



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL FOR MARITIME AFFAIRS AND FISHERIES

The Director-General

Brussels,  
MARE/D3/PCO/mbe/Ares(2020)

Mr. Jesper Raakjaer  
Chairman Pelagic AC  
Louis Braillelaan 80  
2719 EK Zoetermeer  
The Netherlands

**Subject: Reply principles on banking and borrowing provisions**

Dear Mr. Raakjaer,

Thank you for your letter with your reference 1920/PAC26 sharing your opinion and experience on the implementation and sustainable use of banking and borrowing provisions as provided in the Common Fisheries Policy Regulation<sup>1</sup> (CFP Regulation) and the way these provisions are integrated in the design of long term management plans and underlying scientific analysis.

The Commission values the input of Advisory Councils. Your recommendations will be taken into account regarding the application of banking and borrowing in Management Strategy Evaluations.

There are currently two flexibility regimes stipulated in Article 3(3) and 4(2) of Regulation (EU) 847/96<sup>2</sup>, and in Article 15(9) of the CFP Regulation. These flexibility regimes are not cumulative.

In your letter, you express concern on the timely use of these provisions, to utilize the transferred quota, due to the delay in the annual procedures of the TAC proposals and agreements. The Pelagic Advisory Council is requesting the Commission to speed up these procedures. However, your request to finalize this procedure before 15 February is unfortunately not possible. Transfers under Article 4(2) of Regulation (EU) 847/96 require the publication of a Regulation subject to several procedural steps including the vote of the Member States in Comitology, leading to an earliest publication date between late spring and early summer. Once the transfers under this Regulation are published, the other flexibility process under Article 15(9) of the CFP Regulation starts for the transfers of the remaining eligible stocks. This flexibility exercise does not require the adoption of a Regulation.

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<sup>1</sup> 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

<sup>2</sup> Council Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of TACs and quotas

Furthermore, DG MARE does not agree with the statement of the Pelagic Advisory Council that the current EU quota administration, with its current procedures, does not allow Member States to utilize transferred quota until the relevant TAC regulations relating to year to year flexibility have been proposed and agreed. The setting of TACs and quotas is an annual management exercise decided upon by the Council in accordance with Article 43(3) of the Treaty of the Functioning of the European Union leading to adoption around the end of January. During this month, as well as during the time the fishing opportunities are introduced in the Commission's QUOTA system, Member States can start/continue fishing and may decide to use expected transferable quantities or conclude quota swaps with other Member States. In this respect, the Commission will take into account these circumstances, especially if a quota transfer is pending, and inform the Member State concerned before closing the fishery in accordance with Article 36(2) of the Control Regulation<sup>3</sup>.

I thank you again for your letter and invite you to contact Ms Pascale COLSON, coordinator of the Advisory Councils ([pascale.colson@ec.europa.eu](mailto:pascale.colson@ec.europa.eu); +32.2.295.62.73), should you have any question on this reply.

Yours sincerely,

Bernhard FRIESS  
Acting Director-General

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<sup>3</sup> Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community 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