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COM(2022) 263 final

2022/0177 (NLE)

Proposal for a

COUNCIL DECISION

authorising the Republic of Poland to ratify, in the interest of the European Union, the amendment to the Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

Poland, China, Japan, the Republic of Korea, Russia and the United States signed the Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea ('CCBSP' or 'the Convention') in 1994. The Convention has the following aims: (i) to establish an international regime for conservation, management and optimum utilisation of pollock resources in the Convention Area; (ii) to restore and maintain pollock resources in the Bering Sea at levels which will permit their maximum sustainable yield; (iii) to cooperate in the gathering and examining of factual information concerning pollock and other living marine resources in the Bering Sea; and (iv) to provide, if the Parties agree, a forum in which to consider the establishment of necessary conservation and management measures for living marine resources other than pollock in the Convention Area as may be required in the future.

The commercial fishing in the Convention Area, which peaked in 1989 with catches of up to 1 447 600 tonnes/year, has been closed since 1993 by way of a moratorium. The continuing moratorium is supported by scientific evidence, which has consistently pointed to an extremely slow recovery of pollock stocks. Nevertheless, the commercial fishery continues in the United States and Russia's exclusive economic zones.

The European Union participation in the Convention

Poland has been a contracting party to this organisation since 1994. After Poland joined the EU in 2004, the conservation and management of pollock resources in the Central Bering Sea was set to be managed by the EU by virtue of Article 6 (9), paragraph 1 of the Accession Act. However, the Convention text currently only envisages the membership of States. It would therefore need to be amended to allow the EU to become a contracting party as a regional economic integration organisation. A Council Decision authorised the Republic of Poland to negotiate, in the interest of the European Union, an amendment to the Convention that would allow the participation of the European Union as a full party to the Convention. To that end, the Republic of Poland proposed an amendment to the Convention in order to allow participation of regional economic integration organisations and to allow for the European Union to become party to the Convention. The Republic of Poland proposed the amendment to the Convention to the Depositary of the Convention in October 2016. The Depositary sent the amendment in 2017 to the Contracting Parties.

The implications of the EU membership

There are limited implications for the EU joining the Convention given that membership does not require any budgetary contributions (the organisation does not have a Secretariat), and the moratorium is expected to continue in the near future. However, should the area be re-opened to fishing, the EU's role would be to promote the principles and standards of the Common Fisheries Policy in this international organisation, in particular the adoption of management measures based on best science.

The EU's interest in the Convention stems primarily from its responsibility to ensure the conservation and management of living marine resources within and outside the EU.

- **Consistency with existing policy provisions in the policy area**

Regional fisheries management organisations (RFMOs) are: international organisations of countries, some of which are coastal states; regional economic integration organisations such

as the EU; and fishing bodies with fishing interests in a given area. Some RFMOs manage all the fish stocks within a specific area, while others focus on particular highly migratory species, notably tuna, throughout vast geographical areas. While some are purely advisory, most have management powers to set catch limits and fishing effort limits, technical measures and control obligations.

In line with the Commission Communication ‘Participation in Regional Fisheries Organisations (RFOs)’¹, Articles 28 and 29 of Regulation (EU) No 1380/2013 on the Common Fisheries Policy² and the Council conclusions of 19 March 2012 regarding the Commission Communication on the ‘External dimension of the Common Fisheries Policy’³, the EU, represented by the Commission, plays an active role in six tuna organisations and 11 non-tuna organisations.

The Joint Communication by the High Representative of the EU for Foreign Affairs and Security Policy and the Commission on ‘International ocean governance: an agenda for the future of oceans’⁴ and the Council conclusions of 3 April 2017 on it promote measures to support and improve the effectiveness of RFMOs and, where relevant, improve their governance. This is a central feature of the EU’s action in these fora.

- **Consistency with other Union policies**

EU membership of the Convention is fully consistent with the Council conclusions of 23 October 2020 regarding the Commission Communication on the ‘EU Biodiversity Strategy for 2030’⁵.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

This proposal for a Council Decision is based on the Treaty on the Functioning of the European Union, particularly Article 43(2) in conjunction with Article 218(6)(a).

- **Subsidiarity (for non-exclusive competence)**

Not applicable.

- **Proportionality**

Not applicable.

- **Choice of the instrument**

Article 218(6)(a) of the Treaty on the Functioning of the European Union requires a proposal from the Commission for the Council to adopt this Decision, with the consent of the European Parliament.

¹ COM(1999) 613 final of 8.12.1999.

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).

³ COM(2011) 424 final of 13.7.2011.

⁴ JOIN(2016) 49 final of 10.11.2016.

⁵ COM(2020) 380 final of 20.5.2020.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable.

- **Stakeholder consultations**

Not applicable.

- **Collection and use of expertise**

Not applicable.

- **Impact assessment**

Not applicable.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

Not applicable.

4. BUDGETARY IMPLICATIONS

No budgetary implications.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Not applicable.

- **Detailed explanation of the specific provisions of the proposal**

Not applicable.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) in conjunction with Article 218(6)(a) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament¹,

Whereas:

- (1) The European Union ('Union') is a Contracting Party to the United Nations Convention on the Law of the Sea of 10 December 1982², which requires all members of the international community to cooperate in conserving and managing the biological resources of the sea.
- (2) The Union is also a Contracting Party to the Agreement on 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 stocks³.
- (3) Under Article 3(1)(d) and 3(2) of the Treaty on the Functioning of the European Union (TFEU), the Union has exclusive competence in the field of conservation of marine biological resources under the Common Fisheries Policy. The powers thus conferred on the Union on the internal level also include the Union's power to cooperate in international organisations, including in the framework of regional fisheries management organisations.
- (4) The Republic of Poland is a Contracting Party to the Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea ('the Convention'). The Union is not a party to the Convention. By virtue of Article 6(9) of the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the

¹ OJ C p.

² Council Decision 98/392/EC of 23 March 1998 concerning the conclusion by the European Community of the United Nations Convention of 10 December 1982 on the Law of the Sea and the Agreement of 28 July 1994 relating to the implementation of Part XI thereof, (OJ L 179, 23.6.1998, p. 1).

³ Council Decision 1998/414/EC of 8 June 1998 on the ratification by the European Community of the Agreement for the implementing 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 stocks and highly migratory fish stocks, (OJ L 189, 3.7.1998, p. 14.).

European Union is founded⁴, as from the date of accession, fisheries agreements concluded by the new Member States with third countries are to be managed by the Union. Any decisions established under the said Convention should be implemented in the legal order of the Union

- (5) It is in the Union's interest to play an effective role in the implementation of the Convention. Such course of action will also promote consistency in the Union's conservation approach across oceans and reinforce its commitment to the long-term conservation and sustainable use of fisheries resources globally.
- (6) A Council Decision⁵ authorised the Republic of Poland to negotiate, in the interest of the European Union, an amendment to the Convention that would allow the participation of the European Union as a full party to the Convention. To that end, the Republic of Poland was to propose an amendment to the Convention in order to allow participation of regional economic integration organisations and to allow for the European Union to become party to the Convention.
- (7) The Republic of Poland proposed the aforesaid amendment to the Convention to the Depositary of the Convention in October 2016.
- (8) The Republic of Poland should therefore be authorised to ratify the amendment to the Convention,

HAS ADOPTED THIS DECISION:

Article 1

The Republic of Poland is hereby authorised to ratify, in the interest of the European Union, the amendment to Article XVI.4 of the Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea enabling regional economic integration organisations to become party to that Convention.

Article 2

This Decision is addressed to the Republic of Poland.

Done at Brussels,

*For the Council
The President*

⁴ Treaty between the Kingdom of Belgium, the Kingdom of Denmark, the Federal Republic of Germany, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Republic of Austria, the Portuguese Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland (Member States of the European Union) and the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia, the Slovak Republic, concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union (OJ L 236, 23.9.2003, p. 17–930).

⁵ Council AGRIFISH Decision of 11 April 2016, number 7277/16 (not published).