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**NOTE**

From:	General Secretariat of the Council
To:	Delegations
No. Cion doc.:	ST 8078/20 PECHE 121 - COM(2020) 205 final
Subject:	Proposal for a COUNCIL REGULATION amending Regulation (EU) 2019/1838 as regards certain fishing opportunities for 2020 in the Baltic Sea, and amending Regulation (EU) 2020/123 as regards certain fishing opportunities in 2020 in Union and non-Union waters - Comments from the Netherlands

Delegations will find attached written comments by the delegation of the Netherlands on the above-mentioned document.

**Preliminary comments from the Netherlands on Commission proposal amending Regulation (EU) 2019/1838 as regards certain fishing opportunities for 2020 in the Baltic Sea, and amending Regulation (EU) 2020/123 as regards certain fishing opportunities in 2020 in Union and non-Union waters**

**I. General comments**

The Dutch delegation would like to thank the Commission for the amendments presented in the proposal and all the work done so far. In general, the Netherlands can support the proposed amendments, with the exception of Article 14, regarding North Sea cod. While the Netherlands agrees with the need to take expedient measures as soon as possible in order to protect North Sea cod, there are still several outstanding issues that should be taken into account.

**II. Specific comments**

**Article 14 – North Sea Cod**

General

While the Netherlands recognizes that measures for North Sea cod are necessary in a short time frame, questions remain on the legality of the current route. According to Article 7(3) of the North Sea Multi Annual Plan (MAP) the “Remedial measures referred to in this Article may include: (a) emergency measures in accordance with Articles 12 and 13 of Regulation (EU) No 1380/2013; (b) measures pursuant to Articles 8 and 9 of this Regulation.” It is not clear why the Commission has opted for the TAC and Quota Regulation, especially as this Regulation has been based on Article 43.3 TFEU and that Article only provides a base for the Council to adopt measures on the fixing and allocation of fishing opportunities and not to adopt remedial measures. Therefore the Netherlands would like to ask the Commission to elaborate on the choice for the TAC and Quota Regulation instead of an implementing act based on Article 12 of Regulation (EU) No 1380/2013, to prevent similar questions in the future.

Article 14 sub 2

All demersal gears are now included in footnote 12. This was not the case in the previous proposal and should be changed back to the original proposal, in which only specific gears that catch a large amount of cod are included. This means that TBB should be deleted from the proposal.

The report written by EU and Norwegian experts in January 2020 was very clear: measures should be taken for the TR fleet. Asking demersal fleets that catch very little cod to go through the route of an exemption based on sub 3 is illogical and creates a unnecessary burden of proof. Therefore these demersal gears, which have very little cod by-catch, should be excluded from the proposal.

Article 14 sub 3

a) 5% per fishing trip should be changed to 5% per year. Averaging the percentage of cod catches will allow for a more balanced approach and less uncertainty for the fishermen compared to basing it on a fishing trip.

c) It would be helpful if the requirements for the gears are specified in an annex.

d) It would be helpful if the requirements for the gears are specified in an annex

f) Control measures should not be included in the proposal, as there is no base for the Council to adopt control measures. Control measures should be part of or based on the Control Regulation and should be discussed in that context. Additionally, FDF on board, without predetermined requirements, should not be sufficient ground for an exemption, because it is a control measure and not an end in itself.

Article 14 sub 4

As mentioned before Control measures should not be included in the proposal. Additionally, the requirement of a scientific observer scheme should not be part of the requirement at all, as scientists should have no part in control.

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