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**PECHE 129**

**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 - Danish comments

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

**Preliminary written comments from the Danish delegation on the Commission proposal for a 2<sup>nd</sup> Amendment of the Fishing opportunities 2020: measures for cod in the North Sea and Skagerrak**

Denmark has a general scrutiny reserve and a parliamentary scrutiny reserve. We would already now like to point out that, in particular the measures for cod in the North Sea and the Skagerrak, can potentially have a large impact on our mixed demersal fishery, therefore we will need sufficient time for analysis and to obtain a mandate from our national parliament.

At this stage we have several questions relating to the functioning of the Commission proposal. We need to get clarity on these, in order to assess the impact of the Commission proposal.

**General comments on the measures for cod in the North Sea and Skagerrak:**

We are currently analysing the Commission's proposal, and considering its potential impact - in particular the new elements and clarifications included in the proposal - compared to the Commission proposal in the non-paper from 4 March – particularly the approval procedures for new gears and for national cod avoidance plans. The Commission's approach with large precautionary areas where fishing is prohibited with a range of demersal gear - if more than 5% of cod is caught per fishing trip - is something that will affect a lot of Danish, demersal fishermen. In Denmark, we have the largest cod quota in the EU27, which is why many fishermen have a mixed, demersal fishery, including for cod, within the limits of the quota.

We find that such a far-reaching proposal, with such a short deadline for implementation, should contain considerations of its socio-economic impact, including its impact on the coastal fisheries. This would be in line with Article 2, para 2(f) of the Common Fisheries Policy.

Regarding the background for the level of ambition of the Commission proposal (set out in the Explanatory Memorandum, point 5: other elements), as we read the Agreed Record for the North Sea from December 2020, the expert group should look at four elements for cod measures. It does not say that measures must be implemented in all four areas. This also seems to be the Norwegian understanding, as Norway, in its draft measures for 2020, focuses on identifying closures in areas with a high presence of juvenile cod.

The Commission in the Council Working Party requested ideas for smaller area closures, than the ones included in its proposal. We have sent written comments (see attached) to this effect with respect to Skagerrak, where we present a two-step solution. Our proposal includes a first step with effective, proportionate and biologically substantiated measures that are readily implementable, through area closures in cod hotspots. As a second step we can then discuss the more complicated questions concerning access criteria to larger precautionary areas. We attach our prior written comments as an annex. We remain available to discuss our proposal for a closed area in order to analyse, whether smaller areas closed to all demersal gears in cod hotspots could be a way forward.

We furthermore find it important that the UK is properly consulted on these measures, since cod is a joint stock which will also in the future be jointly managed and since most of the proposed closures in the North Sea are in UK waters.

We attach great importance to resuming discussions on joint measures for cod as soon as possible with Norway - and possibly the UK from 2021 – to ensure joint management of this and related joint stocks. Measures are most effective when we define them together for our joint stocks. EU and Norway fish in each other's waters. Therefore, it is important for the EU Member States, what measures Norway adopts. By not having engaged in defining joint measures, it is more difficult for us to influence Norway's draft measures.

The proposal is set to enter into force on the day following its publication and to apply retroactively from 1 January 2020. We agree to that for the elements of the proposal that are either urgent or need to apply retroactively, but this is not workable for cod, as fishermen will not be able to change gear with one day's notice. In the current TAC/quota regulation, the measures included for cod in the Kattegat and the Celtic Sea have an

implementation period of 5 months, in order to enable that fishermen have time to change their gears. For cod in the North Sea and the Skagerrak an implementation period for gears is also needed. Precisely because the fishermen need time to order new gears, we have proposed a two-stage model.

#### **Detailed comments on the elements of the proposal, article 14**

**Para. 2:** The Commission proposes a maximalist approach with closures of very large areas, and in the case of Skagerrak all EU-waters, rather than closures of defined hotspot areas. More generally we find that fishing within 12 nautical miles should be excluded in order to protect the coastal fisheries.

Gillnets are mentioned in the list of gears, for which fishing in precautionary areas is prohibited. The logic of the proposal does not seem to take into account hooks and nets - should they also change their gears compared to minus 50% cod catches for an active gear?

**Para. 3:** Sets out the access conditions for the closure. We find it methodically problematic that the Commission's starting point is that fishermen are expected to not change behaviour and for example fishing pattern, when their quotas change. We agree that we should effectively monitor and control that fishermen catch fewer cod - but the Commission proposal follows a too maximalist approach. Similarly, Member States have very different levels of cod quotas. After the UK's exit, Denmark has by far the largest cod quotas in the EU in the North Sea and the Skagerrak. We find it only reasonable that we should be allowed to fish our quotas, otherwise the proposal will undermine relative stability. Therefore, an exception should be included for vessels that can document quota availability over a certain threshold, and can demonstrate this if inspected.

We propose that an additional access condition is added in para 3:

- **Vessels able to verify that they have exhausted less than 90 % of the vessels cod quota in a given area. This information is to be communicated to the relevant control authorities before leaving port.**

As the Commission knows, we fish in the Skagerrak across the border into the Norwegian zone. Will the Commission's proposal mean that fishermen must use one gear in EU waters of Skagerrak and then change gear when fishing in Norwegian waters? Furthermore does the Commission's proposal mean that Norwegian vessels fishing across the Skagerrak

border into EU waters or in EU waters covered by precautionary areas must change to one of the defined gears?

**Para 3(b):** We find that -50% is a very large reduction compared to 120 mm, which already is a selective gear for avoiding catches of small cod, we find that this should be reduced to 30%. Indeed the cod quota has been reduced by 50% compared to 2019, but it seems disproportionate that fishermen have to change their current gears to gears that have a documented effect of catching 50% fewer cod, especially also as the Technical Measures regulation setting out the baseline gears entered into force only in August 2019.

Furthermore, 120 mm is not the baseline gear for Skagerrak, plus the baseline mesh size is different for, for example, the Norway lobster fisheries. Therefore the text needs to specify that: “compared to vessels fishing with a 120 mm mesh-size gear **in the North Sea, or in Skagerrak fishing with 90 mm mesh size gear with a diamond mesh top panel of at least 270 mm mesh size or a square mesh top panel of at least 140 mm mesh size fitted, or a gear in accordance with para. 1.2. of part B**”.

The paragraph states that a novel gear can be used on the basis of a scientific study. At what level should such a study be, for a gear to be used? Is it enough that there has been a scientific trial using the gear? It also stated that a novel gear 'may' be assessed by STECF: who decides if a gear should be evaluated by STECF for its continued use? Should fishermen stop using the gear on the day after the negative assessment, or would there be an implementation period, also for the fisherman to change to a new gear?

**Para. 3(c)** Three defined gears are introduced. The first has not been trialled in Danish fisheries, and is furthermore nicknamed 'the bankruptcy trawl'. The second is the 'raised footrope', where scientific studies from DTU AQUA have shown that while it can reduce catches of cod and especially catches of cod below 50-60 cm, DTU AQUA does not see it as a solution for Danish fisheries, as the important species such as Norway lobster, flatfish and anglerfish are completely lost when the fishing line is raised. The third gear is not further defined, does this mean it is up to national interpretation to define what can be included in the description, including what is meant by 'large'?

**Para 3 (d)** These are the same gears as defined for Kattegat in the TAC/Quota Regulation in a situation with a zero-catch ICES advice. This does not seem proportionate, as we in the North Sea and the Skagerrak have ICES advice for a quota.

**Para 3 (e):** It should be clarified whether we can nationally define a cod avoidance plan that will then apply to all Danish demersal vessels with cod catches above 5% per trip, whether they fish in Danish territorial waters, generally in EU waters covered by precautionary areas or Norwegian waters? In addition, there is no indication of when a national cod avoidance plan should be implemented? In addition, the objective should not be to reduce compared to 2019 ‘catches’, but rather the 2019 quota. Therefore the following amendment is proposed: “designed to deliver **measures to maintain catches within the set quota, that means** ~~cod catches that are at least 50% lower, compared to the than-2019-quotas~~”.

**Para 3 (f)** we welcome that REM is included as an option.

**Para 4:** We assume that the reference to ‘enhanced monitoring, control and surveillance’ ‘through a scientific observer scheme, or inspections at sea with last haul analysis;’ is within the programmes already established for 2020, whether at national level, regionally or at EU-level, and not in addition to these.

We furthermore find that measures for real-time monitoring (RTC) should be included, to provide additional information where we have identified information gaps, especially for catches in the commercial fishery, as well as specifically for Q2 and Q4. In addition, RTC is an element that focuses specifically on juvenile fish/cod.

## **The annexes to the proposal**

### **The Baltic Sea**

We thank the Commission for including this change. However, we think the Commission’s proposal could be further clarified in order to avoid any doubt as to which gears may be used. We would therefore suggest a minor change in both footnotes no. 2. The brackets after ‘longlines’ should be removed and the text should read: “including drifting longlines, handlines...” etc. With the addition “including drifting longlines” it is made clear that fishing with this gear will be allowed.

We support to have the same wording in footnote 1 for cod in areas 22-24 as suggested by the Commission in the working party.