

COUNCIL DECISION (EU) 2019/866**of 14 May 2019****on the position to be taken on behalf of the European Union in the annual Conference of the Parties to the Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea, and repealing the Decision of 12 June 2017 establishing the position to be adopted, on behalf of the Union, in that annual Conference**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Poland is a Contracting Party to the Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea ('Bering Sea Convention'). The Union is not a Party to that Convention. In accordance with Article 6(9) of the 2003 Act of Accession, fisheries agreements concluded by Member States with third countries are managed by the Union and the Union should implement any decisions established under the Bering Sea Convention.
- (2) Council Decision of 11 April 2016 authorising the Republic of Poland, in the interest of the European Union, to open negotiations for an amendment to the Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea that would allow Regional Economic Integration Organisations, such as the European Union, to become party to the Convention authorised the Poland to negotiate, in the interest of the Union, an amendment to the Bering Sea Convention with a view for the Union to becoming a Contracting Party to that Convention. That mandate is currently being implemented. It is understood that upon the acceptance of the Union as a full Contracting Party to the Bering Sea Convention, the Poland will withdraw its membership from the Convention.
- (3) The annual Conference of the Parties to the Bering Sea Convention ('the annual Conference of the Parties') is responsible for the management and conservation measures of the Pollock Resources in the Bering Sea Convention Area. Such measures may become binding upon the Union.
- (4) Regulation (EU) No 1380/2013 of the European Parliament and of the Council ⁽¹⁾ provides that the Union is to ensure that fishing and aquaculture activities are environmentally sustainable in the long term and are managed in a way that is consistent with the objectives of achieving economic, social and employment benefits, and of contributing to the availability of food supplies. It also provides that the Union is to apply the precautionary approach to fisheries management, and is to aim to ensure that exploitation of marine biological resources restores and maintains population of harvested species above levels, which can produce the maximum sustainable yield. It further provides that the Union is to take management and conservation measures based on the best available scientific advice, to support the development of scientific knowledge and advice, to gradually eliminate discards and to promote fishing methods that contribute to more selective fishing and the avoidance and reduction, as far as possible, of unwanted catches, to fishing with low impact on marine ecosystem and fishery resources. Furthermore, Regulation (EU) No 1380/2013 specifically provides that those objectives and principles are to be applied by the Union in the conduct of its external fisheries relations.
- (5) As stated in the Joint communication by the High Representative of the Union for Foreign Affairs and Security Policy and the European Commission 'International ocean governance: an agenda for the future of oceans', and the Council conclusions on that Joint communication, the promotion of measures to support and enhance the effectiveness of regional fisheries management organisations (RFMOs) and, where relevant, improve their governance is central to the Union's action in these fora.

⁽¹⁾ 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).

- (6) The Communication from the Commission to the European Parliament, to the Council, to the European Economic and Social Committee and to the Committee of the Regions 'European Strategy for Plastics in a Circular Economy', refers to specific measures to reduce plastics and marine pollution as well as the loss or abandonment at sea of fishing gear.
- (7) It is appropriate to establish the position to be taken on the Union's behalf in in the annual Conference of the Parties for the period 2019-2023 as conservation and enforcement measures adopted by the annual Conference of the Parties will be binding on the Union and capable of decisively influencing the content of Union law, namely, Council Regulations (EC) No 1005/2008 ⁽²⁾, (EC) No 1224/2009 ⁽³⁾, and Regulation (EU) 2017/2403 of the European Parliament and of the Council ⁽⁴⁾.
- (8) The Council Decision of 12 June 2017 establishing the position to be adopted, on behalf of the Union, in the annual Conference of the Parties to the Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea does not provide for a review of the Union's position within the annual Conference of the Parties before the 2022 annual meeting. However, the vast majority of the Council Decisions setting the Union's position within the different RFMOs to which the Union is a Contracting Party are due for revision before the 2019 annual meetings of those RFMOs. Therefore, to promote improved coherence amongst the Union's position in all RFMOs and to streamline the revision process, it is appropriate to bring forward the revision of the Decision of 12 June 2017 and to repeal it replacing it by a new Decision which would cover the period 2019-2023.
- (9) In view of the evolving nature of fishery resources in the Bering Sea Convention Area and the consequent need for the position of the Union to take account of new developments, including new scientific and other relevant information presented before or during the meetings of the annual Conference of the Parties, procedures should be established, in line with the principle of sincere cooperation among the Union institutions enshrined in Article 13(2) of the Treaty on European Union, for the year-to-year specification of the Union's position for the period 2019-2023,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the meetings of the annual Conference of the Parties to the Bering Sea Convention is set out in Annex I.

Article 2

The year-to-year specification of the Union's position to be taken in the meetings of the annual Conference of the Parties to the Bering Sea Convention shall be conducted in accordance with Annex II.

Article 3

The Union's position set out in Annex I shall be assessed and, where appropriate, revised by the Council upon a proposal from the Commission, at the latest for the annual Conference of the Parties to the Bering Sea Convention in 2024.

⁽²⁾ Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999 (OJ L 286, 29.10.2008, p. 1).

⁽³⁾ Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).

⁽⁴⁾ Regulation (EU) 2017/2403 of the European Parliament and of the Council of 12 December 2017 on the sustainable management of external fishing fleets, and repealing Council Regulation (EC) No 1006/2008 (OJ L 347, 28.12.2017, p. 81).

Article 4

The Council Decision of 12 June 2017 establishing the position to be adopted, on behalf of the European Union, in the annual Conference of the Parties to the Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea, and repealing the Council Decision of 10 July 2012 on establishing the position to be adopted on behalf of the European Union in the framework of the Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea is hereby repealed.

Article 5

1. In the case of accession of the Union to the Bering Sea Convention, the Commission shall represent the Union at the meetings of the annual Conference of the Parties to the Bering Sea Convention.
2. Pending that accession, the Poland shall express the Union's position at the meetings of the annual Conference of the Parties to the Bering Sea Convention.
3. This Decision shall enter into force on the date of its adoption.

Done at Brussels, 14 May 2019.

For the Council
The President
P. DAEA

ANNEX I

The position to be taken on the Union's behalf in the in the annual Conference of the Parties to the Bering Sea Convention

1. PRINCIPLES

In the framework of the Bering Sea Convention, the Union shall:

- a) act in accordance with the objectives and principles pursued by the Union within the common fisheries policy (CFP), notably through the precautionary approach and the aims related to the maximum sustainable yield as laid down in Article 2(2) of Regulation (EU) No 1380/2013, to promote the implementation of an ecosystem-based approach to fisheries management, to avoid and reduce as far as possible unwanted catches, and gradually eliminate discards, and to minimise the impact of fishing activities on marine ecosystems and their habitats, as well as, through the promotion of economically viable and competitive Union fisheries, to provide a fair standard of living for those who depend on fishing activities and take account of the interests of consumers;
- b) ensure that measures adopted within the annual Conference of the Parties are in accordance with the Bering Sea Convention;
- c) ensure that measures adopted within the annual Conference of the Parties are consistent with international law, and in particular with the provisions of the 1982 UN Convention on the Law of the Sea, the 1995 UN Agreement relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, the 1993 Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas, and the 2009 Food and Agriculture Organization Port State Measures Agreement;
- d) promote positions consistent with the best practices of regional fisheries management organisations (RFMOs) in the same area;
- e) seek consistency and synergy with the policy that the Union is pursuing as part of its bilateral fisheries relations with third countries, and ensure coherence with its other policies notably in the field of external relations, employment, environment, trade, development, research and innovation;
- f) ensure that the Union's international commitments are respected;
- g) be in line with the Council Conclusions of 19 March 2012 on the Commission Communication on the external dimension of the common fisheries policy ⁽¹⁾;
- h) aim to create a level playing field for the Union fleet within the Bering Sea Convention area based on the same principles and standards as those applicable under Union law, and to promote the uniform implementation of those principles and standards;
- i) be in line with the Council conclusions ⁽²⁾ on the Joint communication by the High Representative of the Union for Foreign Affairs and Security Policy and the European Commission on *International ocean governance: an agenda for the future of oceans* ⁽³⁾ and promote measures to support and enhance the effectiveness of the annual Conference of the Parties and, where relevant, improve its governance and performance (in particular as regards on science, compliance, transparency and decision-making) as a contribution to the sustainable management of oceans in all its dimensions;
- j) promote coordination between RFMOs and regional sea conventions (RSCs) and cooperation with global organisations, as applicable, within their mandates;
- k) promote cooperation mechanisms amongst non-tuna RFMOs similar to the so-called Kobe process for tuna RFMOs.

⁽¹⁾ 7087/12REV 1 ADD 1 COR 1.

⁽²⁾ 7348/1/17 REV 1 of 24.3.2017.

⁽³⁾ JOIN(2016) 49 final of 10.11.2016.

2. ORIENTATIONS

The Union shall, where appropriate, endeavour to support the adoption of the following actions by the annual Conference of the Parties:

- a) conservation and management measures for fisheries resources in the Agreement area based on the best scientific advice available, including Allowable Harvest Level (AHL) and individual national quotas or effort regulation for living marine biological resources regulated by the annual Conference of the Parties, including changing Annex to the Bering Sea Convention, which would bring or maintain the achievement of the maximum sustainable yield exploitation rate at the latest by 2020. Where necessary, those conservation and management measures shall include specific measures for stocks, which suffer from overfishing to keep the fishing effort in line with available fishing opportunities;
 - b) measures to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing activities in the Bering Sea Convention area, including IUU vessel listing;
 - c) measures to reinforce fisheries' scientific data collection and promote better cooperation between the industry and scientists;
 - d) monitoring, control and surveillance measures in the Convention Area in order to ensure efficiency of control and compliance with measures adopted within the annual Conference of the Parties;
 - e) measures to minimise the negative impact of fishing activities on marine biodiversity and marine ecosystems and their habitats, including measures to reduce marine pollution and prevent the discharge of plastics at sea and reduce the impact on marine biodiversity and ecosystems of plastics present at sea, protective measures for vulnerable marine ecosystems in the Bering Sea Convention area in line with the FAO International Guidelines for the Management of Deep-sea Fisheries in the High Seas, and measures to avoid and reduce as far as possible unwanted catches, including in particular vulnerable marine species, and to gradually eliminate discards;
 - f) measures to reduce the impact of Abandoned, Lost or Otherwise Discarded Fishing Gear (ALDFG) in the ocean and to facilitate the identification and recovery of such gear;
 - g) measures aimed at the prohibition of fisheries conducted solely for the purpose of harvesting shark fins and requiring that all sharks are landed with each fin naturally attached;
 - h) recommendations, where appropriate and to the extent permitted under the relevant constituent documents, encouraging the implementation of the Work in Fishing Convention of the International Labour Organisation (ILO);
 - i) common approaches with other RFMOs, where appropriate, in particular those involved in fisheries management in the same region;
 - j) additional technical measures based on advice from the subsidiary bodies and working groups of the annual Conference of the Parties.
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ANNEX II

Year to year specification of the Union's position to be taken at the annual Conference of the Parties

Before each meeting of the annual Conference of the Parties, when that body is called upon to adopt decisions having legal effects on the Union, the necessary steps shall be taken so that the position to be expressed on the Union's behalf takes account of the latest scientific and other relevant information transmitted to the European Commission, in accordance with the principles and orientations set out in Annex I.

To this effect, and based on that information, the European Commission shall transmit to the Council in sufficient time before each meeting of the annual Conference of the Parties, a written document setting out the particulars of the proposed specification of the Union's position for discussion and endorsement of the details of the position to be expressed on the Union's behalf.

If in the course of a meeting of the annual Conference of the Parties it is impossible to reach an agreement, including on the spot, in order for the Union's position to take account of new elements, the matter shall be referred to the Council or its preparatory bodies.
