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COM(2019) 338 final

2019/0154 (NLE)

Proposal for a

COUNCIL REGULATION

amending Regulations (EU) 2019/124 and (EU) 2018/2025 as regards certain fishing opportunities

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

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

Council Regulation (EU) No 2019/124 fixes for 2019 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. Council Regulation (EU) No 2018/2025 fixes for 2019 and 2020 the fishing opportunities for Union fishing vessels for certain deep-sea fish stocks. The Proposal includes a TAC amendment for one of red seabream stocks following the ICES advice for that stock.

- **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 throughout the year and their feedback is taken into account when setting the fishing opportunities.

- **Collection and use of expertise**

The Proposal is based on the scientific advice of the International Council for the Exploration of the Sea (ICES).

- **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 (EU) 2019/124 as described below.

Anchovy in ICES subareas 9 and 10 and in Union waters of CECAF 34.1.1 is a short-lived species, for which surveys are concluded in May. Therefore, changing the period for which total allowable catch (TAC) is set from a calendar year to a period from 1 July to 30 June of the following year ensures that the fishing opportunities are based on the best possible assessment of the annual recruitment of this short-lived species.

Regulation (EU) 2018/120, as amended by Regulation (EU) 2018/1628, set the TAC for anchovy exceptionally for a period of 18 months from 1 January 2018 till 30 June 2019, in order to align to the new scientific advice period from July till June of the following year.

In Council Regulation (EU) 2019/124 the TAC for anchovy in ICES subareas 9 and 10 and in Union waters of CECAF 34.1.1 applicable from 1 July 2019 to 30 June 2020 was set at zero awaiting the new scientific advice. In the second amendment to the 2019 fishing opportunities, a provisional TAC was established to allow the fishery to continue. The scientific advice became available on 28 June 2019. The TAC for the period starting on 1 July 2019 should be amended in line with the latest scientific advice from ICES.

The proposed amendments also seek to modify Regulation (EU) 2018/2025, which fixes for 2019 and 2020 the fishing opportunities for Union fishing vessels for certain deep-sea fish stocks. At the time of establishing the fishing opportunities, scientific advice for red seabream in ICES subarea 10 was available only for 2019. It was decided to establish the fishing opportunities for that stock for both 2019 and 2020 at 576 tonnes, and, if necessary, to amend them following the scientific advice for 2020. The ICES scientific advice for 553 tonnes was

published on 11 June 2019. The fishing opportunities need to be amended for red seabream in ICES subarea 10 in order to take the latest scientific advice into account.

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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) 2019/124¹ fixes for 2019 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) 2019/124, the total allowable catch (TAC) for anchovy (*Engraulis encrasicolus*) in ICES subareas 9 and 10 and in Union waters of CECAF division 34.1.1 was set at zero. In the second amendment in the fishing opportunities, a provisional TAC was established to allow the fishery to continue. Anchovy is a short-lived species and the relevant scientific advice was issued on 28 June 2019. The catch limits for anchovy in ICES subareas 9 and 10 and in Union waters of CECAF division 34.1.1 should now be amended in line with the latest scientific advice from the International Council for the Exploration of the Sea (ICES).
- (3) Council Regulation (EU) No 2018/2025² fixes for 2019 and 2020 the fishing opportunities for Union fishing vessels for certain deep-sea fish stocks. In that Regulation, the TAC for red seabream in ICES subarea 10 for both years was set based on the scientific advice for 2019, awaiting the scientific advice for 2020. On 11 June 2019 ICES published the scientific advice for 2020. The TAC should be established in line with the latest scientific advice.
- (4) Regulations (EU) 2019/124 and (EU) 2018/2025 should be amended accordingly.
- (5) The catch limits for anchovy in ICES subareas 9 and 10 and in Union waters of CECAF division 34.1.1 provided for in Regulation (EU) 2019/124 apply from 1 July 2019. This amending Regulation 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) 2019/124 of 30 January 2019 fixing for 2019 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 (OJ L 29, 31.01.2019, p. 1).

² Council Regulation (EU) 2018/2025 of 17 December 2018 fixing for 2019 and 2020 the fishing opportunities for Union fishing vessels for certain deep-sea fish stocks (OJ L 325, 20.12.2018, p.7).

HAS ADOPTED THIS REGULATION:

Article 1

In Annex IA to Regulation (EU) 2019/124, the fishing opportunities table for anchovy in ICES subareas 9 and 10 and Union waters of CECAF division 34.1.1 is replaced by the following table:

Species:	Anchovy <i>Engraulis encrasicolus</i>	Zone:	9 and 10; Union waters of CECAF 34.1.1 (ANE/9/3411)
Spain	4 281 ⁽¹⁾	Precautionary TAC	
Portugal	4 671 ⁽¹⁾		
Union	8 952 ⁽¹⁾		
TAC	8 952 ⁽¹⁾		
(1)	The quota may only be fished from 1 July 2019 to 30 June 2020.		

Article 2

In Annex to Regulation (EU) 2018/2025, the fishing opportunities table for red seabream in Union and international waters of ICES subarea 10 is replaced by the following table:

Species:	Red seabream <i>Pagellus bogaraveo</i>	Zone:	Union and international waters of 10 (SBR/10-)
Year	2019	2020	Precautionary TAC
Spain	5	5	
Portugal	566	543	
United Kingdom	5	5	
Union	576	553	
TAC	576	553	

Article 3

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 July 2019.

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

Done at Brussels,

For the Council
The President