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**NOTE**

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From: General Secretariat of the Council  
To: Delegations

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Subject: Background note on Implementation of the provisions of Article 14 of the Fisheries Control regulation for permitted margin of tolerance (MOT) applied in small pelagic fishery landed unsorted  
- Information from Latvia and Lithuania

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Delegations will find attached information from Latvia and Lithuania on the abovementioned subject, which will be presented under ‘any other business’ at the meeting of the Council (Agriculture and Fisheries) on 24 March 2025.

## AGRIFISH COUNCIL

24 March 2025

### AOB

#### **Implementation of the provisions of Article 14 of the Fisheries Control regulation for permitted margin of tolerance (MOT) applied in small pelagic fishery landed unsorted.**

*(information from the Latvian and Lithuanian delegation)*

Latvia and Lithuania would like once more to raise the issue of unsolved problems with the provisions of permitted margin of tolerance (MOT) which are set in Amendments to the Fisheries Control Regulation (EU) 2023/2842<sup>1</sup> (Control Regulation).

Latvia and Lithuania raised this issue already at the AGRIFISH Council on 29 April 2024. At that time, the potential problems could only have been predicted, since the provision was not yet in force. Now, based on practical experience and inspection reports data, we can confirm our serious concerns. MOT application to the unregulated species creates the high MOT infringement risks in the Baltic Sea. As a result, fishers unintentionally become guilty by commitment of serious infringements. Latvia and Lithuania emphasise that if the problem with the permitted margin of tolerance (MOT) is not solved, there is a **risk to the destruction of normal functioning of fishing industry in the Baltic Sea and** this issue continues to endanger the existence of pelagic fishing operations in the Baltic Sea.

Based on the evaluation of the Latvian inspection reports obtained after the new MOT provision entered into force (for period from 10 July till December 2024) it has been detected that minor by-catches of several species, such as three-spined stickleback, fourhorn sculpin, smelt, eelpout and round goby, are very constant in herring and sprat fisheries as unwanted by-catch. These species are unregulated or even invasive in the Baltic Sea (e.g. round goby), so they are not particularly protected regardless of by-catch quantities. Simultaneously, these small by-catches of unregulated species significantly increase probability of committing an infringement due to the difference of initial visual estimation of the catch amount and its composition at sea as reported to the control authorities before the vessel entered port in comparison to the amounts of fish monitored at landing. In accordance with

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<sup>1</sup> Regulation (EU) 2023/2842 of the European Parliament and of the Council of 22 November 2023 amending Council Regulation (EC) No 1224/2009, and amending Council Regulations (EC) No 1967/2006 and (EC) No 1005/2008 and Regulations (EU) 2016/1139, (EU) 2017/2403 and (EU) 2019/473 of the European Parliament and of the Council as regards fisheries control.

the Latvian inspection reports, it can be concluded that 25% of the total inspections in the respective period resulted in MOT non-compliance for unregulated species. At the same time almost 99% of these infringements should be recognized as serious in accordance with the Control Regulation Annex IV criteria for determination of serious infringements.

Latvia and Lithuania fully acknowledge the importance of accurate reporting of catches of all species but disagrees with the approach demanded for catch estimation of small size by-catches of non-target species. In addition, both Member States are greatly concerned that the fishers because of heavy and lengthy procedure are still unable to take advantage of the derogation from the general MOT rules for the landing of fishery products in listed ports. At the same time, both are also drawing the attention to the vital importance of immediate evaluation and assessment of this critical issue caused by the Control Regulation since it is not proportionate and adequate to punish and destruct the fishing operations due to the high MOT infringement risk which is related to species that are unregulated, of low or no value, or even invasive. They could not be used as a case for infringement if their quantity within high volumes of total catches at sea and on board cannot be estimated within sufficient precision as regarded by allowable MOT level. A high risk of error in such circumstances and the subsequent finding of an infringement is not justified and proportionate to the needs of protection of regulated species. Moreover, the by-catches of different small size fish species are constituting very insignificant amount and contain only up to 2,5 % from the total catches.

**Latvia and Lithuania invite the Commission to assess the situation with MOT application for unregulated species and as soon as possible:**

- **submit legislative proposal for amendment of the basic Control Regulation to solve the identified MOT problem and**

- **based on paragraph 4 of the Article 90 of the revised Control Regulation to adopt the Delegated Act to amend the criteria set out in Annex IV, providing that an activity which constitutes a serious infringement, is not applicable to unregulated species.**