Council Implementing Decision (EU) 2020/1305 of 18 September 2020 authorising the United Kingdom to express its consent, in its own capacity, to be bound by certain international agreements to be applied during the transition period in the area of the Union's common fisheries policy

COUNCIL IMPLEMENTING DECISION (EU) 2020/1305

of 18 September 2020

authorising the United Kingdom to express its consent, in its own capacity, to be bound by certain international agreements to be applied during the transition period in the area of the Union's common fisheries policy

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Decision (EU) 2020/135 of 30 January 2020 on the conclusion of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community[(1)], and in particular Article 3(1) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Article 129(1) of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community[(2)] ('the Withdrawal Agreement') provides that, during the transition period, the United Kingdom is to be bound by the obligations stemming from the international agreements concluded by the Union, by Member States acting on its behalf, or by the Union and its Member States acting jointly.

(2) Article 129(3) of the Withdrawal Agreement provides that, in accordance with the principle of sincere cooperation, the United Kingdom is to refrain, during the transition period, from any action or initiative which is likely to be prejudicial to the Union's interests, in particular in the framework of any international organisation, agency, conference or forum of which the United Kingdom is a party in its own right.

(3) Pursuant to Article 129(4) of the Withdrawal Agreement, during the transition period, the United Kingdom may negotiate, sign and ratify international agreements entered into in its own capacity in the areas of exclusive competence of the Union, provided that those agreements do not enter into force or apply during the transition period, unless so authorised by the Union.

(4) Decision (EU) 2020/135 sets out the conditions and procedure for granting such authorisations.

(5) Pursuant to Article 3(1) of Decision (EU) 2020/135, the Council may authorise the United Kingdom to express its consent, in its own capacity, to be bound by an

Changes to legislation: *There are currently no known outstanding effects for the Council Implementing Decision (EU) 2020/1305. (See end of Document for details)*

international agreement intended to enter into force or be applied during the transition period, in an area of exclusive competence of the Union.

(6) On 3 April 2020, the United Kingdom notified the Commission of its intention to express its consent, in its own capacity, to be bound by five international agreements establishing five regional fisheries management organisations (RFMOs), intended to be applied during the transition period, in the area of the Union's exclusive external competence on fisheries. Those agreements are: the Convention on Future Multilateral Cooperation in the North-East Atlantic Fisheries[(3)] establishing the North-East Atlantic Fisheries Commission (NEAFC); the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries[(4)] establishing the Northwest Atlantic Fisheries Organization (NAFO); the International Convention for the Conservation of Atlantic Tunas[(5)] establishing the International Commission for the Conservation of Atlantic Tunas (ICCAT); the Agreement for the establishment of the Indian Ocean Tuna Commission[(6)] (IOTC); and the Convention for the Conservation of Salmon in the North Atlantic Ocean[(7)] establishing the North Atlantic Salmon Conservation Organization (NASCO).

(7) The United Kingdom justifies its interest in acceding to those agreements during the transition period in light of Articles 63 and 64 of the United Nations Convention on the Law of the Sea[(8)] (UNCLOS) and Articles 7 and 8 of the United Nations 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 stocks[(9)] (UNFSA), in particular the obligations of the Union and of the United Kingdom to cooperate through appropriate regional organisations in the conservation and management of shared stocks. The United Kingdom considers that neither it nor the Union can give full effect to those obligations unless the United Kingdom is able during the transition period to cooperate independently with the Union and other relevant States on matters affecting the United Kingdom as an independent coastal State and fishing State after the end of the transition period. The United Kingdom thus wants to participate in discussions during the transition period on fisheries management decisions that would take effect after the end of the transition period.

(8) By means of its letter of 3 April 2020, the United Kingdom has demonstrated a specific interest in the international agreements in question already applying during the transition period. Therefore, the condition set out in point (a) of Article 3(1) of Decision (EU) 2020/135 is fulfilled.

(9) The five international agreements in question are compatible with Union law applicable to and in the United Kingdom in accordance with Article 127(1) of the Withdrawal Agreement and with the obligations referred to in Article 129(1) of the Withdrawal Agreement. Therefore, the condition set out in point (b) of Article 3(1) of Decision (EU) 2020/135 is fulfilled.

(10) The United Kingdom also confirmed that its accession to those international agreements establishing RFMOs would not be prejudicial to the Union’s interests. The United Kingdom only intends to participate in meetings on issues that concern matters having

effect after the end of the transition period. In particular, the United Kingdom's membership in those RFMOs in its own capacity, during the transition period, does not put at risk the attainment of the objectives of the Union's external action in the area of the common fisheries policy and is not otherwise prejudicial to the Union's interests. Therefore, the condition set out in point (c) of Article 3(1) of Decision (EU) 2020/135 is fulfilled.

(11) Pursuant to Article 3(2) of Decision (EU) 2020/135, such authorisation may be conditional. The authorisation should be granted provided that the United Kingdom participates only in matters to be applied or take effect after the end of the transition period.

(12) The United Kingdom is bound by the obligations resulting from UNCLOS and UNFSA and consequently has to manage and conserve marine living resources in a sustainable manner. Those objectives are in line with the Union's objective of ensuring sustainability and of securing continued responsible fisheries that ensures the long-term conservation and sustainable exploitation of marine biological resources.

(13) Therefore, in accordance with Article 129(4) of the Withdrawal Agreement, during the transition period, the United Kingdom can sign and ratify in its own capacity the five international agreements underlying the five RFMOs to which it seeks accession. This would facilitate and enable the United Kingdom to give full effect to the obligations resulting from UNCLOS, in particular Articles 63 and 64 thereof, at the moment the transition period ends and Union law ceases to apply to it.

(14) The United Kingdom should therefore be authorised to express its consent, in its own capacity, to be bound by the international agreements intended to be applied during the transition period.

(15) In order to ensure the good functioning of the Union's common fisheries policy during the transition period, the United Kingdom should not participate in matters applied or taking effect during the transition period. Moreover, in order not to prejudice the ongoing negotiations on fisheries in the context of the future partnership agreement between the Union and the United Kingdom, in particular as regards fishing opportunities for which the Union's quota currently includes the share of the United Kingdom, the United Kingdom should enter into consultation with the Union prior to discussing such quota,

HAS ADOPTED THIS DECISION:

Article 1

1 The United Kingdom is authorised to express its consent, in its own capacity, to be bound by the following international agreements, which are intended to be applied during the transition period:

a the Convention on Future Multilateral Cooperation in the North-East Atlantic Fisheries, establishing the North-East Atlantic Fisheries Commission (NEAFC);

b the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries, establishing the Northwest Atlantic Fisheries Organization (NAFO);