



Brussels, 8.3.2018
COM(2018) 119 final

2018/0053 (NLE)

Proposal for a

COUNCIL REGULATION

amending Regulation (EU) 2018/120 as regards certain fishing opportunities

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

Council Regulation (EU) No 2018/120 fixes for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and, for Union vessels, in certain non-Union waters. These fishing opportunities are usually amended several times during the period in which they are in effect.

- **Consistency with existing policy provisions in the policy area**

The measures proposed are designed in accordance with the objectives and the rules of the Common Fisheries Policy and are consistent with the Union's policy on sustainable development.

- **Consistency with other Union policies**

The measures proposed are consistent with other Union policies, in particular with the policies in the field of environment.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis of this proposal is Article 43(3) of the Treaty on the Functioning of the European Union.

The Union's obligations for sustainable exploitation of living aquatic resources arise from obligations set out in Article 2 of the new basic regulation of the CFP.

- **Subsidiarity (for non-exclusive competence)**

The proposal falls under the Union exclusive competence as referred to in Article 3(1)(d) of the Treaty. The subsidiarity principle therefore does not apply.

- **Proportionality**

The proposal complies with the proportionality principle for the following reason: the CFP is a common policy. According to Article 43(3) of the Treaty it is incumbent upon the Council to adopt the measures on the fixing and allocation of fishing opportunities.

- **Choice of the instrument**

Proposed instrument: regulation.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable

- **Stakeholder consultations**

The Proposal takes into account the feedback from the stakeholders, Advisory Councils, the national administrations, fishermen organisations and non-governmental organisations.

- **Collection and use of expertise**

The Proposal is based on the scientific advice of the International Council for the Exploration of the Sea (ICES) and the Scientific, Technical and Economic Committee for Fisheries (STECF).

- **Impact assessment**

The scope of the fishing opportunities regulation is circumscribed by Article 43(3) of the Treaty.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

Not applicable.

4. BUDGETARY IMPLICATIONS

The proposed measures will have no budgetary implications.

5. OTHER ELEMENTS

- **Detailed explanation of the specific provisions of the proposal**

The proposed amendments seek to modify Regulation 2018/120 as described below.

Sandeel is a short-lived species and the scientific advice becomes available in the second half of February, while the fishery starts already in April. In Council Regulation (EU) 2018/120 the total allowable catch (TAC) limits were set at zero. Therefore, they should be amended in line with the latest scientific advice from ICES.

In 2017 ICES in its advice and following the 2016 benchmark amended the sandeel management areas. Some of these revised management areas do not coincide with the Union waters in the North Sea. Sandeel management area 3r is mainly located in the Norwegian waters, however part of it also appears in the Union waters, with some important fishing banks straddling across the management areas 2r and 3r. ICES advice from 2018 sets out that on average 8 % of catches in management area 3r are taken in EU waters. On this basis a TAC for EU waters of management area 3r is established.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Council Regulation (EU) No 2018/120¹ fixes for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and, for Union vessels, in certain non-Union waters.
- (2) In Regulation (EU) 2018/120, the total allowable catch (TAC) for sandeel in ICES divisions 2a and 3a and ICES subarea 4, was set at zero. Sandeel is a short lived species and the relevant scientific advice becomes available in the second half of February, while the fishery starts already in April.
- (3) The catch limits for sandeel in ICES divisions 2a and 3a and ICES subarea 4 should now be amended in line with the latest scientific advice from the International Council for the Exploration of the Sea (ICES), issued on [23 February 2018].
- (4) For sandeel fisheries, ICES divisions 2a and 3a and ICES subarea 4 are divided into management areas, on the basis of scientific advice. Management area 3r is mainly located in Norwegian waters. However, it includes also Union waters and some important fishing banks straddle across management areas 2r and 3r. ICES advice sets out that on average 8 % of catches in management area 3r are taken in Union waters. Catch limits for Union waters of management area 3r should be established in accordance with that advice.
- (5) Regulation (EU) 2018/120 should be amended accordingly.
- (6) The catch limits provided for in Regulation (EU) 2018/120 apply from 1 January 2018. The provisions introduced by this amending Regulation concerning catch limits should therefore also apply from that date. Such retroactive application is without prejudice to the principles of legal certainty and protection of legitimate expectations as the fishing opportunities concerned have not yet been exhausted,

¹ Council Regulation (EU) 2018/120 of 23 January 2018 fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2017/127 (OJ L 27, 31.1.2018, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

Annex IA to Regulation (EU) 2018/120 is amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2018.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the Council
The President*