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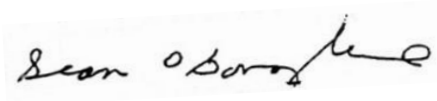
Subject: PelAC recommendation on harmonising the implementation of the bycatch TAC for Western horse mackerel

Dear Ms. Charlina Vitcheva,

I am pleased to submit in Annex I the Pelagic AC recommendation on the harmonisation of the implementation of the bycatch TAC set for Western horse mackerel. This recommendation has been unanimously endorsed by the Executive Committee.

In case you have any questions, please do not hesitate to contact the Secretariat. Thanking you in advance for your kind consideration, and looking forward to your response,

Kind regards,



Sean O'Donoghue  
Chairman Pelagic AC



# Annex I

## Recommendation on harmonising the implementation of the bycatch TAC for Western horse mackerel

July 2023

### Background

The Pelagic Advisory Council (PelAC) has spent several years developing a rebuilding plan for Western horse mackerel, in response to the low stock size and uncertainty in the assessment. The PelAC has finalised and submitted the rebuilding plan to the Commission in July 2020. The rebuilding plan was evaluated and deemed precautionary by ICES in April 2021. In 2022, the Western horse mackerel stock was found to be below  $B_{lim}$ , leading to an ICES advice for a zero catch.

First and foremost, the PelAC recalls its recommendation for an urgent benchmark dedicated to the three horse mackerel stocks (Western, Southern and North Sea), and it cannot overemphasize the importance that this benchmark is carried out **this year**. It is crucial that the data and assessment issues for these stocks are addressed, which will in turn also enable the update the PelAC rebuilding plan as appropriate.

Secondly, the PelAC is grateful for the Commission's efforts in its autumn 2022 consultations with the UK to find alternative solutions, in the spirit of the PelAC rebuilding plan, to the zero TAC option advised by ICES for this stock. However, the PelAC wishes to point out that the decision for setting a 'bycatch' TAC for Western horse mackerel for 2023, has led to unforeseen practical issues in the implementation by Member States, jeopardising the level playing field for EU industries fishing this stock.

In the absence of a benchmark prior to the release date of the next ICES advice for this stock, the PelAC anticipates a similar catch advice for Western horse mackerel for 2024, as was the case for 2023 (zero catch). In the recommendation below, the PelAC outlines the difficulties encountered in the implementation of the bycatch quota in 2023 across the different Member States based on feedback received by its industry members, and asks for Commission support to establish coherence between MS approaches to avoid similar difficulties in 2024, as a fallback solution in the event that it is not possible to hold a benchmark in 2023.

### Implementation bycatch TAC: issues encountered

The industry members of the PelAC have brought forward the issues that have emerged over the course of 2023, resulting from the different interpretations by Member States of the bycatch TAC, and the different approaches followed to implement the bycatch quota for Western horse mackerel. A detailed description of the approaches followed in France, Ireland, the Netherlands and Denmark have been collated and can be found in Annex II for further background.

The descriptions provided in Annex II demonstrate the problems associated with the diversity of fleets within and between Member States, which have led to inconsistent approaches in the management of a bycatch TAC: one Member State has had to close the national quota after few weeks due to the fact that the already low allocated quota would be fully utilised during the year by the de minimis exemption, and the added complication that catches of Mediterranean horse mackerel are also counted against this quota. Another Member State has introduced an extra hurdle by asking for





payment for landings of these species. To avoid choke situations, one Member State has not allocated a bycatch quota to its industry, while others have been allocated quota via the normal distribution of TAC. This is distorting the level playing field of EU fisheries and putting some fleets at a further competitive disadvantage.

Furthermore, a 'bycatch' rule can extend the quota availability over a longer period, but the PelAC industry members are of the view that additional requirements do not take into consideration the fact that many fish species are aggregating. Allocating low quotas to many vessels diminishes the amount given to each vessel to such an extent, that there is a substantial risk of catching fish in excess of the quota and falling into conflict with the landing obligation rules.

## Recommendation

The PelAC believes the issues raised above were neither wanted nor foreseen by the EU and UK negotiators at the time of TAC-setting. The PelAC recommended to the Commission to consider the PelAC rebuilding plan as a basis for an alternative to a zero catch option, as the PelAC believes efforts should be made to keep the fishery alive if it can be done sustainably. The absence of a TAC would impact the viability of those fisheries taking place in conjunction with the mackerel fishery around the same fishing grounds, risking choke situations. The PelAC rebuilding plan foresaw effective rebuilding to 45.000 tonnes in 2029, through a targeted fishery with a fishing mortality under 0.075, from a catch level in 2023 corresponding with the TAC as set.

With a view to addressing the current distortion of the level playing field as described in Annex II, and in order to be better prepared for future, similar, bycatch TACs for horse mackerel, the PelAC requests the Commission to call on the Member State groups to develop a harmonised approach for the implementation of such a TAC. The PelAC asks the Commission to help enable those Member States to foster common, practical, implementable and effective measures to the management of fish stocks with a negative scientific advice, using the examples provided in Annex II as a basis for further reflections.

Finally, the PelAC reiterates that an urgent benchmark meeting covering the three horse mackerel stocks should remain the fundamental priority in this regard, and the PelAC would appreciate Commission continued efforts to support the PelAC in getting this benchmark organised at ICES level in 2023, as a matter of utmost urgency. Should the benchmark take place after the next advice release date, despite these best efforts, the PelAC requests the Commission to ensure that any changes following the change in the perception of the stock that results from this benchmark are adopted without delay. In this regard, the PelAC asks to seek agreement between the EU and the UK to adjust the agreed TAC in 2024 following the TAC option this revision may generate.





## Annex II

### Overview MS approaches for implementing WHOM bycatch TAC

The industry members of the PelAC have raised the issues that have emerged over the course of 2023, resulting from the different interpretations by Member States of the bycatch TAC, and the different approaches followed to implement the bycatch quota for Western horse mackerel.

The PelAC has collated input from industries from the following Member States:

#### ***Input from France***

The management modalities followed by France to implement its national bycatch quota for Western horse mackerel in 2023 are as follows:

- The available national quota is only 507 tons. As regards consumption level, a national ban on horse mackerel fishing in divisions 2a, 5d, 6, 7a-c, 7e-k, 8abde, 12 and 14 (JAX 2A-14) was applied from 14 February 2023 onwards for all French flagged vessels ([closure no. 02/2023](#)).
- Since March 2023, enhanced the monitoring of Western horse mackerel discard declarations was implemented under specific and combined de minimis exemptions.
- In addition, the concerned French producer organizations have established specific provisions since the beginning of 2023 (sometimes before the end of 2022) for their members, to limit the consumption of their respective 2023 sub-quota or to prohibit Western horse mackerel fishing.

These management modalities aim to minimize the risk of exceeding the low national quota for 2023.

Beyond the constraints applied to the French horse mackerel (HOM) fisheries in light of the degraded situation of this same species, these measures do not provide any solution and do not make it possible to meet the needs of the Mediterranean horse mackerel fisheries (HMM) in subarea 8.

#### ***Input from Ireland***

In Ireland there is no ITQ system. Pelagic fisheries are managed by way of an annual allocation to specifically designated pelagic vessels, both RSW pelagic vessels and polyvalent pelagic vessels. 29 pelagic vessels (23 RSW pelagic vessels and six polyvalent pelagic vessels) that have a Western horse mackerel allocation. The precise allocation to each designated vessel is based on a complex set of ratios that have been decided many years ago.

The Irish Administration has issued a yearly allocation to the 29 designated vessels that have a Western horse mackerel authorization, to be caught **only as a by-catch**. Other vessels that do not have an authorisation, are limited to a 5% bycatch per fishing trip.

The allocation of the Irish horse mackerel quota is as follows:

- Available horse mackerel quota = 3,283 tonnes
- horse mackerel allocated to the 29 group = 2,900t **only as a by-catch**,
- by-catch quota (for all other vessels) = 283t and contingency 100t.

The main problem with these very small allocations is the possibility of a premature closure of the horse mackerel fishery, with the obvious consequences of closures of other pelagic and demersal fisheries due to the landing obligation. So far the industry has avoided this happening.

#### ***Input from the Netherlands***

The position of the Dutch Administration is that ITQs cannot be issued for a species for which a targeted fishery is not permitted, following article 21 of the Dutch implementing regulation for fisheries. As such, the Dutch industry was allocated zero quota for all vessels.





The implementing regulation does offer the possibility to land bycatches through a landing quota (article 46c). This is a relatively straight forward procedure, since no declarations are required in advance: the advance declaration of landing and associated fees are invoiced at a later stage.

The issue is that the use of landing quota's involves costs: a basic fee, plus an added 80% of the average price/kg for the first 80% of the quota and an 40% of the price/kg for the remaining 20% (based on Q1 of the previous year). Due to the exceptional circumstances of Western horse mackerel, the Administration agreed to a derogation was agreed that would only apply the basic fee to the first 80% of the landing quota for Western horse mackerel, and an added 40% of the price/kg for the remaining 20%. By introducing a payment system, the Dutch Member State adds an extra hurdle to its industry fishing horse mackerel.

The Dutch pelagic sector feels another approach could be warranted:

- The landing of Western horse mackerel bycatch, a species included in the TAC and quota regulation and for which the Netherlands has a quota, now comes at a higher price than other species, even those for which the Netherlands has no quota.
- A TAC for Western horse mackerel has been set like all others. TACs are subject to conditions and in this case, one of the conditions is that this stock can only be fished as bycatch.
- The TAC for this stock is allocated following the regular allocation key. This should allow for the same possibility at Member State level.
- There is no definition of bycatch in the EU legislation nor in the Dutch Implementing regulation. Article 21 merely states that fishing is not allowed unless an ITQ has been issued.
- The Dutch industry is of the opinion that ITQs can be issued under the clear conditions as outlined in the TAC and quota regulation, which includes the bycatch condition.

### ***Input from Denmark***

The Danish Administration has allocated quota following the normal ITQ system and has sought discussions between Member States to try and establish a harmonised approach. The Danish Administration has advised vessels to notify port authorities when landing horse mackerel, to determine if what is landed can be accepted. It has not issued guidance on the definition of bycatch nor on quota swaps.

