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**Letter by e-mail attachment to:**

**To:** DG MARE Directorate C, Director

DG MARE Head of Unit C5

EU Council Secretariat

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Oostende, 10 October 2023

Dear Madam, dear Sir,

**Subject: EU pelagic industry position paper on fishing opportunities and Coastal States negotiations for pelagic stocks for 2024**

#### MAIN POINTS

- Strong EU action required against other Coastal States' excessive, unjustified unilateral quota and resulting overfishing;
- Highest priority should be given to reaching agreement on all-party sharing arrangements for mackerel, blue whiting and Atlanto-Scandian herring, based on genuine historic track records and interest as opposed to a flawed, one-dimensional zonal attachment concept;
- Support for the TACs advised by ICES for mackerel (-5%, 739 386 tonnes), blue whiting (+12.5%, 1 529 754 tonnes), Atlanto-Scandian herring (-24%, 390.010 tonnes), North Sea herring (+28.3%, 532 166), North Sea horse mackerel (+8.5%, 9 730 tonnes) and greater silversmelt (+3.6%, 17 695 tonnes);
- For Western horse mackerel, set a provisional TAC in light of the upcoming benchmark, and explore alternatives to a zero-catch TAC, considering the long-term viability of the fishery and associated fisheries and the limited impact these options would have on future spawning biomass levels;
- The 2024 EU-Norway bilateral agreement should contain a strongly reduced input of the EU's blue whiting and restored full access for the EU to fish Atlanto-Scandian herring in Norwegian waters.

## Coastal States / Northeast Atlantic mackerel

### Total Allowable Catch (TAC)

The EU pelagic industry wants to follow the ICES advice of -5% (739 386 tonnes) and supports all other recommendations by the Pelagic Advisory Council (PelAC) for this stock. As in previous years, we argue that the ICES advice would likely have been an increase of the TAC were it not for the current overshoot of the TAC as a result of excessive, unjustified unilateral quotas set by other Parties. New 'hindcast' research confirms this suggestion and estimates a 10% increase would have been possible (the 15% difference would increase total revenues by almost €200 mln). The fact that ICES applied another revision of the levels of spawning biomass (upwards) and fishing mortality (downwards) is another demonstration that the outlook for this stock would not be so bleak at all were it not for the unacceptable behaviour of some Coastal States.

The EU pelagic industry supports a benchmark procedure for the current assessment methodology, planned for 2025. We feel the assessment could be improved, e.g. by including new analyses of the egg survey, the North Sea part of the swept area survey and the updated procedure for including tagging data, as well as by using a more realistic recruitment estimate. In addition, new data of urgent nature as it becomes available, such as data on mackerel fecundity, should be able to be fed into the ICES processes outside of the benchmark.

### Joint management and sharing arrangement

The EU pelagic industry reiterates with urgency its call on the Commission and the Council to strongly condemn Parties setting excessive, unjustified unilateral quotas and to take immediate action against these practices, making use of the instruments at their disposal, such as select trade measures. In addition, the current overfishing should not be accepted to count towards an increased fishing track record for those Parties concerned. Norway and Faroe Islands set their initial quotas (before swaps etc.) at the same unrealistically inflated levels as in the past couple of years, namely 55% over their shares of the 2014 sharing arrangement. This means that the predicted overshoot of the TAC is again over 40%. These actions are unacceptable and fly in the face of the ongoing efforts to reach agreement on a sharing arrangement between all involved Coastal States. They would also appear to be at odds with the UN Convention on the Law of the Sea and particularly the 1995 Straddling Stocks Agreement, and it should be established whether this can be qualified as IUU fishing.

In order to attempt to catch and justify their unwarranted unilateral quota, the Faroes have been fishing mackerel on the summer feeding grounds in the international zone, when the fish are in poor condition after the spawning migration. Up to 2/3 of the total Faroese, but also large parts of Icelandic and Norwegian mackerel catches are estimated to have been turned into fishmeal and -oil. This was further facilitated by Norway, where much of this fish was landed with permission of the Faroese government between 26 July and 31 August. This is a wasteful practice that will have a long-lasting and damaging effect on the mackerel stock.

Right now, only the EU and the UK are sticking with quotas based on the most recent sharing arrangement in place, although it should be noted that the UK has put their record in this respect at stake by swapping in, through its bilateral mackerel agreement for 2023 with Norway, part of the inflated Norwegian quota. The deal grants Norway access to UK waters to fish up to 60% of

their TAC, on the condition that Norway reduces its unilateral TAC and pays in quota for access. Norway agreed to reduce their TAC to 31.95% from 35% and transfer 24,635 tonnes of mackerel to the UK. This deal will have no impact on the overfishing, unless the UK decides not to utilise the additional mackerel they received. Norway printed the currency themselves and then paid with it. Moreover, one could be forgiven for thinking that the UK has decided on a 'landing zone' for a permanent Norwegian share that is unrealistic and based on artificially increased track records.

The EU pelagic industry encourages the Commission to continue its strong efforts to have all Parties engage in the resumed negotiations in earnest and in good faith and to give the highest priority to an all-party mackerel sharing arrangement.

There is still no clear perspective of having a new sharing arrangement in place in the immediate future. Discussions have seemingly been at a standstill for the larger part of the year. Talks were stalled by Parties claiming that circumstances were not right for real negotiations and wanting to debate in great detail the possible criteria for calculating shares, for which they brought invalid arguments to the table. The collapse of the consultations in March was a bitter disappointment for the industry, especially as this was caused by a distinct lack of willingness and diplomacy on the part of some Parties other than the EU. Unfortunately, the first round of consultations after the summer break did not indicate a turn for the better. Further rounds have now been planned between October and March, thereby doing away with the intention to seal a deal before the end of 2023.

The EU pelagic industry calls on the Commission and the Council to stick firmly to the position that a flawed, one-dimensional concept of zonal attachment cannot serve as the basis for a sharing arrangement. Instead track records should be respected, with a view to providing continuity, stability and predictability. Some Parties however, in particular Norway and the UK, advocate the use of the concept of zonal attachment as the main criterion. However, as we noted previously<sup>1</sup>, we conclude that last year's report on the geographical distribution of the mackerel stock in the Northeast Atlantic shows that the data concerned, while in itself resulting from the best of endeavours by the Coastal States scientific community, does not provide a basis for taking a zonal attachment approach to the quota-sharing arrangement for this stock. There are simply too many caveats, limitations and uncertainties in relation to the methodology and the outcome, which the authors stress will be extremely difficult to remedy in the future. The cherry-picking by said Parties of pieces of data in order to make a case for themselves should remain unacceptable to the EU. Unsurprisingly, the current fishing season, like the last, shows again very different patterns, underscores the invalidity of those claims and the instability of the concept. Interestingly, this year's survey results include mackerel retreating from Norwegian waters compared to 2023.

The EU pelagic industry maintains that the EU should continue to seek a quota-sharing arrangement on the basis of those previously in place, rightly honoring historic track records. It should seek a constructive cooperation with the UK in this matter, reflecting the ties between the EU and the UK through their Trade and Cooperation Agreement (TCA). Any new sharing arrangement should also be congruent with the TCA. Considering that catches in international

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<sup>1</sup> [EAPO position paper on Coastal States mackerel distribution report and consultations \(16 March 2022\)](#)

waters have been significantly higher over recent years, we would support limiting the mackerel fishery in international waters to a maximum percentage of 10% of the TAC, with the same limit applying to each individual quota share within that TAC.

The industry does not favour a package approach for a sharing arrangement and reciprocal access for all three pelagic stocks under the remit of the Coastal States. However, it very much supports the building of strategic alliances with other Parties, including through fisheries framework agreements, when considering all three negotiations as a whole.

## Coastal States / Blue whiting

### Total Allowable Catch (TAC)

The EU pelagic industry wants to follow the ICES advice +12.5% (TAC of 1 529 754 tonnes) and supports all other recommendations by the PelAC for this stock. The industry is happy to see that, as predicted, spawning biomass remains at some of the highest levels ever and the strong 2021 and 2022 recruitment is still having its effect.

### Joint management and sharing arrangement

The EU pelagic industry notes that consultations on a sharing arrangement are now in full swing, but also stretched out until March 2024. The favoured outcome is for Coastal States to adopt a sharing arrangement and this should reflect the EU's genuine and traditional interest and track record as the biggest player in this fishery since its initial development, also taking into account the fact that its historic catches have been hampered by quota and access given to Norway through the annual bilateral EU-Norway agreement (with Norway gaining a better track record in the process).

If no sharing arrangement is reached, there is only one alternative in the industry's view and that is the continuation of a joint EU-UK share of 41.42% of the TAC (subsequently allocated between EU and UK on the basis of the Trade and Cooperation Agreement), which has been in place for the past 8 years.

As with mackerel, zonal attachment should not be the criterion on which to base a sharing arrangement. Data on geographical distribution is incomplete and inconsistent and therefore does not allow for clear conclusions to be drawn. The use of zonal attachment by other Parties is flawed and one-dimensional.

The industry does not favour a package approach for a sharing arrangement and reciprocal access for all three pelagic stocks under the remit of the Coastal States. However, it very much supports the building of strategic alliances with other Parties, including through fisheries framework agreements, when considering all three negotiations as a whole.

## Coastal States / Atlanto-Scandian herring

### Total Allowable Catch (TAC)

The EU pelagic industry is concerned about the recent downward trajectory of the ICES advice for this stock, with another -24% (390 010 tonnes) following last year's -15%. This being based on a management plan with a stable assessment model and considering the absence of good year classes after 2016, the industry sees no other option than to follow the advice. The industry supports the recommendations by the PelAC.

As with mackerel, an overshoot of the fishing opportunities of around 40% is the main culprit here and those responsible should be actively pressed to change their behaviour.

### Joint management and sharing arrangement

The EU pelagic industry notes that consultations on a sharing arrangement are ongoing. As with mackerel and blue whiting, zonal attachment should not be the criterion on which to base a sharing arrangement. Data on geographical distribution is incomplete and inconsistent and therefore does not allow for clear conclusions to be drawn. The use of zonal attachment by other Parties is flawed and one-dimensional.

The EU has a consistent and predictable track record in terms of quota setting and catches for this stock, with a genuine and traditional interest underlined by the fact that it usually increases its quota through international swaps. It therefore has a legitimate right to the share it currently claims on the basis of previous arrangements and the presence of Atlanto-Scandian herring in its waters.

In case access to the stock for the EU in Norwegian waters is not restored to 100% of the EU quota (see under 'EU-Norway'), the EU share should be increased by the percentage with which the EU paid for said access in 2007 or, in the absence of a sharing arrangement, be paid back by Norway in quota.

The industry does not favour a package approach for a sharing arrangement and reciprocal access for all three pelagic stocks under the remit of the Coastal States. However, it very much supports the building of strategic alliances with other Parties, including through fisheries framework agreements, when considering all three negotiations as a whole.

## EU-UK-Norway / North Sea herring

The EU pelagic industry wants to follow the ICES advice of a TAC of 532 166 tonnes, based on the MSY approach in absence of a long-term management strategy agreed among the three Coastal States concerned, as well as the recommendations by the PelAC. The advised TAC represents a 28.3% increase compared to the previous advice and a 31.8% increase compared to the 2023 TAC, which was set lower than the advice. Of note is the fact that both spawning biomass and recruitment in 2022 are now estimated to be significantly larger (87.3% and 32.6% respectively).

The industry asks for special attention to be given to ICES's advice that no activities that have a negative impact on spawning habitats, such as extraction of gravel and building of wind farms, should be allowed unless the effects of these activities have been assessed and shown to be non-detrimental. Gravel substratum is an essential habitat for herring spawning in autumn and these non-fisheries forms of spawning habitat degradation may decrease the early life-stage survival of herring. More research is needed to better assess the effects on the herring stock and recruitment of the greatly increasing abundance of windfarms, as well as predator populations.

In the view of the industry, it remains very important that ICES and the managing Coastal States explore methods that allow for more stable TACs to be set for this stock. The last three years have produced advice going from +45% down to -22% and back up again to +28%. The industry urges the EU, the UK and Norway to work together on a long-term management strategy taking into account all factors impacting stock (spawning) dynamics, including those related to climate, the ecosystem and other economic uses of the relevant areas. Discussions on the management strategy should take precedence over a Norway- and UK-led debate about the fleet management structure. For select parts of the EU fleet, the current set-up of A-, B-, C- and D-fleets corresponding to combinations of areas and targeted fisheries or by-catch is essential for careful management of the stock.

#### EU-UK / Western horse mackerel

The EU pelagic industry notes with great concern that ICES advises a zero-TAC (0 tonnes) for this stock for the second year running. The 2023 TAC is only a small by-catch TAC and a continued prohibition of a targeted catch will not only jeopardise the long-term future of this fishery but also impact the viability of those fisheries taking place in conjunction, around the same fishing grounds.

Doubts over the functioning of the current assessment model have led to a benchmark procedure for the Western, Southern and North Sea horse mackerel stocks starting in the first half of 2024. The industry had repeatedly called for pulling this forward and it should commence as soon as possible. The industry also advocates the continuation of ongoing horse mackerel genetic stock-ID research, to which it heavily contributes. The horse mackerel assessments currently do not include genetic information related to stock identification. This genetic information must be taken into account in order to treat the three horse mackerel stocks holistically and to ensure the assessments capture the latest scientific information on the delineation of the stock boundaries. This is fully reflected in ICES Working Group WIDE's report on the stock.

In light of the upcoming benchmark and its possible consequences for stock evaluation, the industry calls for the setting of a provisional TAC and for the managing Parties to agree on the option of revising the TAC following the benchmark.

While aware that the assessment shows a consistently low recruitment (although there is an upward trend), the industry is also somewhat encouraged by the substantial estimated spawning biomass of 750 000 to 800 000 tonnes and the limited effect that other options than

a zero-TAC would have on that biomass (additionally, recent genetic research suggests an underestimation of the biomass). These options include the setting of a provisional catch limit at a similar level as for 2023, the application of the PelAC rebuilding plan or, at the very least, the setting of a scientific monitoring TAC (for which, in any case, an ICES technical paper should be provided as part of the EU's standing request on catch scenarios for zero TAC stocks). The industry would like the EU and the UK to consider in earnest these alternative catch scenarios and is grateful to both for doing so last year.

If the Parties decide to set another by-catch TAC, it is imperative that the Commission and the Council ensure coordination and harmonisation of its implementation. In 2023, the by-catch TAC for this stock led to unforeseen practical issues in the implementation by Member States, jeopardising the level playing field. EAPO<sup>2</sup> and the PelAC<sup>3</sup> have written to the Commission on the matter, highlighting the issues encountered.

### EU-UK / North Sea horse mackerel

The EU pelagic industry wants to follow the ICES advice of +8.5% (9 730 tonnes), as well as the recommendations by the PelAC. This TAC would be set for 2024 as well as 2025, but in the context of the 2024 benchmark for all three horse mackerel stocks and its possible consequences for stock evaluation, the managing Parties should agree on the option of revising the TAC following that benchmark. The industry also advocates the continuation of ongoing horse mackerel genetic stock-ID research, to which it heavily contributes (see under 'Western horse mackerel').

Although this is a relatively small stock, its value is of even more importance than usual in light of the situation of the Western horse mackerel.

### EU-UK / Greater silversmelt

The EU pelagic industry can support the ICES advice of 17 695 (+3.6% compared to the previous advice, -3.4% compared to the 2022 assumed catch), as well as the recommendations by the PelAC and the NWWAC. Since 2016, unilateral quotas have been set by the Faroe Islands and EU/UK separately, and the sum exceeds the recommended catches. The industry calls on the EU Commission and the Council to prevent overfishing and to reach an agreement on the sharing of this stock.

### EU-Norway / exchange of quotas and access ('balance')

The EU pelagic industry considers the amount of blue whiting to be transferred to Norway the most important aspect of the balance. The pelagic industry does not benefit from this

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<sup>2</sup> [EAPO Letter: The EU Commission's 'Bycatch Only' Rule \(22 March 2023\)](#)

<sup>3</sup> [PelAC recommendation on harmonising the implementation of the bycatch TAC for Western horse mackerel \(7 July 2023\)](#)

contribution, while at the same time a competitor is allowed to fish the transferred quota in EU waters. Last year's result, when 74 000 tonnes was transferred, went miles beyond the acceptable limits. While very much aware that the exchange of quotas and access will always have to be a package deal, as little blue whiting as possible should be contributed in the upcoming exchange. Where possible, other stocks of interest to Norway should be used. We ask the Commission and the Council to revisit the potential contribution to the balance of the southern blue whiting sub-TAC (WHB/8C3411), a contribution which again failed to materialise during the previous negotiations. Also, the overall size of the balance should be carefully considered in light of the ICES advice for the relevant stocks.

Access for the EU to Norwegian waters to fish Atlanto-Scandian herring must be restored to 100% of the quota. 2023's cut by some 15% means a loss of access that was paid for with part of the EU's quota share in 2007. This decreased access in the current year should also be compensated in quota.

Finally, new access for Norwegian vessels to parts of EU waters (e.g. the 'Irish Box') should not be considered and only be offered in exchange for payment in fish and on the basis of a revised and limited transfer agreement. Payment should also be required for access to EU waters going beyond the level established pre-Brexit.

Yours Sincerely,

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