COUNCIL DECISION (EU) 2022/392

of 3 March 2022

concerning the position to be taken on behalf of the European Union within the North Pacific Fisheries Commission

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) By Council Decision (EU) 2022/314 ([1]), the Union acceded to the Convention on the Conservation and Management of High Seas Fishery Resources in the North Pacific Ocean (the 'Convention'), which established the North Pacific Fisheries Commission (NPFC).

(2) The NPFC is responsible for the adoption of conservation and management measures to achieve the objectives of the Convention. Such measures may become binding upon the Union.

(3) Regulation (EU) No 1380/2013 of the European Parliament and of the Council ([2]) 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 population of harvested species above levels which can produce the maximum sustainable yield. It further provides that the Union is to take conservation and management measures based on 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, the avoidance and reduction, as far as possible, of unwanted catches, and fishing with low impact on marine ecosystem and fishery resources. 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) As stated in the Joint communication by the High Representative of the Union for Foreign Affairs and Security Policy and the Commission of 10 November 2016 entitled 'International ocean governance: an agenda for the future of oceans', and the Council conclusions of 24 March 2017 of the same title, the promotion of measures to support and enhance the effectiveness of regional fisheries management organisations and, where relevant, improve their governance is central to the Union's action in those fora.

(5) The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions of 16 January 2018 entitled 'A European Strategy for Plastics in a Circular Economy' refers to specific measures to reduce plastics and marine pollution as well as to reduce the loss or abandonment at sea of fishing gear.

([1]) Council Decision (EU) 2022/314 of 15 February 2022 concerning the accession of the European Union to the Convention on the Conservation and Management of High Seas Fishery Resources in the North Pacific Ocean (OJ L 55, 28.2.2022, p. 12).

([2]) 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) It is appropriate to establish the position to be taken on the Union's behalf within the NPFC for the period 2022-2027, as the NPFC conservation and enforcement measures will be binding on the Union and capable of decisively influencing the content of Union law, namely Council Regulations (EC) No 1005/2008 ([3]) and (EC) No 1224/2009 ([4]) and Regulation (EU) 2017/2403 of the European Parliament and of the Council ([5]).

(7) In view of the evolving nature of fishery resources in the area to which the Convention applies, as defined in Article 4(1) of the Convention (the '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 NPFC, procedures should be established, in line with the principle of mutual 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 position for the period 2022-2027,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the meetings of the North Pacific Fisheries Commission (NPFC) 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 NPFC shall be conducted in accordance with Annex II.

Article 3

The Union's position as set out in Annex I shall be assessed and, where appropriate, revised by the Council upon a proposal from the Commission, at the latest by the annual meeting of the NPFC in 2028.

Article 4

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

Done at Brussels, 3 March 2022.

For the Council
The President
G. DARMANIN

([3]) 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).

([4]) 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).

([5]) 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).

ANNEX I

THE POSITION TO BE TAKEN ON THE UNION'S BEHALF WITHIN THE NORTH PACIFIC FISHERIES COMMISSION

1. PRINCIPLES

In the framework of the North Pacific Fisheries Commission (NPFC), the Union shall:

(a) act in accordance with the objectives and principles pursued by the Union within the common fisheries policy, in particular 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 negative impact of fishing activities on marine ecosystems and their habitats, and, by promoting economically viable and competitive Union fisheries, to provide a fair standard of living for those who depend on fishing activities, while also taking account of the interests of consumers;

(b) work towards appropriate involvement of stakeholders in the preparation of NPFC measures and ensure that measures adopted within the NPFC are in accordance with the objectives of the Convention on the Conservation and Management of High Seas Fishery Resources in the North Pacific Ocean (the 'Convention');

(c) ensure that measures adopted within the NPFC are consistent with international law, and in particular with the provisions of the United Nations (UN) Convention on the Law of the Sea of 10 December 1982, the UN Agreement relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 December 1995, the Food and Agriculture Organization (FAO) Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas of 24 November 1993 and the FAO Port State Measures Agreement of 22 November 2009;

(d) promote positions consistent with the best practices of regional fisheries management organisations (RFMOs) involved in fisheries management in the same area;

(e) seek consistency and synergy with Union policy regarding its bilateral fisheries relations with third countries, and ensure coherence with its other policies, in particular in the fields of external relations, environment, trade, development, research and innovation;

(f) ensure that the Union's international commitments are respected;

(g) respect the Council conclusions of 19 March 2012 on the Commission Communication on the external dimension of the common fisheries policy;

(h) aim to create a level playing field for the Union fleet within the area to which the Convention applies, as defined in Article 4(1) of the Convention (the '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) respect the Council conclusions of 3 April 2017 on the Joint communication by the High Representative of the Union for Foreign Affairs and Security Policy and the Commission of 10 November 2016 entitled 'International ocean governance: an agenda for the future of oceans', and promote measures to support and enhance the effectiveness of the NPFC and, where relevant, improve its governance and performance, in particular as regards science, compliance, transparency and decision-making;

(j) promote coordination between RFMOs and regional sea conventions and cooperation with global organisations within their mandates, where appropriate;

(k) promote cooperation mechanisms amongst non-tuna RFMOs similar to the Kobe process for tuna RFMOs.

2. ORIENTATIONS

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

(a) conservation and management measures for fisheries resources in the Convention area based on the best scientific advice available, including total allowable catches and quotas or effort regulation for living marine biological resources regulated by the NPFC, which would achieve the maximum sustainable yield exploitation rate. 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 Convention area, including IUU fishing vessel listing;

(c) monitoring, control and surveillance measures in the Convention area to ensure efficiency of control and compliance with measures adopted within the NPFC;

(d) 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 Convention area, in line with the Convention and the FAO International Guidelines for the Management of Deep-sea Fisheries in the High Seas of 29 August 2008, and measures to avoid and reduce as far as possible unwanted catches, in particular of vulnerable marine species, and to gradually eliminate discards;

(e) measures to reduce the impact of abandoned, lost or otherwise discarded fishing gear in the ocean and to help identify and recover such gear;

(f) recommendations, where appropriate and to the extent permitted under the relevant constituent documents, encouraging the implementation of the International Labour Organisation Work in Fishing Convention of 14 June 2007;

(g) measures that aim to prohibit fisheries conducted solely for the purpose of harvesting shark fins and requiring that all sharks landed have each fin naturally attached;

(h) common approaches with other RFMOs, where appropriate, and in particular with those involved in fisheries management in the same region;

(i) additional technical measures based on advice from the subsidiary bodies and working groups of the NPFC.

ANNEX II

YEAR-TO-YEAR SPECIFICATION OF THE POSITION TO BE TAKEN ON THE UNION'S BEHALF AT MEETINGS OF THE NORTH PACIFIC FISHERIES COMMISSION

Before each meeting of the North Pacific Fisheries Commission (NPFC), 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 NPFC, a written document setting out the proposed specification of the position to be taken on the Union's behalf for discussion and endorsement.

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