacts of non-fishing activities on the marine biological resources in the Bering Sea Convention Area;
- (l) additional technical measures based on advice from the subsidiary bodies and working groups of the annual Conference of the Parties.
- (m) measures consistent with the objectives of achieving economic, social and employment benefits, and of contributing to the availability of food supplies.

ANNEX II

Year-to-year specification of the Union's position
to be taken at the annual Conference of the Parties

Before each meeting of the annual Conference of the Parties, when that body is called upon to adopt decisions having legal effects on the Union, the necessary steps shall be taken so that the position to be expressed on the Union's behalf takes account of the latest scientific and other relevant information transmitted to the Commission, in accordance with the principles and orientations set out in Annex I.

To this effect, and based on that information, the Commission shall transmit to the Council, or to its preparatory bodies, in sufficient time before each meeting of the annual Conference of the Parties, a written document setting out the particulars of the proposed specification of the Union's position for discussion and endorsement of the details of the position to be expressed on the Union's behalf.

If in the course of a meeting of the annual Conference of the Parties it is impossible to reach an agreement, including on the spot, in order for the Union's position to take account of new elements, the matter shall be referred to the Council or its preparatory bodies.
