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WORKING PAPER

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NOTE

From:	General Secretariat of the Council
To:	Delegations
N° prev. doc.:	WK 15065/2018
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 written comments by the Spanish delegation on the above-mentioned document.

1. Bycatch TACs for Zero-TAC stocks

In its proposal for the fishing opportunities in 2019 (doc. 13731/18 + ADD 1-2), the Commission proposed a bycatch TAC for five species where ICES recommends a zero-TAC. The proposal gave no details on how to distribute this bycatch TAC among Member States.

Question 1: How could such an arrangement work in practice? Should there be criteria for the distribution among Member States? If so, what could they be?

It is clear that the Commission is been very flexible by allowing this bycatch TAC not to close the fisheries OF ALL MEMBER STATES and not only the ones that have quota on those five stocks. Therefore, Spain considers that the solution must be a stable and widespread one that **solve the problems of all member States**. The Concerned states are working in the Regional High Level group on NWW waters to find a solution that while keeping some sharing by relative stability can warranty a certain quota for compulsory swapping for the ones that have no quota at all. We can accept this approach of a first distribution as far as there is a compulsory system for an equitable an fair swapping system that puts quota for the countries with no quota. We do not have to lose sight from the fact that this a bycatch TAC that has been calculated according to the real need of all fleets in those areas and not only the ones with quotas.

If there is no agreement, then the only solution will be for the Commission to set an others quota stocks for those 5 stocks to be used by the countries that do not have any quota

2. The “Open Pool”

An alternative proposal has been informally discussed among Member States. According to this proposal, Member States with a quota would reserve a certain percentage thereof for an open pool, from which compulsory swaps with Member States without a quota would then be carried out.

Question 2: Is this approach a workable solution to solve choke situations related to zero quotas? In addition, could it also work to solve the situation described above for the five Zero-TAC stocks? How would Member States ensure the implementation of the swaps?

The open pool is a good approach to the problems of zero TAC or zero quota while maintaining the relative stability, as far as there are mechanism that make the swapping compulsory and that there is a preferential access to the ones that need those quotas. For sure, the system will need an equitable and fair market that do not jeopardize the important quotas form the receiving country when they need the ones offered to maintain open his fisheries.

3. Enhanced Swapping and enhanced inter-area/inter-species flexibilities

Swapping and inter-area / inter-species flexibilities have been used in the past to address problems of insufficient quota. Such tools could potentially be improved and made more efficient.

Question 3: Is there a potential to reinforce already existing choke mitigation tools?

One of the problems to implement an inter area flexibility for the same stock is that any country can block any of them anytime just by saying that is not in agreement. This can be done to avoid others fleet to fish more in the same area or to limit the concurrence in the same market, even if that will be a solution for the demanding country. There should be a system that will force those countries to duly justify why they oppose to the demand for a new inter area flexibility.

For inter area flexibility where the TAC in one area and the neighboring one are of different stocks, the system takes a long process that will demand an special ICES advice that can take months (Spain is still waiting since December 2017 for answer from ICES to the demand of an increase in the special condition between stocks of horse mackerel in areas 9a and 8c). We consider that the Commission should include those inter area flexibility on the TAC and quotas on a provisional basis due that the quantities are usually very low (less than 5%). Spain has asked for two of those inter area and different stock but same species to solve the choke situation in areas 8ab and area 7. One of them is a 5% of WHG/08 to be fished on in areas 7b, 7c, 7d, 7e, 7f, 7g, 7h, 7j y 7k (WHG/*7X7A-C). Even if we get the agreement from all member states it will take a long time to get an advice. The second one is the possibility to fish up to a 5% of the stock of sole SOO/8CDE3 to be fished on SOL/8AB that will solve forever the problem of very low quota of sole that Spain has in that area and that can choke in the future our fisheries. It is clear that fishes do not know of sea lines that divide the stocks and therefore those minimum amounts can be very helpful.

4. Other solutions

Question 4: Are there other possible workable solutions?

In the past, the Commission has included some solutions for problems of member states that had no quota in some fisheries by including an "others quota" with a small amount of the TAC. That has been a break of the relative stability to help the countries with no quota on the past. There are some examples like the Bluefin tuna or the red sea bream. The Landing Obligation is in itself a break of the relative stability, especially for Spain that has no quota on many stocks in the Celtic Sea and West of Scotland not because our fleet has no historical records of those species but only because the rest of the members decided in our adhesion not to give us any of them. We have been developing our activity with no problem (so with stability) many years, reducing and adapting our fleet to the quotas of the three main species Hake, Megrin and Anglerfish (it has gone from 300 in the adhesion treaty to only 90 left today). This is why Spain considers that reserving a small amount as "quota others" will be a permanent solution to the new situation that is breaking our stability. The Commission in 12th of June 2012 agreed that the Landing Obligation will never be a way of reducing the fishing possibilities. This is way we need permanent solutions to avoid the end of our fleet.