



---

*Plenary sitting*

---

**A9-0192/2023**

24.5.2023

**\*\*\*I**

## **REPORT**

on the proposal for a regulation of the European Parliament and of the Council laying down management, conservation and control measures applicable in the Area covered under the Southern Indian Ocean Fisheries Agreement (SIOFA) (COM(2022)0563 – C9-0370/2022 – 2022/0348(COD))

Committee on Fisheries

Rapporteur: João Pimenta Lopes

***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

***Amendments to a draft act*****Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

**Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the ***■*** symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

## CONTENTS

	<b>Page</b>
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION .....	5
EXPLANATORY STATEMENT .....	6
PROCEDURE – COMMITTEE RESPONSIBLE .....	9
FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE .....	10



## **DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION**

**on the proposal for a regulation of the European Parliament and of the Council laying down management, conservation and control measures applicable in the Area covered under the Southern Indian Ocean Fisheries Agreement (SIOFA)  
(COM(2022)0563 – C9-0370/2022 – 2022/0348(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2022)0563),
  - having regard to Article 294(2) and Article 43(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0370/2022),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Fisheries (A9-0192/2023),
1. Rejects the Commission proposal;
  2. Calls on the Commission to withdraw its proposal;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

## **EXPLANATORY STATEMENT**

### **Purpose and content of the proposal**

The purpose of this proposal is to implement into EU law conservation, management and control measures adopted under the Southern Indian Ocean Fisheries Agreement (SIOFA). The SIOFA is the regional fisheries management organisation (RFMO) responsible for managing fishery resources in the SIOFA's Area of Application.

The EU has been a Contracting Party (CCP) to the SIOFA since 2008. As such conservation and management measures (CMMs) adopted by SIOFA are binding on the EU, which currently has one active fishing vessel in the SIOFA's Area of Application. This vessel must comply with the SIOFA's CMMs.

Under Article 8(3) of the SIOFA, each CCP is required to take all action necessary to ensure enforcement of and compliance with such measures. On behalf of the EU, the European Commission draws up annual negotiating guidelines on the basis of a five-year EU position established by Council decision and on scientific advice. In line with the EU position, these guidelines are presented, discussed and endorsed at the Council working party.

All SIOFA measures are binding if no objection is raised or if any objections are subsequently withdrawn. The objection procedure is governed by Article 218(9) of the Treaty on the Functioning of the European Union (TFEU), as SIOFA measures have legal effect (i.e. they become binding on Contracting Parties). Before deciding to object to a measure, the Commission asks the Council to endorse the decision to object.

SIOFA measures are mainly aimed at CCPs, but these measures also impose obligations on operators (e.g. vessel masters).

This proposal is designed to implement SIOFA measures adopted since 2016 and to set up a mechanism for implementing future measures. This proposal takes into account fishing undertaken by EU vessels in the SIOFA's Area of Application using handlines and demersal longlines.

In order to reduce the time needed to transpose into EU law measures adopted by RFMOs, the Commission proposes the introduction of a mechanism called "dynamic references", conditional to delegated powers to be granted to the Commission under Article 290 TFEU.

While dynamic references to the CMMs are intended to be used by Member States in many instances of the proposal they are intended for operators.

These compulsory documents include SIOFA reporting formats or data exchanges documents related to the entry to and exit from particular areas, the start and end points of setting fishing gear, transshipment and transfer operations, and the sighting of third country vessels. As these requirements and templates change and there is currently only one Union fishing vessel active in the fisheries managed by the SIOFA, the European Commission believes that "dynamic references" represent an appropriate innovation to give effect of SIOFA amendments into EU law.

The delegated powers listed in the proposal empower the Commission to amend or supplement the proposed Regulation with regard to measures adopted by SIOFA in the following areas:

- information required for vessel authorisation;
- change in type of fishing and permitted fishing gears;
- number of catch/recovery of VME-indicator units;
- distances within which to cease bottom fishing where evidence of a VME is encountered above threshold levels within the course of fishing operations;
- scientific observer coverage for bottom fishing and the introduction of an electronic observer programme;
- measures for the toothfish fishery in the Del Cano Rise area in relation to period of fishing season, frequency of VMS automatic reporting, number of scientific observers and methodology of observing, tag and release rates, setting lines by fishing vessels, reporting frequency to SIOFA secretariat, depths of setting lines, and measures to protect other species;
- measures for the toothfish fishery in the Williams Ridge area in relation to fishing season, tag and release rates, reporting rates and content of reporting to SIOFA secretariat, geographical scope of fishing, number of hooks per line, number of scientific observers and methodology of observing, minimum time break between consecutive fishing trips, and measures to protect other species;
- changes to Annexes of the proposed Regulation.

### **Position of the Rapporteur**

The Rapporteur notes that the Commission proposal introduces dynamic references in EU law as an instrument to swiftly implement SIOFA rules. While welcoming in principle any suggestion to speed up transposition of RFMO recommendations, the Rapporteur recalls that according to the Treaties and the case law of the Court of Justice, where EU law seeks to impose obligations on individuals, such as operators, they must be able to acquaint themselves with the full scope and content of those obligations in their own language (see judgment of 11 December 2007, Skoma-lux, C-161/06, EU:C:2007:773, paragraph 38).

The many instances where the proposal makes use of dynamic references impair the right of EU citizens and operators to acquaint themselves of the full scope and content of those obligations in their own language. The Rapporteur recalls that for obligations to be applicable they need to be published in the Official Journal (judgment of 22 February 2022, Stichting Rookpreventie Jeugd a.o., C-160/20, EU:C:2012:101, paragraph 40). This is also the approach taken by the legislators in the regulations transposing conservation and management measures

of the WCPFC<sup>1</sup>, IOTC<sup>2</sup> and CCSBT<sup>3</sup>.

In the spirit of preserving consistency with other instruments transposing RFMO rules, the Rapporteur emphasises that amendments adopted by SIOFA to CMMs should be given effect into EU law at least through delegated empowerments permitting the Commission to update the obligations in accordance with Union law, making them available for the operators in their latest version. SIOFA rules - as any other transposition of RFMO decisions - should remain conditional to delegated powers of the European Commission.

The Rapporteur further notes the proposal of the European Commission in many cases goes beyond the requirements of SIOFA CCMs and invites the Commission to respect the original wording of SIOFA provisions.

The Rapporteur takes note of this Commission proposal and proposes the rejection of this legislative proposal inviting the Commission to avoid making use of dynamic references.

---

<sup>1</sup> Regulation (EU) 2022/2056 of the European Parliament and of the Council of 19 October 2022 laying down conservation and management measures applicable in the Western and Central Pacific Fisheries Convention Area and amending Council Regulation (EC) No 520/2007

<sup>2</sup> Regulation (EU) 2022/2343 of the European Parliament and of the Council of 23 November 2022 laying down management, conservation and control measures applicable in the Indian Ocean Tuna Commission (IOTC) Area of Competence, amending Council Regulations (EC) No 1936/2001, (EC) No 1984/2003 and (EC) No 520/2007

<sup>3</sup> 2021/0242(COD), awaiting publication.



## PROCEDURE – COMMITTEE RESPONSIBLE

<b>Title</b>	Laying down management, conservation and control measures applicable in the Area covered under the Southern Indian Ocean Fisheries Agreement (SIOFA)	
<b>References</b>	COM(2022)0563 – C9-0370/2022 – 2022/0348(COD)	
<b>Date submitted to Parliament</b>	4.11.2022	
<b>Committee responsible</b> Date announced in plenary	PECH 9.11.2022	
<b>Committees asked for opinions</b> Date announced in plenary	DEVE 9.11.2022	ENVI 9.11.2022
<b>Not delivering opinions</b> Date of decision	DEVE 30.11.2022	ENVI 1.12.2022
<b>Rapporteurs</b> Date appointed	João Pimenta Lopes 14.12.2022	
<b>Discussed in committee</b>	23.1.2023	28.3.2023
<b>Date adopted</b>	24.5.2023	
<b>Result of final vote</b>	+: 24 –: 3 0: 0	
<b>Members present for the final vote</b>	Clara Aguilera, João Albuquerque, Pietro Bartolo, François-Xavier Bellamy, Isabel Carvalhais, Maria da Graça Carvalho, Asger Christensen, Rosa D’Amato, Francisco Guerreiro, Niclas Herbst, Jan Huitema, France Jamet, Predrag Fred Matić, Caroline Roose, Bert-Jan Ruissen, Marc Tarabella	
<b>Substitutes present for the final vote</b>	Martin Hlaváček, Ska Keller, Gabriel Mato, Raffaele Stancanelli, Lucia Vuolo	
<b>Substitutes under Rule 209(7) present for the final vote</b>	Pablo Arias Echeverría, Anna-Michelle Asimakopoulou, Marco Campomenosi, Clare Daly, Gilles Lebreton, Mick Wallace	
<b>Date tabled</b>	24.5.2023	

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

24	+
ECR	Bert-Jan Ruissen, Raffaele Stancanelli
NI	Marc Tarabella
PPE	Pablo Arias Echeverría, Anna-Michelle Asimakopoulou, François-Xavier Bellamy, Maria da Graça Carvalho, Niclas Herbst, Gabriel Mato, Lucia Vuolo
Renew	Asger Christensen, Martin Hlaváček, Jan Huitema
S&D	Clara Aguilera, João Albuquerque, Pietro Bartolo, Isabel Carvalhais, Predrag Fred Matić
The Left	Clare Daly, Mick Wallace
Verts/ALE	Rosa D'Amato, Francisco Guerreiro, Ska Keller, Caroline Roose

3	-
ID	Marco Campomenosi, France Jamet, Gilles Lebreton

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention