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NOTE

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	16466/23; COM(2023) 771 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulations (EU) 2016/1139, (EU) 2018/973 and (EU) 2019/472 as regards the targets for fixing fishing opportunities • Presidency compromise

Delegations will find attached a Presidency compromise on the above-mentioned proposal.

Changes to the Commission proposal are presented in **bold underline** and ~~strikethrough~~.

2023/0449 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulations (EU) 2016/1139, (EU) 2018/973 and (EU) 2019/472 as regards the targets for fixing fishing opportunities

PUBLIC

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[1],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) One of the objectives of the common fisheries policy (CFP), as set out in Regulation (EU) No 1380/2013 of the European Parliament and of the Council[2], is to ensure that exploitation of marine biological resources restores and maintains populations of harvested species above levels which can produce the maximum sustainable yield (MSY). According to Regulation (EU) No 1380/2013, the MSY exploitation rate had to be achieved by 2015 where possible and, on a progressive, incremental basis at the latest by 2020 for all stocks.

[1] OJ C , , p. .

[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 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, http://data.europa.eu/eli/reg/2013/1380/2023-01-01).

(2) To achieve the objectives of the CFP, Regulations (EU) 2016/1139[3], (EU) 2018/973[4] and (EU) 2019/472[5] of the European Parliament and of the Council established multiannual plans for the long-term management of certain stocks in the Baltic Sea, the North Sea, and the Western Waters, for fisheries exploiting those stocks and, where those stocks extend beyond the Western Waters, in their adjacent waters ('the MAPs').

(3) In accordance with Article 10(1)(c) of Regulation (EU) No 1380/2013, the MAPs set quantifiable targets in the form of target fishing mortality rates. These rates provide for flexibility by establishing a range of values (F_{MSY} ranges with upper and lower limits) consistent with reaching and maintaining MSY for the target stocks.

(4) Fishing opportunities are set within those F_{MSY} ranges. Those ranges are based on scientific advice from the International Council for the Exploration of the Sea ('ICES') or a similar independent scientific body recognised at Union or international level, and determined in such a way that all levels of fishing mortality within the range result in MSY in the long term without significantly affecting the reproduction process for the stock in question.

(5) In accordance with Articles 2(2) of Regulations (EU) 2016/1139 and (EU) 2019/472, and Article 2(1) of Regulation (EU) 2018/973, **which reflect a well-established ICES methodology,** the F_{MSY} range is calculated to deliver no more than a 5 % reduction in long-term yield compared to the MSY and it is capped so that the probability of the stock falling below B_{lim} is no more than 5%.

(6) **At the same time,** Article 4(6) of Regulations (EU) 2016/1139 and (EU) 2018/973, as well as Article 4(7) of Regulation (EU) 2019/472, further provide that 'fishing opportunities shall in any event be fixed in such a way as to ensure that there is less than a 5 % probability of the spawning stock biomass falling below Blim' ('the 5% rule').

(7) Under certain circumstances relating to the status of a given fish stock and the short-term forecast for its biomass development, the application of the 5% rule **as set out in Article 4(6) of Regulations (EU) 2016/1139 and (EU) 2018/973, as well as Article 4(7) of Regulation (EU) 2019/472,** may result in a situation that would be inconsistent with the other rules of the MAPs governing the fixing of fishing opportunities and have potentially severe socio-economic implications.

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[3] Regulation (EU) 2016/1139 of the European Parliament and of the Council of 6 July 2016 establishing a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea and the fisheries exploiting those stocks, amending Council Regulation (EC) No 2187/2005 and repealing Council Regulation (EC) No 1098/2007 (OJ L 191, 15.7.2016, p. 1, http://data.europa.eu/eli/reg/2016/1139/2020-12-01).

[4] 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, 16.7.2018, p. 1, http://data.europa.eu/eli/reg/2018/973/2019-08-14).

[5] 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, http://data.europa.eu/eli/reg/2019/472/2019-08-14).

(8) When scientific advice indicates that for a given year the spawning biomass of the targeted stock or, in the case of Norway lobster stocks, the abundance of specific stocks, are below MSY $B_{trigger}$, the safeguard rules set out in Regulations (EU) 2016/1139, (EU) 2018/973 and (EU) 2019/472 provide that all appropriate remedial measures shall be adopted to ensure rapid return of the stock concerned to levels above those capable of producing MSY. In particular, fishing opportunities shall be set at levels consistent with a fishing mortality that is reduced below the upper range of F_{MSY}, taking into account the decrease in biomass.

(9) The safeguard rules in the MAPs also provide that further remedial measures are to be adopted where the spawning stock biomass of the targeted stock or, in the case of Norway lobster stocks, the abundance of specific stocks, is below B_{lim}, in order to ensure rapid return of the stock concerned to levels above those capable of producing MSY. In this context, Article 5(2) **and (3)** of Regulation (EU) 2016/1139, as well as Article 7(2) **and (3)** of Regulation~~s~~ (EU) 2018/97**3**~~2~~ and **Article 8(2) and (3) of Regulation** (EU) 2019/472~~)~~, refer specifically not only to the suspension of the targeted fishery, but also to other possible measures such as the adequate reduction of fishing opportunities, the adoption of emergency measures or of technical measures.

(10) The MAPs further provide that the choice of measures in both cases is to be made in accordance with the nature, seriousness, duration and repetition of the situation. The MAPs therefore require the suspension of the targeted fishery only if, according to the criteria in the MAPs, it is considered to be the appropriate remedial measure required to ensure the rapid return of the stock to levels above those capable of producing MSY.

(11) Therefore, on the one hand, the 5% rule **as set out in Article 4(6) of Regulations (EU) 2016/1139 and (EU) 2018/973, as well as Article 4(7) of Regulation (EU) 2019/472,** may mean that fishing opportunities cannot be set and the targeted fishery must be suspended. On the other hand, the safeguard provisions in the MAPs require the adoption of remedial measures to bring the stock above $B_{trigger}$, based on a case-by-case assessment on the appropriateness for choosing such measure, in accordance with the criteria set out in the MAPs. Moreover, the MAPs refer to the possibility, and not the obligation, to suspend the targeted fishery, provided that such a measure is considered appropriate in accordance with the criteria set out in the MAPs.

(12) It is therefore necessary to address this inconsistency in the legal framework by deleting the provisions in Regulations (EU) 2016/1139, (EU) 2018/973 and (EU) 2019/472 providing that fishing opportunities shall in any event be fixed in such a way as to ensure that the probability of the stock falling below B_{lim} is no more than 5%.

(13) Regulations (EU) 2016/1139, (EU) 2018/973 and (EU) 2019/472 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1
Amendment to Regulation (EU) 2016/1139

Article 4(6) of Regulation (EU) 2016/1139 is deleted.

Article 2
Amendment to Regulation (EU) 2018/973

Article 4(6) of Regulation (EU) 2018/973 is deleted.

Article 3
Amendment to Regulation (EU) 2019/472

Article 4(7) of Regulation 2019/472 is deleted.

Article 4

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

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

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*

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