



2023/2916

29.12.2023

COUNCIL DECISION (EU) 2023/2916

of 11 December 2023

on the position to be taken on behalf of the European Union at meetings of the Parties to the Agreement to prevent unregulated high seas fisheries in the Central Arctic Ocean and repealing Decision (EU) 2020/1582

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) The Agreement to prevent unregulated high seas fisheries in the Central Arctic Ocean ⁽¹⁾ ('the Agreement') was concluded by the Union by Council Decision (EU) 2019/407 ⁽²⁾. The Agreement entered into force on 25 June 2021.
- (2) The meeting of the Parties is responsible for the adoption of measures designed to ensure the Agreement's implementation in order to achieve the objective of preventing unregulated fishing in the high seas portion of the Central Arctic Ocean through the application of precautionary conservation and management measures as part of a long term strategy to safeguard healthy marine ecosystems and to ensure the conservation and sustainable use of fish stocks. Such measures may become binding upon the Union.
- (3) Regulation (EU) No 1380/2013 of the European Parliament and of the Council ⁽³⁾ 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 living marine biological resources restores and maintains the 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.
- (4) In line with the Communications from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'EU Biodiversity Strategy for 2030 Bringing nature back into our lives', 'Forging a climate-resilient Europe – the new EU Strategy on Adaptation to Climate Change' and 'A Farm to Fork Strategy for a fair, healthy and environmentally-friendly food system', it is essential to protect nature and reverse the degradation of ecosystems. Climate change and loss of biodiversity are not to jeopardise the availability of the goods and services that healthy marine ecosystems provide to fishers, coastal communities and humanity at large.

⁽¹⁾ OJ L 73, 15.3.2019, p. 3.

⁽²⁾ Council Decision (EU) 2019/407 of 4 March 2019 on the conclusion, on behalf of the European Union, of the Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean (OJ L 73, 15.3.2019, p. 1).

⁽³⁾ 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).

- (5) The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'A 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. Furthermore, the Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'Pathway to a Healthy Planet for All EU Action Plan: Towards Zero Pollution for Air, Water and Soil' aims at reducing by 50 % plastic litter at sea and by 30 % micro-plastics released into the environment.
- (6) The Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 'Setting the course for a sustainable blue planet' emphasises the importance of marine biodiversity protection and conservation under the Union's external action. The Union is the most prominent actor in Regional Fisheries Management Organisations (RFMOs) and fisheries bodies worldwide. There, the Union promotes the sustainability of fish stocks, promotes transparent decision making based on sound scientific advice, enhances scientific research, and strengthens compliance.
- (7) As stated by the High Representative of the Union for Foreign Affairs and Security Policy and the European Commission in the Joint Communication 'Setting the course for a sustainable blue planet', by the Council conclusions on International Ocean Governance which cover the aforementioned Joint Communication, and the Joint Communication by the High Representative of the Union for Foreign Affairs and Security Policy and the European Commission 'A stronger EU engagement for a peaceful, sustainable and prosperous Arctic', the Union is committed to the Agreement's full implementation as it protects marine ecosystems by applying a precautionary and science-based approach to any future fisheries in the Central Arctic Ocean.
- (8) It is appropriate to establish the position to be taken on the Union's behalf in the meeting of the Parties to the Agreement for the period 2024-2028, as conservation and management measures under the Agreement may be binding on the Union and capable of decisively influencing the content of Union law, namely, Council Regulations (EC) No 1005/2008 ⁽⁴⁾ and (EC) No 1224/2009 ⁽⁵⁾, and Regulation (EU) 2017/2403 of the European Parliament and of the Council ⁽⁶⁾.
- (9) Currently, the position to be taken on the Union's behalf in the meetings of the Parties to the Agreement is established by Council Decision (EU) 2020/1582 ⁽⁷⁾. It is appropriate to repeal that Decision and to replace it by a new Decision which would cover the period 2024-2028.
- (10) In view of the limited knowledge on and nature of fishery resources in the geographical area covered by the Agreement, and the consequent need for the Union's position to take account of new developments, including new scientific and other relevant information presented before or during the meetings of the Parties, procedures should be established, in line with the principle of sincere cooperation between 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 2024-2028.

⁽⁴⁾ 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).

⁽⁵⁾ 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).

⁽⁶⁾ 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).

⁽⁷⁾ Council Decision (EU) 2020/1582 of 23 October 2020 on the position to be taken on behalf of the European Union at the meetings of the Parties to the Agreement to prevent unregulated high seas fisheries in the Central Arctic Ocean (OJ L 362, 30.10.2020, p. 20).

- (11) This Decision may be followed at a later stage by a further separate Council Decision on the opening of negotiations to establish one or more additional regional or subregional fisheries management organisations or arrangements in the Arctic high seas,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the meetings of the Parties to the Agreement to prevent unregulated high seas fisheries in the Central Arctic Ocean ('the Agreement') 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 Parties to the Agreement 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 meeting of the Parties to the Agreement in 2029.

Article 4

Decision (EU) 2020/1582 is hereby repealed.

Article 5

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 11 December 2023.

For the Council
The President
L. PLANAS PUCHADES

ANNEX I

The position to be taken on the Union's behalf at meetings of the Parties to the Agreement to prevent unregulated high seas fisheries in the Central Arctic Ocean

1. PRINCIPLES

In the framework of the meetings of the Parties to the Agreement, the Union shall:

- (a) ensure that measures adopted within the Agreement are consistent with international law, and in particular with 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 Food and Agriculture Organization (FAO) Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas, and the 2009 FAO Port State Measures Agreement;
- (b) promote the objectives of the Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction and at the 15th Conference of the Parties to the Convention on Biological Diversity, in particular as regards stepping up the protection of marine biodiversity and the protection of 30 % of the world's ocean through marine protected areas;
- (c) contribute to the implementation of the European Green Deal, in line with the Council Conclusions of 23 October 2020 on Biodiversity – the need for urgent action, the Council Conclusions of 10 June 2021 on Forging a climate-resilient Europe – the new EU Strategy on Adaptation to Climate Change, notably concerning the protection of nature, and with the Council Conclusions of 19 October 2020 on the Farm to Fork Strategy, and a stronger Europe in the world;
- (d) act in accordance with the objectives and principles pursued by the Union within the common fisheries policy, 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 taking account of the interests of consumers;
- (e) be in line with the Council Conclusions of 19 March 2012 on the Commission Communication on the external dimension of the common fisheries policy;
- (f) be in line with the Council Conclusions of 13 December 2022 on the International Ocean Governance for safe, secure, clean, healthy and sustainably managed oceans and seas regarding marine biodiversity conservation;
- (g) be in line with the Joint Communication by the High Representative of the Union for Foreign Affairs and Security Policy and the European Commission on a stronger EU engagement for a peaceful, sustainable and prosperous Arctic;
- (h) ensure that the Union's international commitments are respected and fulfilled;
- (i) work towards an appropriate involvement of stakeholders, including relevant scientific and technical organizations, bodies and programs, as well as indigenous and local knowledge, in the preparation phase for measures considered by the meetings of the Parties, including in the meetings of scientific experts under the Agreement, and ensure that these measures are in accordance with the objectives of the Agreement;
- (j) promote positions consistent with the best practices of regional fisheries management organisations (RFMOs) in the same area;
- (k) 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;

- (l) aim to create a level playing field for the Union fleet within the Agreement 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;
- (m) promote coordination between the Agreement and existing RFMOs and regional sea conventions (RSCs), in particular the North East Atlantic Fisheries Commission (NEAFC), the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR Convention), which is the RSC for the North-East Atlantic and cooperation with global organisations, as applicable, within their mandates, where appropriate;
- (n) actively support the Agreement's implementation, including by contributing to the Joint Program of Scientific Research and Monitoring with the aim of improving the Parties' collective understanding of the ecosystems in the High Seas of the Central Arctic Ocean and, in particular, of determining whether fish stocks might exist now or in the future that could be harvested on a sustainable basis and the possible impacts of such fisheries on these ecosystems;
- (o) ensure compatibility between conservation and management measures established for the same stocks in the waters under national jurisdiction and the measures adopted in respect of the high seas in accordance with Article 118 of the United Nations Convention on the Law of the Sea and Article 8 of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks;
- (p) ensure consistency with the Union's interest in the Arctic as a region of growing strategic importance.

2. ORIENTATIONS

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

- (a) measures to promote the conservation and restoration of biodiversity and to promote the sustainability of stocks, and the integration of climate change considerations in the decision-making process;
- (b) conservation and management measures for fisheries resources in the Agreement Area based on the best scientific advice available, including total allowable catches and quotas or effort regulation in fisheries harvesting living marine biological resources regulated by the Agreement, which would achieve the maximum sustainable yield. 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;
- (c) measures to promote data collection, scientific research and science-based management decisions, the strengthening of its compliance committee, a culture of compliance and periodical independent performance reviews;
- (d) measures to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing activities in the Agreement Area, including IUU vessel listing and cross-listing with other RFMOs, and measures to promote the traceability of fish and fishery products based on the Voluntary Guidelines for Catch Documentation Schemes;
- (e) monitoring, control and surveillance measures in the Agreement Area in order to ensure efficiency of control and compliance with measures adopted within the Agreement including the strengthening of control on transshipment operations based on the FAO Voluntary Guidelines for Transshipment;
- (f) measures to minimise the negative impact of fishing activities on marine biodiversity and marine ecosystems and their habitats, including protective measures for vulnerable marine ecosystems in the Agreement Area in line with the Agreement and the FAO International Guidelines for the Management of Deep-sea Fisheries in the High Seas, measures to avoid and reduce as far as possible unwanted catches, including in particular vulnerable marine species, and to gradually eliminate discards;

- (g) 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, including measures to reduce the impact of Abandoned, Lost or Otherwise Discarded Fishing Gear in the ocean and to facilitate the identification and recovery of such gear taking into account the FAO Voluntary Guidelines on the Marking of Fishing Gear, and related measures decided under the IMO Action Plan against plastic litter;
 - (h) 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;
 - (i) 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;
 - (j) common approaches with other RFMOs, where appropriate, in particular those involved in fisheries management in the same region;
 - (k) additional technical measures based on advice from the subsidiary bodies and working groups of the Agreement;
 - (l) measures consistent with the objectives of achieving economic, social and employment benefits, and of contributing to the availability of food supplies.
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ANNEX II

Year-to-year specification of the Union's position to be taken in the meetings of the Parties to the Agreement to prevent unregulated high seas fisheries in the Central Arctic Ocean

Before each meeting of the Parties to the Agreement, 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 Commission, in accordance with the principles and orientations set out in Annex I.

To this effect, and based on that information, the Commission shall transmit to the Council in sufficient time before each meeting of the Parties to the Agreement, 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 Parties to the Agreement it is impossible to reach an agreement, including on the spot, the matter shall be referred to the Council or its preparatory bodies in order for the Union's position to take account of new elements.
