

**RECOMMENDATION No 1/2023 OF THE SPECIALISED COMMITTEE ON FISHERIES
ESTABLISHED BY ARTICLE 8(1)(Q) OF THE TRADE AND COOPERATION AGREEMENT
BETWEEN THE EUROPEAN UNION AND THE EUROPEAN ATOMIC ENERGY COMMUNITY, OF
THE ONE PART, AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,
OF THE OTHER PART,**

of 24 July 2023

as regards guidelines for notifications under Article 496(3) of the Agreement [2023/1612]

THE SPECIALISED COMMITTEE ON FISHERIES,

Having regard to the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part ('the Agreement'), and in particular Article 508(2)(b) thereof,

Whereas:

- (1) Article 496(1) of the Agreement provides that each Party shall decide on any measures applicable to its waters in pursuit of the objectives set out in Article 494(1) and (2), and having regard to the principles referred to in Article 494(3).
- (2) Article 496(3) of the Agreement provides that the United Kingdom and the Union (each a 'Party', together 'the Parties') shall notify the other Party of new measures as referred to in Article 496(1) that are likely to affect the vessels of the other Party before those measures are applied, allowing sufficient time for the other Party to provide comments or seek clarification.
- (3) At the Specialised Committee on Fisheries meeting of 27 October 2021, the Parties agreed to continue discussions on how the process of exchanging notifications could be improved, with a view to developing a notifications protocol. At the Specialised Committee on Fisheries meeting of 21 October 2022, the Parties noted the importance of agreeing a protocol for the exchange of notifications.
- (4) Article 508(2)(b) of the Agreement provides that the Specialised Committee on Fisheries may adopt recommendations in relation to the matters referred to in Article 508(1) of the Agreement.
- (5) Article 10 of the Agreement provides that recommendations have no binding force,

HAS ADOPTED THIS RECOMMENDATION:

1. The Specialised Committee on Fisheries recommends that the Parties, in normal circumstances, notify a new fisheries management measure under Article 496(3) allowing sufficient time for the other Party to provide comments or seek clarification, and not less than 45 calendar days before the measure comes into force. The Specialised Committee on Fisheries recommends that the Parties endeavour to respond to any requests for clarifications in a timely manner.
2. The Specialised Committee on Fisheries acknowledges that a Party may need to take emergency measures, covering, inter alia, measures relating to a serious threat to the conservation of marine biological resources or to the marine ecosystem under the jurisdiction of the Parties. In such exceptional circumstances, the Specialised Committee on Fisheries recommends that a Party notify the other party of an emergency measure as early as practicable. The Specialised Committee on Fisheries recommends that a Party may request a discussion via the Specialised Committee on Fisheries on the use of shorter notice periods on grounds of emergency measures, to ensure that this exception is used only when appropriate and remains exceptional.
3. The Specialised Committee on Fisheries recommends that a notification include and be structured in line with the following content:
 - (a) a unique reference number and a reference to Article 496(3) of the Agreement;

- (b) the draft text of the proposed measure, or when unavailable, a full and detailed description of all provisions of the draft measure, including a reference to the legal vehicle to be used and the measures it would replace or amend, if any, with the draft text to be shared once available;
 - (c) a description of the objective of the measure and relevant ICES/FAO area codes when appropriate;
 - (d) a full and comprehensive summary and, when publicly available, a copy or a link to the best available scientific advice on which the measure is based;
 - (e) any impact assessments if carried out and if available at the time of the notification;
 - (f) any interpretative guidance issued, if available at the time of notification;
 - (g) the proposed date of entry into force, if available.
4. The Specialised Committee on Fisheries recommends that the Parties inform each other as soon as possible of the date of entry into force, if not known at the time of notification or has changed since time of notification.
5. The Specialised Committee on Fisheries recommends that each Party inform each other about the final version of the measure upon the text being made public.
6. The Specialised Committee on Fisheries acknowledges cases where the Parties implement fisheries management measures agreed to by both Parties under regional fisheries management organisations (RFMOs) or in written or agreed records of annual consultations on fisheries and recommends a simplified notification in such instances provided the measures do not go beyond the scope of the agreement in the RFMO or the written or agreed records, comprising the following content, and to be issued at least 30 calendar days before the measure enters into force:
- (a) a unique reference number and a reference to Article 496(3) of the Agreement;
 - (b) a reference to the commitment in the RFMO or the written or agreed record, and a description of the commitment that is being implemented;
 - (c) a description of how the Party is implementing the measure, including a copy of or link to the legal vehicle, when available, and the date it is likely to come into force.
7. The Specialised Committee on Fisheries recommends that the Parties exchange periodically a forward look of foreseeable legislative changes or other measures over the next 6 to 12 months, that if adopted fall under the notification requirement of Article 496(3) of the Agreement.
8. The Specialised Committee on Fisheries acknowledges that certain measures will be the subject of public consultations or calls for evidence prior to implementation and recommends that each Party inform the other Party of such policy initiatives upon their publication to enable the other Party to request clarifications and provide comments at this stage, which is without prejudice to the notification requirements under Article 496(3). The Specialised Committee on Fisheries recommends that the Parties may agree to include discussions on such proposed measures on the Specialised Committee on Fisheries agenda, as appropriate.
9. The Specialised Committee on Fisheries recommends that notifications be exchanged via electronic measures and that the Parties communicate to each other a list of email addresses for inclusion in the formal transmission of notifications, and any changes thereof. The Specialised Committee on Fisheries recommends that the receiving Party contact the issuing Party to confirm receipt of notifications.
10. The Specialised Committee on Fisheries recommends that a review take place at the request of either Party if a Party considers that a review is needed to improve the operation of the exchange of notifications, with the aim of amending the guidelines in a mutually agreeable way or, if not possible, discontinuing them.

Done at Brussels and London, 24 July 2023.

For the Specialised Committee on Fisheries

The Co-Chairs

EVA Maria CARBALLEIRA FERNANDEZ

Mike DOWELL
