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UK 21

NOTE

From:	Presidency
To:	Permanent Representatives Committee
Subject:	Preparation of the bilateral EU-UK consultations on fishing opportunities for 2021 and, for deep-sea stocks, for 2021 and 2022 - Preparation for the approval - Decision to use the written procedure

I. INTRODUCTION

1. The Agriculture and Fisheries Council on 15-17 December 2020 reached a political agreement on fishing opportunities for 2021, including on setting provisional TACs for the period between 1 January 2021 and 31 March 2021 for stocks shared with the United Kingdom and Norway¹. This provisional solution was reached pending the outcome of the Brexit negotiations and because no consultations had been held with the UK and Norway on definitive TACs for 2021.
2. On 24 December 2020, the Commission and the United Kingdom reached an agreement on the terms of their future cooperation, including as regards fisheries, as set out in the Trade and Cooperation Agreement (TCA). On 29 December 2020, the Council adopted Decision (EU) 2020/2252 on the signing and on provisional application of the TCA. The TCA applies provisionally as of 1 January 2021. According to the TCA, the EU and the UK are to hold annual consultations to agree on fishing opportunities for shared stocks for the following year.

¹ doc. 13999/1/20 REV 1.

3. To prepare the bilateral consultations between the UK and the EU on fishing opportunities for 2021 (and for 2022 for deep-sea stocks), the Commission presented a non-paper² to the members of the Fisheries Working Party on 7 January 2021, suggesting the approach in view of these consultations and asking the Council to provide its input. In this non-paper, the Commission proposes a procedure for the consultations in full coordination with the Council at all stages of the consultations, until the final decision by the Council on the fishing opportunities under Article 43(3) of the TFEU.
4. Concerning the detailed approach on the substance, the Commission intends to pursue fishing opportunities in line with the objectives, principles and provisions under the Common Fisheries Policy throughout the consultations. This implies in particular that fishing opportunities are based on the best available scientific advice as well as on the multiannual plans for the North Sea and for the Western Waters, to take into account mixed fisheries considerations and avoidance of choke situations, to foresee remedial measures, to take exemptions from the landing obligation into account, to consider specific management issues of relevance to the consultations, and to seek the possible improvement of the joint management of stocks.
5. Delegations, while welcoming the Commission non paper and the intention to work in full coordination with the Council, considered that more details on the substance were needed, for instance on a stock-by-stock basis and on other elements of the consultations, such as taking into account the three pillars of sustainability³. On the process, delegations underlined the importance to involve the Council at Ministerial level at different stages of the consultations.

² doc. 5031/21.

³ As foreseen in the Common Fisheries Policy.

6. Following these comments, a revised non-paper⁴ was presented by the Commission to the Fisheries Working Party on 14 January 2021, with additional clarifications on the process. In particular, the Commission commits to seek endorsement of the Union position within the Council at the appropriate level, to prepare each round of consultation in the Working Party and to report-back to the Working Party, as well as to hold technical meetings as often as required. Moreover, in the revised non-paper, the Commission reiterates that *in situ* coordination will be ensured before and throughout the rounds of consultations and highlights that delegations will be invited to the consultations as part of the EU delegation.
7. While delegations considered that the revised non-paper is a step in the right direction, they also reiterated the need for further details on substance and on the procedure to complement the approach. Furthermore, it was understood that it would be for the Council to determine the appropriate level of approval within the Council to establish the EU position for the consultations and that the proposed approach is without prejudice to any guidance from WPUK.
8. On 18 January 2021, delegations expressed their support, through a written consultation, for the Commission to start exploratory discussions with the United Kingdom on the basis of the Commission non paper without prejudice to the outcome of the Agriculture and Fisheries Council on 25 January 2021.
9. In view of the preparation by the Committee of Permanent Representatives on 20 January 2021 of the Informal Videoconference of Agriculture and Fisheries Ministers of 25 January 2021, a Background Note⁵ was prepared by the Presidency. In this Note, and on the basis of delegations' oral and written comments, while acknowledging that the Commission revised non-paper forms a good basis to start the consultations, the Presidency proposed additional guidance for the Commission. The Presidency proposed to invite Ministers to express their positions on this initial guidance, and invited Ministers to express their priorities for the consultations. The Committee of Permanent Representatives prepared the Informal Videoconference on this basis.

⁴ doc. 5031/1/21 REV 1.

⁵ as set out in the Presidency Background document WK 713/21.

10. The members of the Working Party UK had a first discussion on the interpretation of the TCA regarding the procedural aspects of this file at their meeting on 19 January 2021 and WPUK reverted to this issue on 26 January 2021. The WPUK confirmed that a Council decision containing the Union position should be adopted under Article 218(9) TFEU, and should contain sufficient flexibility, to be determined by the fisheries side, in view of the speed and progress of the initial discussions with the UK. The WPUK also confirmed that the Commission could be invited, if needed, to present a proposal.

II. GUIDANCE FOR THE CONSULTATIONS

11. During the Informal Videoconference of Agriculture and Fisheries Ministers on 25 January 2021, Ministers discussed the priorities for the consultations as well as the initial guidance as proposed by the Presidency in order to supplement the Commission revised non-paper and to form the initial position for the start of the consultations with the United Kingdom.
12. The Presidency noted the support of Ministers for the guidance proposed by the Presidency with an additional point specifying that the Commission should endeavour to pursue a level-playing field between the EU and UK fleets as regards remedial measures and the landing obligation.
13. The Committee of Permanent Representatives will find in document 5543/21 the Presidency proposed guidance, which takes into account the discussions and the views expressed by delegations so far.

III. CONCLUSION

14. In light of the above, the Committee of Permanent Representatives is invited to
- approve the initial guidance as set out in document 5543/21 for the start of the consultations with the United Kingdom;

- to decide, in accordance with the first subparagraph of Article 12(1) of the Council's Rules of Procedure and Article 1 of Council Decision 2020/430, as last extended by Council Decision 2021/26, that the Council uses the written procedure for the approval of that guidance as an initial Union position for the start of the consultations with the UK on the TACs.
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