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2020/0087 (NLE)

Proposal for a

**COUNCIL REGULATION**

**amending Regulation (EU) 2019/1838 as regards certain fishing opportunities for 2020 in the Baltic Sea, and amending Regulation (EU) 2020/123 as regards certain fishing opportunities in 2020 in Union and non-Union waters**

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

#### **• Reasons for and objectives of the proposal**

Council Regulation (EU) 2019/1838 fixing for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea needs to be corrected to allow small-scale fishermen to continue using like in the past drifting lines during the spawning closure periods established for the two cod stocks. Council Regulation (EU) 2020/123 fixes for 2020 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 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<sup>1</sup> 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 Council Regulation (EU) 2019/1838 and Council Regulation (EU) 2020/123 as described below.

##### Baltic cod closure derogations for drifting lines

Council Regulation (EU) 2019/1838 establishes for the two Baltic cod stocks closure periods during the spawning period to ensure undisturbed spawning with a view to higher recruitment. Like in the past, there is a derogation from the closure period for small-scale coastal fisheries using certain passive gears given their very limited impact on the spawning of the said stocks. Unlike in the past, the derogation for the use of drifting lines was unintentionally omitted. It is considered that the use of drifting lines should continue to be allowed and should thus be included in the derogation, as in the previous years. The Regulation should therefore be corrected accordingly.

##### Remedial measures for North Sea Cod

The fishing mortality (F) for cod is estimated to be above Flim. The spawning-stock biomass (SSB) has decreased since 2015 and is estimated to be below Blim. In accordance with Article 7(2) of the North Sea multiannual plan<sup>2</sup>, where scientific advice indicates that the spawning

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<sup>1</sup> <http://www.ices.dk/community/advisory-process/Pages/Latest-advice.aspx>

<sup>2</sup> Regulation (EU) 2018/973 of the European Parliament and of the Council of 4 July 2018 establishing a multiannual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks, specifying details

stock biomass of any of the stocks referred to in Article 1(1) of that plan is below the Blim, further remedial measures must be taken to ensure rapid return of the stock to levels above the level capable of producing MSY. In particular, those remedial measures may include suspending the targeted fishery for the stock concerned and the adequate reduction of fishing opportunities for those stocks and/or other stocks in the fisheries having by-catches of cod. In accordance with the procedure provided for in the agreements or protocols on fisheries relations with Norway<sup>3</sup>, the Union has held consultations on fishing rights with Norway. The Parties have agreed to recommend to their respective authorities to introduce additional remedial measures to supplement the TAC already agreed in December 2019, so as to provide additional protection for both juvenile and adult cod on a temporary basis during 2020. These measures should include real time closures for the protection of cod, seasonal closures for the protection of juveniles, restricted areas with specific access conditions and the introduction of new fishing gear based measures. The first of these remedial measures, area closures for the protection of spawning cod, has already been introduced<sup>4</sup> and while these are designed to offer protection during the spawning period, they do not offer protection for juveniles or outside the spawning period, which generally lasts only a number of weeks. While spawning periods and locations are well established and can therefore be quickly implemented, measures to restrict access to specific gear types and the introduction of more selective gears requires more detailed consultations with the stakeholders. Therefore the inclusion of these measures in this amendment of the fishing opportunities regulation should be decided on the basis of these consultations.

The Commission tabled a proposal for the second set of measures in the 1st amendment to the fishing opportunities. However, at that time, the Member States concerned sought to establish a Joint Recommendation to propose additional measures using a joint recommendation. As a consequence, the Council and the Commission issued the following joint statement:

*“The Commission and the Council underline that it is urgent to introduce additional remedial measures to support the recovery of North Sea and Skagerrak cod. Adoption of such measures is necessary given the biological state of stock, in accordance with Article 7, para 2 of Regulation (EU) 2018/973 establishing the North Sea multiannual plan, and is in line with the agreed understanding with Norway for such measures. The Commission will consider submitting appropriate proposals, taking into account the work done in the relevant regional group, and the Council will examine them as a matter of urgency.”*

To date, the Member States concerned have not made sufficient progress, which would permit the introduction of these measures during 2020, in line with the EU-Norway commitment. Therefore the Commission proposes that the relevant measures be included in the 2<sup>nd</sup> amendment to the fishing opportunities regulation. It follows the same approach as the previous one, providing for large precautionary areas with specific access conditions. The proposal has also been adjusted to take into consideration views from Member States on two issues. It now includes a list of pre-defined gears that have been previously assessed either by STECF or subject to a scientific peer review. The proposal continues to include a more flexible approach for gears that meet a specific criteria, and also modifies the process for their evaluation by the STECF.

The new approach gives two possible avenues to the Member States and operators: they can either use one of the pre-defined gears (new element) or they can deploy novel gears, and in

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of the implementation of the landing obligation in the North Sea and repealing Council Regulations (EC) No 676/2007 and (EC) No 1342/2008 (OJ L 179, 16.7.2018, p. 1).

<sup>3</sup> Agreement on fisheries between the European Economic Community and the Kingdom of Norway (OJ L 226, 29.8.1980, p. 48).

<sup>4</sup> Annex IV of COUNCIL REGULATION (EU) 2020/123

parallel the Commission would seek the view of STECF on the gear. Should STECF provide a negative opinion, these gears would be withdrawn. Similarly, the proposal retains the possibility for Member States to develop cod avoidance plans, but instead of awaiting advice from STECF before implementation, STECF advice will be sought in parallel. In the event of a negative assessment, Member States would be obliged to amend their plan accordingly.

#### Northern prawn in ICES divisions 3a and 4a East

On 9 March 2020 ICES issued the advice for catches of Northern prawn (*Pandalus borealis*) in ICES divisions 3a and 4a East (Skagerrak, Kattegat, and the northern North Sea in the Norwegian Deep). Following the consultations with Norway, the allocation of Northern prawn for the EU in Skagerrak is set at 3 266 tonnes.

#### Sprat in the North Sea and in 3a

Sprat (*Sprattus sprattus*) in 3a is a short-lived species and ICES will publish its annual scientific advice on 14 April 2020. Since April 2019, ICES issues one piece of advice for sprat in 3a and for sprat in the North Sea, as they are considered to be a single biological stock. In Council Regulation 2020/123 the TAC for sprat in 3a was set from 1 January to 30 June 2020. In Council Regulation (EU) 2020/123 the total allowable catch (TAC) limits from 1 July 2020 to 30 June 2021 were set at zero. Therefore, catches of sprat in the North sea should be amended in line with the latest scientific advice from ICES and after consultations with Norway.

The TAC for sprat in 3a should be established for the period from 1 July 2020 to 30 June 2021, in line with the latest scientific advice from ICES and matching the period of that advice, and after consultations with Norway. A temporary specific reporting code for sprat and associated by-catches in 3a is provided for this purpose.

Sprat (*Sprattus sprattus*) in the North Sea is a short-lived species and ICES will publish its annual scientific advice on 14 April 2020.

#### Anchovy

The TAC for anchovy (*Engraulis encrasicolus*) in ICES subareas 9 and 10 and Union waters of the Fishery Committee for the Eastern Central Atlantic (CECAF) 34.1.1 for the period from 1 July 2020 to 30 June 2021 has been set at zero, pending the scientific advice for that period. ICES will issue its advice for this stock only at the end of June 2020. In order to ensure that fishing activity may continue until the TAC is set on the basis of the latest scientific advice, a provisional TAC of 4 018 tonnes, based on the catches in the third quarter of 2019, should be established. The TAC would be amended, in line with the ICES scientific advice.

#### Herring in the North Sea

In the Agreed Record of 19 December 2019 for 2020 between the European Union and Norway, the Parties agreed that in addition to the agreed 50 000 tonnes of herring (*Clupea harengus*), which Norway can fish from its quota in Union waters of 4a and 4b, and that the EU can fish in Norwegian waters, an additional quantity of maximum 10 000 tonnes will be granted if such an increase is requested by both parties. This agreement must be reflected in Union law.

#### SPRFMO

At its annual meeting in February 2020, the South Pacific Regional Fisheries Management Organisation (SPRFMO) adopted new catch limits for jack mackerel (*Trachurus murphyi*). The applicable measures should be implemented in the law of the Union.

## NAFO

At its annual meeting held between 23 and 27 September 2019, the Northwest Atlantic Fisheries Organisation (NAFO), decided to close the fishery for splendid alfonsino (*Beryx splendens*) in NAFO subarea 6 due to a possible depletion of the stock. These measures should therefore be implemented in the law of the Union. Therefore, the list of prohibited species should be amended accordingly to reflect this ban.

## ICCAT

The International Commission for the Conservation of Atlantic Tunas (ICCAT) Recommendation 16-05 introduced for 2020 the TAC for Mediterranean swordfish. This TAC has been implemented in Union law. However, in January 2020, the ICCAT Secretariat issued guidelines for the calculation of the TAC for Mediterranean swordfish (*Xiphias gladius*). As a result, the EU quota needs to be updated accordingly.

## IOTC

At its annual meeting held between 17 and 21 June 2019, the Indian Ocean Tuna Commission (IOTC) adopted new catch limits for yellowfin tuna (*Thunnus albacares*) that do not affect the Union catch limits in the framework of IOTC. However, it adopted measures reducing the possibilities for the use of fish aggregating devices (FADs), supply vessels as well as instrumented buoys. Therefore, further changes should be made to Regulation EU 2020/123 to ensure that the implementing rules properly reflect the decisions taken by the Parties to the IOTC.

## SIOFA

The 6<sup>th</sup> regular session of the Southern Indian Ocean Fisheries Agreement (SIOFA), which took place on 1-5 July 2019, decided on bottom fishing measures and effort limitation in the Agreement Area. The measures agreed in that session have to be implemented in the law of the Union. The current implementing measures are to be updated to reflect the measures agreed at the meeting regarding limits to bottom fishing.

## Guiana snapper licences

Fishing licenses are granted by the European Commission to vessels flying the Venezuelan flag in order to allow them to fish for snapper in European waters off the coast of Guiana. Regulation (EU) 2020/123 provides for granting of 45 licenses, however, in order to issue these authorisations, proof must be provided that a valid contract has been concluded between the shipowner and a processing company located in Guiana. Provisions should be adopted to ensure continuity of fishing operations in between two periods covered by contracts, pending the completion of the procedures. Council Regulation (EU) 2020/123 should therefore be amended accordingly to reflect these measures.

## Consultation of the United Kingdom

As this Regulation is to be adopted during the transition period provided for in 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, the Commission will consult the United Kingdom in accordance with Article 130(1) of that Agreement.

Proposal for a

## COUNCIL REGULATION

### **amending Regulation (EU) 2019/1838 as regards certain fishing opportunities for 2020 in the Baltic Sea, and amending Regulation (EU) 2020/123 as regards certain fishing opportunities in 2020 in Union and non-Union waters**

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) 2019/1838<sup>5</sup> fixes for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea. It establishes spawning closure periods for the two Baltic cod stocks with a derogation for fishing vessels of less than 12 meters length overall that fish with certain passive gears. Fishing with drifting lines is excluded from the derogation. It is however considered that the use of drifting lines should be allowed and should thus be included in the derogation, as in the previous fishing opportunities regulations. Regulation (EU) 2019/1838 should therefore be amended accordingly.
- (2) Council Regulation (EU) 2020/123<sup>6</sup> fixes for 2020 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.
- (3) The fishing mortality (F) for North sea cod (*Gadus morhua*) has increased since 2016 and is now estimated to be above Flim (i.e. a limit fishing mortality reference point which in the long term will result in an average stock size at Blim. Fishing at levels above Flim will result in a decline in the stock to levels below Blim). Consequently, the spawning-stock biomass (SSB) has decreased since 2015 and is estimated to be below Blim, (i.e. reference point provided for in the best available scientific advice, in particular by ICES, below which there may be reduced reproductive capacity), while recruitment has remained poor since 1998, but was exceptionally poor in 2016 and 2018.
- (4) In accordance with Article 7(2) of the North Sea multiannual plan<sup>7</sup>, where scientific advice indicates that the SSB of any of the stocks referred to in Article 1(1) of that

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<sup>5</sup> Council Regulation (EU) 2019/1838 of 30 October 2019 fixing for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Baltic Sea and amending Regulation (EU) 2019/124 as regards certain fishing opportunities in other waters (OJ L 281, 31.10.2019, p. 1).

<sup>6</sup> Council Regulation (EU) 2020/123 of 27 January 2020 fixing for 2020 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 25, 30.1.2020, p. 1)

<sup>7</sup> Regulation (EU) 2018/973 of the European Parliament and of the Council of 4 July 2018 establishing a multiannual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks,

plan is below the Blim, further remedial measures must be taken to ensure rapid return of the stock to levels above the level capable of producing maximum sustainable yield (MSY). In particular, those remedial measures may include suspending the targeted fishery for the stock concerned and the adequate reduction of fishing opportunities for those stocks or other stocks in the fisheries having by-catches of cod, or both.

- (5) In the absence of a Joint Recommendation from the regional group of the North Sea Member States, the Commission is proposing to introduce additional technical measures in accordance with commitments made between the European Union and Norway, which are consistent with the joint statement of the European Commission and the Council<sup>8</sup>.
- (6) In order to reduce catches of the stocks for which by-catch Total Allowable Catch (TACs) are set, fishing opportunities for the fisheries in which fish from those stocks is caught should be set at levels that help the biomass of vulnerable stocks to recover to sustainable levels. Technical and control measures that are functionally linked to fishing opportunities should also be established to prevent illegal discarding. In its mixed fisheries overview for the North Sea, the International Council for the Exploration of the Seas (ICES)<sup>9</sup> estimates that in the absence of any changes to fishing patterns and in light of illegal discarding, catches of cod are estimated to be in the order of 40 000t set against an agreed TAC of 17 679t. In order to minimise the risk of catches significantly exceeding the agreed TAC, additional measures to further limit catches are required.
- (7) In accordance with the procedure provided for in the agreements or protocols on fisheries relations with Norway<sup>10</sup> the Union has held consultations on fishing rights with Norway. The Parties have agreed to recommend to their respective authorities the introduction of additional remedial measures to supplement the TAC already agreed in December 2019, so as to provide additional protection for both juvenile and adult cod on a temporary basis during 2020. These measures should include seasonal closures for the protection of juveniles, restricted areas with specific access conditions, the introduction of new fishing gear-based measures, and also include on a voluntary basis, and if individual operators desire as an alternative, the option to have equipment installed for fully documented fisheries to permit access to such restricted areas.
- (8) On 9 March 2020, ICES issued advice for catches of Northern prawn (*Pandalus borealis*) in ICES divisions 3a and 4a East (Skagerrak, Kattegat, and the northern North Sea in the Norwegian Deep). On the basis of that advice and following consultations with Norway, it is appropriate to fix the Union quota for Northern prawn in ICES division 3a at 3 266 tonnes, in line with the maximum sustainable yield.
- (9) According to the ICES advice of 14 April 2020, catches of sprat (*Sprattus sprattus*) in the North Sea, Norwegian Sea, Skagerrak and Kattegatt should be no more than XXX tonnes for the period from 1 July 2020 to 30 June 2021. The fishing opportunities for

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specifying details of the implementation of the landing obligation in the North Sea and repealing Council Regulations (EC) No 676/2007 and (EC) No 1342/2008 (OJ L 179, 16.7.2018, p. 1).

<sup>8</sup> ST 6841/20 REV1 ADD1

<sup>9</sup> ICES advice 2019 - ICES Greater North Sea Ecoregion - Fisheries overviews, including mixed fisheries considerations, pp 3-15. In Report of the ICES Advisory Committee, 2019. ICES Advice 2019, section 9.2. 42 pp. <https://doi.org/10.17895/ices.advice.5710>  
[http://www.ices.dk/sites/pub/Publication%20Reports/Advice/2019/2019/FisheriesOverview\\_GreaterNorthSea\\_2\\_019.pdf](http://www.ices.dk/sites/pub/Publication%20Reports/Advice/2019/2019/FisheriesOverview_GreaterNorthSea_2_019.pdf)

<sup>10</sup> Agreement on fisheries between the European Economic Community and the Kingdom of Norway (OJ L 226, 29.8.1980, p. 48).

sprat in ICES division 2a (Norwegian Sea), ICES subarea 4 (North Sea) and ICES division 3a for that period should be set accordingly.

- (10) The TAC for anchovy (*Engraulis encrasicolus*) in ICES subareas 9 and 10 and Union waters of the Fishery Committee for the Eastern Central Atlantic (CECAF) 34.1.1 for the period from 1 July 2020 to 30 June 2021 has been set at zero, pending the scientific advice for that period. ICES will issue its advice for this stock at the end of June 2020. In order to ensure that fishing activity may continue until the TAC is set on the basis of the latest scientific advice, a provisional TAC of 4 018 tonnes, based on the catches in the third quarter of 2019, should be established. The TAC will be amended in line with the ICES scientific advice.
- (11) In the Agreed Record of Fisheries Consultations between Norway and the European Union for 2020<sup>11</sup> of 19 December 2019 between the European Union and Norway, the Parties agreed that, in addition to the agreed 50 000 tonnes of herring (*Clupea harengus*) that Norway can fish from its quota in Union waters of 4a and 4b, and that the European Union can fish from its quota in Norwegian waters south of 62° N, an additional quantity of maximum 10 000 tonnes will be granted if such an increase is called for respectively by Norway or by the European Union. This agreement must be implemented in Union law.
- (12) At its 2020 annual meeting held from 14 to 18 February 2020, the South Pacific Regional Fisheries Management Organisation (SPRFMO) reviewed the conservation measure for jack mackerel (*Trachurus murphyi*). The applicable measures should be implemented in Union law.
- (13) At its annual meeting held between 23 and 27 September 2019, the Northwest Atlantic Fisheries Organisation (NAFO), decided to close the fishery for splendid alfonsino (*Beryx splendens*) in NAFO subarea 6 due to a possible depletion of the stock. These measures should therefore be implemented in Union law and the list of prohibited species should therefore be amended accordingly.
- (14) The International Commission for the Conservation of Atlantic Tunas (ICCAT) Recommendation 16-05, which decreased the TAC for Mediterranean swordfish in 2020, has already been implemented in Union law. However, in January 2020, the ICCAT Secretariat issued guidelines for the calculation of the TAC for Mediterranean swordfish (*Xiphias gladius*). As a result, the EU quota needs to be updated accordingly.
- (15) At its 2019 annual meeting held between 17 and 21 June 2019, the Indian Ocean Tuna Commission (IOTC) adopted new catch limits for yellowfin tuna (*Thunnus albacares*) that do not affect the Union catch limits in the framework of IOTC. However, it reduced possibilities for using fish aggregating devices (FADs), supply vessels as well as instrumented buoys. Therefore, further changes should be made to Regulation EU 2020/123 to ensure that the implementing rules properly reflect the decisions taken by the Parties to the IOTC.
- (16) At its annual meeting in July 2019, the Southern Indian Ocean Fisheries Agreement (SIOFA) decided on bottom fishing measures and effort limitations in the Agreement area. Those measures were implemented in Union law by Regulation 2020/123. However, further changes should be made to ensure that implementing rules properly reflect the decisions taken by SIOFA regarding limits to bottom fishing.

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<sup>11</sup> [https://ec.europa.eu/fisheries/sites/fisheries/files/docs/body/2020-norway-fisheries-consultations-north-sea\\_en.pdf](https://ec.europa.eu/fisheries/sites/fisheries/files/docs/body/2020-norway-fisheries-consultations-north-sea_en.pdf)

- (17) Fishing licenses are granted by the European Commission to vessels flying the Venezuelan flag in order to allow them to fish for snapper in European waters off the coast of French Guiana. Regulation (EU) 2020/123 provides for granting of 45 licenses. In order to issue these authorisations, proof is to be provided that a valid contract has been concluded between the shipowner and a processing company located in the Department of French Guiana. During the authorisation process in between two years, continuity of fishing operations should be allowed under certain conditions.
- (18) Regulation (EU) 2020/123 should therefore be amended accordingly.
- (19) The catch limits provided for in Regulation (EU) 2019/1838 and Regulation (EU) 2020/123 apply from 1 January 2020. The provisions introduced by this amending Regulation concerning catch limits should therefore enter in force as soon as possible and apply from 1 January 2020. 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.
- (20) The United Kingdom has been consulted in accordance with Article 130(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,

HAS ADOPTED THIS REGULATION:

*Article 1*

*Amendment of Regulation (EU) 2019/1838*

The Annex to Regulation (EU) 2019/1838 is amended in accordance with Annex I to this Regulation.

*Article 2*

*Amendment of Regulation (EU) 2020/123*

Regulation (EU) 2020/123 is amended as follows:

- (1) Article 14 is replaced by the following:

*“Article 14*

**Remedial measures for cod in the North Sea**

1. The closed areas to fishing, except with pelagic gear (purse seines and trawls), and the periods during which the closures apply are set out in Annex IV.
2. Vessels fishing with bottom trawls and seines with minimum mesh size of at least 70 mm, gillnets and longlines<sup>12</sup> shall be prohibited from fishing in Union waters of ICES divisions 4a, North of latitude 58° 30'00 N and South of latitude 61° 30'00 N and in Union waters of ICES divisions 3a.20 (Skagerrak), 4a and 4b, North of latitude 57° 00'00 N and East of latitude 005 00' .00 E.
3. By way of derogation from paragraph 2, fishing vessels referred to in paragraph 2 may fish in the areas referred to in paragraph 1 provided that they fulfil at least one of the following criteria:

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<sup>12</sup> Gear codes: OTB, OTT, OT, TBN, TBB, TBS, TB, TX , PTB, SDN, SSC, SX, GN, GNS, LL, LLS.

- (a) the percentage of cod catches does not exceed 5 % of the total catches per fishing trip;
  - (b) a regulated and highly selective bottom trawl or seine is used, which results, according to a scientific study, in at least a 50 % reduction of cod catches compared to vessels fishing with a 120 mm mesh-size gear. Such studies may be evaluated by STECF. If on the basis of a negative evaluation by STECF, these gears can no longer be considered as valid for use in the areas defined in paragraph 2;
  - (c) for vessels operating with bottom trawls and seines with mesh sizes equal to or larger than 100 mm [TR1], the following highly selective gears are utilised:
    - Belly trawls with a minimum belly mesh size of 600mm;
    - Raised fishing line (0.6 m);
    - Horizontal separating panel with large mesh escape panel;
  - (d) for vessel operating with bottom trawls and seines with mesh sizes equal to or larger than 70 mm and less than 100 mm TR2, the following highly selective gears are utilised:
    - horizontal sorting grid with maximum 50 mm bar spacing separating flatfish and roundfish, with an unblocked fish outlet for roundfish;
    - Seltra panel with 300 mm square-mesh size;
    - sorting grid with maximum 35 mm bar spacing, with an unblocked fish outlet;
  - (e) vessels are subject to a national cod avoidance plan that is designed to deliver cod catches that are at least 50% lower than 2019 levels through spatial or technical measures, or a combination thereof. Such plans should be assessed no later than two months following implementation, by STECF in the case of EU Member States, and by their relevant national scientific body for third countries and where deemed necessary, further revised if such assessments consider that the objective to reduce cod catches by 50% will not be achieved;
  - (f) remote electronic equipment is installed in accordance with Article 15(13) of Regulation (EU) No 1380/2013 in order to fully document fisheries activities.
4. Vessels referred to in paragraph 3 of this article shall be subject to enhanced monitoring, control and surveillance and shall be issued with a fishing authorisation in accordance with Article 7 of Regulation (EC) No 1224/2009. The conditions specified in paragraph 2(a) to (e) of this article shall be monitored and verified through a scientific observer scheme, or inspections at sea with last haul analysis.”;

(2) Article 16(1) is amended as follows:

the following point (o) is inserted:

“(o) splendid alfonsino (*Beryx splendens*) in NAFO subarea 6.”;

- (3) Article 27 is replaced by the following:

*“Article 27*

**Drifting FADs and supply vessels**

1. A purse seiner shall not deploy more than 300 active drifting FADs at any time.
2. The number of instrumented buoys that may be acquired annually for each purse seine vessel is set at no more than 500. No purse seine vessel shall have more than 500 instrumented buoys (buoy in stock and operational buoy) at any time.
3. The number of supply vessels shall be no more than two supply vessels in support of not less than five purse seiners, all flying the flag of the same Member State. This provision shall not apply to Member States using only one supply vessel.
4. A single purse seiner shall not be supported by more than one single supply vessel of the same flag Member State at any time.
5. The Union shall not register new or additional supply vessels in the IOTC record of authorised vessels.”;

- (4) Article 46 is replaced by the following:

*“Article 46*

**Limits to bottom fishing**

“Member States shall ensure that vessels flying their flag that are fishing under the SIOFA Agreement Area:

- (a) limit their annual bottom fishing effort and catch to their average annual level for those years where their vessels were active in the Area, over a representative period for which data declared to the Commission exists;
- (b) do not expand the spatial distribution of bottom fishing effort, excluding line and trap methods, beyond areas fished in recent years;
- (c) are not authorised to fish in the interim protected areas of Atlantis Bank, Coral, Fools Flat, Middle of What, Walter’s Shoal, as defined in Annex IK, except with line and traps methods and on condition of having a scientific observer on board at all times while fishing in those areas.”;

- (5) Annexes IA, ID, IH, and V are amended in accordance with Annex II to this Regulation.

*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 January 2020.

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

Done at Brussels,

*For the Council  
The President*