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NOTE

From:	General Secretariat of the Council
To:	Council
Subject:	Proposal for a COUNCIL REGULATION amending Regulation (EU) 2024/257 fixing for 2024, 2025 and 2026 the fishing opportunities for certain fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2023/194 fixing for 2023 and 2024 such fishing opportunities - Background information from the Spanish delegation

With a view to the exchange of views at the Council ('Agriculture and Fisheries') on 23 September 2024, delegations will find in the Annex a note from the Spanish delegation on the above-mentioned subject.

BACKGROUND DOCUMENT AGRIFISH COUNCIL 23 SEPTEMBER**PROPOSAL COM (2024) 392 final
(3RD TAC AMENDMENT)****Introduction:**

On the 2nd of September the Commission tabled document COM (2024) 392 final, a proposal to amend fishing opportunities for 2024 and 2025¹ and to take account of the latest scientific advice and other developments. It proposes, inter alia, to set a definitive TAC for anchovy in Atlantic Iberian waters for the period from 1 July 2024 to 30 June 2025.

In June a provisional TAC was set for anchovy in Atlantic Iberian waters for the period from 1 July 2024 to 30 September 2024 at the level of 4 997 tonnes, pending the publication by ICES of its scientific advice for anchovy for that period, which allowed fishing to continue.

In its advice published on 21 June, ICES provides MSY advice for two different components in the anchovy population: (i) west of a line running south-west from Sagres, Portugal; and (ii) south of that line. For the previous years 2022 and 2023, the TAC for anchovy in ICES subareas 9 and 10 and EU waters of CECAF division 34.1.1 was set at the level of the sum of that advice.

The Commission proposes establishing a special condition under which catches in the southern part of the TAC area may not exceed 969 tonnes. Moreover, it is proposed that the TAC and that special condition should apply retroactively from 1 July 2024.

¹ Council Regulation (EU) 2024/257 fixes for 2024, 2025 and 2026 the fishing opportunities for certain fish stocks, applicable in EU waters and, for EU fishing vessels, in certain non-EU waters

In addition, it is also proposed that Member States may report catches of anchovy in the southern part of the TAC area during the period from 1 July 2024 to 30 September 2024 in addition to the special condition of 969 tonnes, provided that:

- the 969 tonnes have been fully used; and
- those catches do not exceed the provisional TAC level (4 997 tonnes) minus the 969 tonnes (4 028 tonnes), as allocated to Member States in accordance with the principle of relative stability.

Finally, the Commission also proposes prohibiting quota swaps between Member States in the southern part of the TAC area.

On the limitation of catches in the southern part of the TAC area:

The ICES advice on which the Commission based the presented proposal is based on a single stock (ANE/9/3411), so the measures to be applied, and compliance with establishing measures in accordance with the Maximum Sustainable Yield (MSY) included in the Common Fisheries Policy, must be set at the stock level and not at the subcomponent level as recommended in the proposal. If a decision to separate the stocks were taken, other agreements would have to be made, such as a revised relative stability for the new stocks that would be more closely aligned with the real consumption of the quota per Member State. The same measures should be established for other provisions such as interannual flexibility, which has not yet been defined in the proposal.

The establishment of joint measures for the stock (not at a subcomponent level) will not put this fishery at risk of collapse, since it has been demonstrated that there is a relationship between both subcomponents, and it has not been scientifically confirmed that they are two different stocks.

Furthermore, it is equally important to take into account the socio-economic impact of the measures to be established. In this regard, it should be noted that the purse seine fleet in the Gulf of Cadiz (Spain) that is affected by this proposal consists of 75 vessels, which has only anchovies and sardines as target species. There is a strong dependency on the anchovy fishery, on average above 70%. Detailed socioeconomic information has also been provided.

In the case of Spain the current level of consumption of this fishery by the purse seine fleet in the Gulf of Cadiz is around 2 150 tonnes. The establishment of the limits set out in the proposal submitted by the Commission would therefore immediately close the fisheries due to the early exhaustion of the fishing opportunities for this stock. A reduction is also foreseen for the sardine, which is the only alternative for this fleet. Due to the lack of alternatives, therefore, the fleet will be forced to terminate fishing activities completely, seriously jeopardising its economic viability, which will have a significant social and economic impact in a geographical area with a high dependence on fishing, while also causing a shortage in the markets for a species that is in high demand and culturally rooted in this area.

As established in the Judgment of the Court of Justice of 11 January, Ireland Case, Article 2 of the Regulation of the Common Fisheries Policy (CFP) must be understood as a whole, so decision-making must be carried out taking into account the three pillars of sustainability, as well as biological, social and economic factors.

Other relevant factors that this proposal made by the Commission does not take into account are:

- ✓ At the end of September, a benchmark will evaluate the possibility of changing the dates on which basis catch limits are analysed to calendar years.
- ✓ During this benchmarking exercise it is also expected that the relationship between both components (West and South) will be analysed, although the latest information available in the scientific field does not offer sufficient information to determine its separation into two stocks.
- ✓ Last but not least, this benchmark will also analyse the different assessment methodologies.

Thus the result of this benchmarking exercise could have a significant impact on the knowledge we possess regarding the state of the different components of this stock, which will have to be taken into account when taking management decisions.

Taking this into consideration, and given the proximity to this exercise, the most appropriate decision would be to maintain the current distribution system for the moment.

Finally, it should be noted that the species is a small pelagic, which implies a short and therefore very variable life cycle, which makes it difficult to make even short term life cycle, as it is at the mercy of multiple situations such as unforeseen weather phenomena. The historical trend of the stock itself demonstrates this, with certain sudden and numerous increases in specific areas and years, or the opposite trend in other cases.

On the prohibition of quota swaps:

Another aspect that we would like to highlight is the legal inadmissibility of limiting quota exchanges between Member States (SWAPS), a measure that is provided for in the proposal, since those exchanges are a prerogative of the Member States themselves under article 16(8) of the Common Fisheries Policy.

Conclusion:

Considering all of the above, Spain considers that the Council should follow a different approach for the anchovy stock, which would ensure the sustainability of the resource while also guaranteeing the social and economic viability and sustainability of the fleet concerned.