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NOTE

From:	Presidency
To:	Council
No. Cion doc.:	13731/18 PECHE 444 + ADD 1-2 - COM(2018) 732 final
Subject:	Proposal for a Council Regulation fixing for 2019 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters

Delegations will find attached a Presidency compromise in agreement with the Commission on the above-mentioned proposal, based on the consolidated version of the proposal (doc. 15051/18 PECHE 513 + ADD 1-2).

This compromise also includes under point 3 and 4 updates to Annex IA and IB concerning TAC levels that were missing or incorrect after recent international consultations.

Fishing Opportunities 2019

1. CHANGES TO THE BODY OF THE REGULATION

- Recital (13) should read as follows:

(13) *The North Sea multiannual plan was established by Regulation (EU) 2018/973 of the European Parliament and of the Council¹ and entered into force in 2018. Fishing opportunities for stocks listed in Article 1 of that Plan should be established in accordance with targets (ranges of Fmsy) and safeguards provided for in that Plan. **The ranges of Fmsy have been identified in the respective ICES advices.** Fishing opportunities for by-catch stocks in the North Sea should be established in accordance with the precautionary approach, as set out in Article 5(2) of Regulation (EU) 2018/973.*

European Eel

- Recital (10) should read as follows:

(10) *As regards the European eel (*Anguilla anguilla* L.) stock, the ICES has advised that all anthropogenic mortalities, including recreational and commercial fisheries, should be reduced to zero, or kept as close to zero as possible. Moreover, the General Fisheries Commission for the Mediterranean (GFCM) adopted Recommendation GFCM/42/2018/1 establishing management measures for European eel in the Mediterranean Sea. It is appropriate to establish a level-playing field across the EU and hence to establish also for the Union waters of ICES area as well as ~~the freshwaters and transitional~~ brackish waters, such as ~~lagoons and~~ estuaries, **coastal lagoons and transitional waters** a consecutive 3-month closure period for all fisheries of European eel at all life stages. As the fishing closure period should be consistent with the conservation objectives set out in Regulation (EC) 1100/2007² and with the temporal migration patterns of European eel, for the Union waters of ICES area it is appropriate to continue setting it in the period between 1 September 2019 and 31 January 2020.*

¹ Regulation (EU) 2018/973 of the European Parliament and of the Council of 4 July 2018 establishing a multiannual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks, specifying details of the implementation of the landing obligation in the North Sea and repealing Council Regulations (EC) No 676/2007 and (EC) No 1342/2008 (OJ L 179, 16.07.2018, p.1).

² Council Regulation (EC) No 1100/2007 of 18 September 2007 establishing measures for the recovery of the stock of European eel.

- Recital (37a) should read as follows:

*(37a) At its 42nd annual meeting in 2018, the General Fisheries Commission for the Mediterranean (GFCM) adopted Recommendation GFCM/42/2018/1 establishing management measures for European eel (*Anguilla anguilla* L.) in the Mediterranean Sea. These measures ~~comprise a consecutive 3-month closure period to be defined by each Member State in accordance with its national management plan, the conservation objectives of Regulation (EC) No 1100/2007 and the temporal migration patterns of eel in the Member State. Having regard to the critical state of the stock, the recommendation shall apply to all activities catching European eel and include freshwaters and transitional brackish waters, such as lagoons and estuaries are already implemented at EU level through Regulation (EC) No 1100/2007. The Recommendation also includes an annual closure period of three consecutive months which needs to be transposed into EU law and defined by each Member State in accordance with the conservation objectives of Regulation (EC) No 1100/2007, its management plan(s) for eel and the temporal migration patterns of eel in the Member State. The closure shall apply to all marine waters of the Mediterranean and to brackish waters such as estuaries, coastal lagoons and transitional waters, in accordance with the Recommendation.~~*

- Article 10 should read as follows:

Article 10

Measures on European eel fisheries in Union waters of ICES area

Any targeted, incidental and recreational fishery of European eel shall be prohibited in Union waters of ICES area, ~~including in freshwaters and transitional and~~ brackish waters such as ~~lagoons and~~ estuaries, **coastal lagoons and transitional waters** for a consecutive three-month period to be determined by each Member State between 1 September 2019 and 31 January 2020. Member States shall communicate the determined period to the Commission not later than 1 June 2019.

- Article 40a should read as follows:

Article 40a

European eel in the Mediterranean Sea (GSAs 1 to 27)

1. All activities by Union vessels and other Union fishing activities catching European eel, namely targeted, incidental and recreational fisheries, shall be subject to the provisions of this Article.
2. This Article shall apply to the Mediterranean Sea, ~~including freshwaters and transitional brackish waters, such as lagoons and estuaries~~ and to brackish waters such as estuaries, coastal lagoons and transitional waters.
3. It shall be prohibited to fish for European eel in EU and international waters of the Mediterranean Sea, for a consecutive three-month period to be determined by each Member State. The fishing closure period shall be consistent with the conservation objectives set out in Regulation (EC) No 1100/2007, with national management plans in place and with the temporal migration patterns of European eel in the Member States concerned. Member States shall communicate the determined period to the Commission no later than one month before the entry into force of the closure and in any case no later than 31 January 2019.

European seabass

- Article 9 should read as follows:

Article 9

Measures on European seabass fisheries

1. It shall be prohibited for Union fishing vessels, as well as for any commercial fisheries from shore, to fish for European seabass in ICES divisions 4b and 4c, and in ICES subarea 7. It shall be prohibited to retain on board, tranship, relocate or land European seabass caught in that area.
2. By derogation from paragraph 1, in January 2019 and from 1 April to 31 December 2019, Union fishing vessels in ICES divisions 4b, 4c, 7d, 7e, 7f and 7h and in waters within 12 nautical miles from baselines under the sovereignty of the United Kingdom in ICES divisions 7a and 7g may fish for European seabass, and retain on board, tranship, relocate or land European seabass caught in that area with the following gears and within the following limits:

- (a) using demersal trawls³, for unavoidable by-catches not exceeding ~~100 kilogrammes~~ **120 kilogrammes** per month and 1% of the weight of the total catches of marine organisms on board caught by that vessel in any single day;
- (b) using seines⁴, for unavoidable by-catches not exceeding ~~180 kilogrammes~~ **210 kilogrammes** per month and 1% of the weight of the total catches of marine organisms on board caught by that vessel in any single day;
- (c) using hooks and lines⁵, not exceeding ~~7 tonnes~~ **6 tonnes** per vessel per year;
- (d) using fixed gillnets⁶, for unavoidable by-catches not exceeding ~~1.2 tonnes~~ **1.4 tonnes** per vessel per year and ~~1%~~ **10%** of the weight of the total catches of marine organisms on board caught by that vessel in any single day.

The derogations set out in the first subparagraph shall apply to Union fishing vessels that have recorded catches of European seabass over the period from 1 July 2015 to 30 September 2016: in point (c) with recorded catches using hooks and lines, and in point (d) with recorded catches using fixed gillnets. In the case of a replacement of a Union fishing vessel, Member States may allow the derogation to apply to another fishing vessel provided that the number of Union fishing vessels subject to the derogation and their overall fishing capacity do not increase.

- 3. The catch limits set in paragraph 2 shall not be transferable between vessels and, where a monthly limit applies, from one month to another. For Union fishing vessels using more than one gear in a single calendar month, the lowest catch limit set in paragraph 2 for either gear shall apply.

Member States shall report to the Commission all catches of European seabass per type of gear not later than 15 days after the end of each month.

- 4. In recreational fisheries, including from shore, in ICES divisions 4b, 4c, 6a, 7a to 7k:
 - (a) from 1 January to 31 March and from 1 November and to 31 December 2019, only catch-and-release fishing allowing high rates of survivability for European seabass shall be allowed. During that period, it shall be prohibited to retain on board, relocate, tranship or land European seabass caught in that area;

³ All types of demersal trawls (OTB, OTT, PTB, TBB, TBN, TBS and TB).

⁴ All types of seines (SSC, SDN, SPR, SV, SB and SX).

⁵ All long lines or pole and line or rod and line fisheries (LHP, LHM, LLD, LL, LTL, LX and LLS).

⁶ All fixed gillnets and traps (GTR, GNS, FYK, FPN and FIX).

- (a) from 1 April to 31 October 2019, not more than one specimen of European seabass may be retained per fisherman per day.
5. In recreational fisheries in ICES divisions 8a and 8b, a maximum of three specimens of European seabass may be retained per fisherman per day.

Five by-catch TACs

- A new Article 7a is inserted:

Article 7a

Quota exchanges mechanism for TACs for unavoidable by-catches

related to the introduction of the landing obligation

1. In order to take into account the introduction of the landing obligation and to make quotas available to Member States without a quota for certain by-catches, the quota exchange mechanism as defined in this Article shall apply to the TACs identified in Annex IA.
2. 7% of each quota, allocated to each Member State, shall be made available for a swapping pool, which shall open as of 1 January 2019. Member States without quota shall have exclusive access to the quota pool until 31 March 2019.
3. The quantities drawn from the pool may not be exchanged or transferred to the following year. Any unused quantities shall be returned to those Member States that have initially contributed to the quota swapping pool after 31 March 2019.
4. The quotas provided in return shall be taken from a list of at least 10 species identified by each Member State contributing to the pool as listed in Annex IA.
5. Those quotas shall be of equivalent commercial value by using a market exchange rate or other mutually acceptable exchange rates. In absence of alternatives, the equivalent economic value in accordance to the average EU prices of the previous year, as provided by EUMOFA, shall be used.
6. In cases where the above mechanism does not allow Member States to cover their unavoidable by-catches to a similar extent, Member States shall endeavour to agree on quota exchanges pursuant to Article 16(8) of Regulation (EU) No 1380/2013, ensuring that quotas exchanged are of equivalent commercial value.

The TAC levels for the five by-catch TACs to which Article 7a shall apply are the following:

Common name	TAC Unit	Proposal TAC 2019	Compromise TAC 2019 (tonnes)	Statements / additional information
Cod	Celtic Sea	1288	1449	
Cod	West of Scotland	1461	1643	
Whiting	Irish Sea	612	689	
Whiting	West of Scotland	937	1054	
Plaice	7hjk	92	104	

2. CHANGES TO THE TAC TABLES IN ANNEX IA

Common name	TAC Unit	Proposal TAC change 2018 -2019	Compromise TAC change 2018 - 2019	Compromise TAC 2019 (tonnes)	Statements / additional information
Anglerfish	5b, 6 - 14				5% of this quota may be used in 2a, 4
Cod	Kattegat	-24%	-15%	536 tonnes	
Cod	2a and 4				5% of this quota may be used in 7d
Common sole	2a and 4	-22%	-20%	12 555 tonnes	
Haddock	7b-k, 8, 9 and 10, Union waters of CECAF	-14%	RO	6910	
Hake	8c, 9, 10	-14%	-8%	8517 tonnes	
Ling	3a	RO	+95%	170 tonnes	
Ling	Union waters of 4	-3%	+5%	4035 tonnes	
Ling	6-14				35% of this quota may be used in 4
Mackerel	6, 7, 8abde				25% of this quota may be used in 8c, 9 and 10
Megrims	5b, 6-14				5% of this quota may be used in 2a, 4

Megrims	7				For BE, IE and the UK: 10 % of the quotas may be used in 8a, 8b, 8d and 8e (LEZ/*8ABDE) for by-catches in directed fisheries for sole. For ES and FR: 35 % of the quota may be fished in 8a, 8b, 8d and 8e (LEZ/*8ABDE).
Norway lobster	3a	+65%	+17%	13 733 tonnes	
Norway lobster	7	-32%			Statement
Plaice	Kattegat	+98%	+15%	1705 tonnes	
Skates and rays	7d	-5%	+10%	1404 tonnes	
Skates and rays	6a, 6b, 7a-c, 7e-k	-1%	+5%	10184 tonnes	
Skates and rays	8 and 9	RO	+10%	4759 tonnes	
Undulate ray	7de	-36%	RO	180 tonnes	
Undulate ray	8	-57%	RO	30 tonnes	
Undulate ray	9	-35%	RO	48 tonnes	

3. AMENDMENTS TO THE COMMISSION PROPOSAL REGARDING CERTAIN TACS IN ANNEX IA

Annex IA of the consolidated version (doc. 15051/18 ADD 1) is amended by replacing the relevant fishing opportunities tables with the following ones:

Species:	Herring (1) <i>Clupea harengus</i>	Zone:	3a (HER/03A.)
Denmark	12 325 ⁽²⁾	Analytical TAC	
Germany	197 ⁽²⁾	Article 7(2) of this Regulation applies	
Sweden	12 893 ⁽²⁾		
Union	25 415 ⁽²⁾		
Norway	3 911		
Faroe Islands	0 ⁽³⁾		
TAC	29 326		
(1)	Catches of herring taken in fisheries using nets with mesh sizes equal to or larger than 32 mm.		
(2)	Special condition: up to 50 % of this amount may be fished in Union waters of 4 (HER/*04-C.).		
(3)	May only be fished in the Skagerrak (HER/*03AN.).		

Species:	Haddock <i>Melanogrammus aeglefinus</i>	Zone:	4; Union waters of 2a (HAD/2AC4.)
Belgium	240	Analytical TAC	
Denmark	1 647	Article 7(2) of this Regulation applies	
Germany	1 048		
France	1 827		
The Netherlands	180		
Sweden	116		
United Kingdom	17 533		
Union	22 591		
Norway	6 359		
TAC	28 950		

Special condition: within the limits of the abovementioned quotas, no more than the quantities given below may be taken in the following zones:

Norwegian waters of 4 (HAD/*04N-)

Union	16 804
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Species: Whiting <i>Merlangius merlangus</i>	Zone: 4; Union waters of 2a (WHG/2AC4.)
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Belgium	296	Analytical TAC
Denmark	1 280	Article 7(2) of this Regulation applies
Germany	333	
France	1 924	
The Netherlands	740	
Sweden	2	
United Kingdom	5 104	
Union	9 679	
Norway	1 219 ⁽¹⁾	

TAC 17 191

(1) May be taken in Union waters. Catches taken within this quota are to be deducted from Norway's share of the TAC.

Special condition: within the limits of the abovementioned quotas, no more than the quantities given below may be taken in the following zones:

Norwegian waters of 4 (WHG/*04N-)

Union	9 679
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Species: Northern prawn <i>Pandalus borealis</i>	Zone: 3a (PRA/03A.)
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Denmark	1 120	Precautionary TAC
Sweden	603	
Union	1 723	

TAC 3 226

Species: Saithe <i>Pollachius virens</i>	Zone: 6; Union and international waters of 5b, 12 and 14 (POK/56-14)
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Germany	859	Analytical TAC
France	8 530	Article 7(2) of this Regulation applies
Ireland	285	
United Kingdom	2 079	
Union	11 753	
Norway	940 ⁽¹⁾	

TAC 12 693

(1) To be fished north of 56°30' N (POK/*5614N).

4. AMENDMENTS TO COMMISSION PROPOSAL REGARDING CERTAIN TACS IN ANNEX IB

Annex IB of the consolidated version (doc. 15051/18 ADD 1) is amended by replacing the relevant fishing opportunities tables with the following ones:

Species:	Grenadiers <i>Macrourus spp.</i>	Zone:	Greenland waters of 5 and 14 (GRV/514GRN)
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Union	85 ⁽¹⁾	Analytical TAC
		Article 3 of Regulation (EC) No 847/96 shall not apply
TAC	Not relevant ⁽²⁾	Article 4 of Regulation (EC) No 847/96 shall not apply
(1)	Special condition: roundnose grenadier (<i>Coryphaenoides rupestris</i>) (RNG/514GRN) and roughhead grenadier (<i>Macrourus berglax</i>) (RHG/514GRN) shall not be targeted. They shall only be taken as by-catch and shall be reported separately.	
(2)	The amount below, in tonnes, is allocated to Norway and can be fished in either this TAC zone or Greenland waters of NAFO 1 (GRV/514N1G). Special condition for this amount: roundnose grenadier (<i>Coryphaenoides rupestris</i>) (RNG/514N1G) and roughhead grenadier (<i>Macrourus berglax</i>) (RHG/514N1G) shall not be targeted. They shall only be taken as by-catch and shall be reported separately.	
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Species:	Grenadiers <i>Macrourus spp.</i>	Zone:	Greenland waters of NAFO 1 (GRV/N1GRN.)
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Union	60 ⁽¹⁾	Analytical TAC
		Article 3 of Regulation (EC) No 847/96 shall not apply
TAC	Not relevant ⁽²⁾	Article 4 of Regulation (EC) No 847/96 shall not apply
(1)	Special condition: roundnose grenadier (<i>Coryphaenoides rupestris</i>) (RNG/N1GRN.) and roughhead grenadier (<i>Macrourus berglax</i>) (RHG/N1GRN.) shall not be targeted. They shall only be taken as by-catch and shall be reported separately.	
(2)	The amount below, in tonnes, is allocated to Norway and can be fished in either this TAC zone or Greenland waters of 5 and 14 (GRV/514N1G). Special condition for this amount: roundnose grenadier (<i>Coryphaenoides rupestris</i>) (RNG/514N1G) and roughhead grenadier (<i>Macrourus berglax</i>) (RHG/514N1G) shall not be targeted. They shall only be taken as by-catch and shall be reported separately.	
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Species:	Northern prawn <i>Pandalus borealis</i>	Zone:	Greenland waters of NAFO 1 (PRA/N1GRN.)
Denmark	1 400	Analytical TAC	
France	1 400	Article 3 of Regulation (EC) No 847/96 shall not apply	
Union	2 800	Article 4 of Regulation (EC) No 847/96 shall not apply	
TAC	Not relevant		

Species:	Redfish <i>Sebastes spp.</i>	Zone:	Norwegian waters of 1 and 2 (RED/1N2AB.)
Germany	766	Analytical TAC	
Spain	95	Article 3 of Regulation (EC) No 847/96 shall not apply	
France	84	Article 4 of Regulation (EC) No 847/96 shall not apply	
Portugal	405		
United Kingdom	150		
Union	1 500		
TAC	Not relevant		

Species:	Redfish (pelagic) <i>Sebastes spp.</i>	Zone:	Greenland waters of NAFO 1F and Greenland waters of 5, 12 and 14 (RED/N1G14P)
Germany	765 ⁽¹⁾⁽²⁾⁽³⁾	Analytical TAC	
France	4 ⁽¹⁾⁽²⁾⁽³⁾	Article 3 of Regulation (EC) No 847/96 shall not apply	
United Kingdom	5 ⁽¹⁾⁽²⁾⁽³⁾	Article 4 of Regulation (EC) No 847/96 shall not apply	
Union	774 ⁽¹⁾⁽²⁾⁽³⁾		
Norway	561 ⁽¹⁾⁽²⁾		
Faroe Islands	0 ⁽¹⁾⁽²⁾⁽⁴⁾		
TAC	Not relevant		

(1) May only be fished from 10 May to 1 July.

(2) May only be fished in Greenland waters within the Redfish Conservation Area bounded by the lines joining the following coordinates:

Point	Latitude	Longitude
1	64°45'N	28°30'W
2	62°50'N	25°45'W
3	61°55'N	26°45'W
4	61°00'N	26°30'W
5	59°00'N	30°00'W
6	59°00'N	34°00'W
7	61°30'N	34°00'W
8	62°50'N	36°00'W
9	64°45'N	28°30'W

(3) Special condition: this quota may also be fished in international waters of the Redfish Conservation Area mentioned above (RED/*5-14P).

(4) May only be fished in Greenland Waters of 5 and 14 (RED/*514GN).

5. STATEMENTS

On quota exchanges for southern hake, anglerfish and megrims in division 8c (Spain and Portugal)

Spain and Portugal will agree on necessary quota swaps for hake, anglerfish and megrims in the Iberian waters to avoid "choke" situations.

On by-catch reduction plans of Member States of the NWW (the Netherlands, Ireland, France, the United Kingdom, Spain, Belgium) and the Commission

Member States cooperating in the North-Western Waters will prepare a by-catch reduction plan to ensure that by-catches of the stocks for which ICES has issued zero catch advice for 2019 are reduced through selectivity and avoidance measures. To this end the Member States concerned will submit to the Commission a by-catch reduction plan at the latest on 31 March 2019. By-catch reduction plans will contain measures such as more selective gears, area closures, real time closures, avoidance measures and move-on rules. The by-catch reduction plans should be adapted to the species in question and be chosen from the above catalogue of measures according to the specificities of each fishery. The plans will be assessed by the STECF regarding their effectiveness.

On commitment to solve choke species of Member States with zero quota allocation by swaps (North West Waters Group, i.e. Belgium, France, Ireland, the Netherlands, Spain and the United Kingdom)

The Member States concerned commit to undertake the necessary swaps to avoid choke situations for the following stocks, covering the needs from Member States without quota allocation in those stocks:

- Pollack, POK 7/3411
- Sole, SOL/7BC.
- Sole, SOL/5614
- Sole, SOL/7FG
- Cod, COD/5W6-14
- Plaice, PLE/56-14
- Plaice, PLE/7BC
- Boarfish, BOR/678-
- Greater Silver Smelt, ARU/567

This statement will be annexed to the TAC/quota regulation 2019 and revised every year in light of the stocks with zero quota allocation without other possible solution available in the toolbox.

The amount of quota exchanged from this list should allow Member States without quota allocation to effectively operate from 1st of January 2019 covering the estimated unavoidable by-catches from each Member State.

Member States receiving the swaps will provide in exchange quotas from Annex IA of the Fishing Opportunities Regulation.

Member States commit themselves to make efforts to find a compromise and to arrange fair quota swaps by using a market exchange rate or other mutually acceptable exchange rates. In absence of alternatives, the equivalent economic value in accordance to the average EU prices of the previous year, as provided by EUMOFA, will be used.

On full documentation of catches and other control measures by the Member States of the North-Western Waters (the Netherlands, Ireland, France, the United Kingdom, Spain and Belgium) and the Commission

Member States will undertake all appropriate control measures to ensure full documentation of catches, in particular by implementing the remote electronic monitoring for fleets having by-catches from the five stocks for which ICES has recommended zero catches in 2019. These measures will be implemented progressively until the end of 2021, based on a risk assessment. The Member States concerned will ensure that by the end of 2019 at least 25% of the vessels having by-catches from the five stocks have remote electronic monitoring systems on board.

On sentinel fishery for Norway lobster in functional unit 31 (Commission)

Spain has submitted a request for a sentinel fishery for Norway lobster in functional unit 31, which could allow collecting necessary catch/landing data for that functional unit. On the basis of this request, the Commission will ask ICES to:

- Assess a level of catches that would minimise impact on the stock but would be sufficient to allow collection of LPUE data for potential use as an abundance index;
- Suggest any specific conditions that should apply to the fishery, and data collected, in order for it to be useful in an abundance index context – i.e. trips, timeframe, geographical area, etc.

Following the scientific advice the Commission will consider submitting an appropriate proposal for amending the 2019 fishing opportunities.

On taking into account the most recent information on high survivability for catch advice for Norway lobster in ICES subarea 7 (Commission)

The Commission will request updated scientific advice from ICES on survivability level of Norway lobster in ICES subarea 7 when discarded. On the basis of the scientific advice, if appropriate, the Commission will consider proposing an amendment to the 2019 fishing opportunities.

Hague Preferences (Belgium, Denmark, France, Germany and the Netherlands)

Belgium, Denmark, Germany, France and the Netherlands are of the opinion that the scales for the allocation of quotas for Member States were agreed upon in 1983. These scales constitute the basis of relative stability, which is a principle established by the Basic Regulation governing the Common Fisheries Policy. It is our opinion that Hague preferences are contrary to the principle of relative stability.
