



EUROPEAN
COMMISSION

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2021/0056 (NLE)

Proposal for a

COUNCIL REGULATION

**amending Regulation (EU) 2021/92 as regards certain fishing opportunities for 2021 in
Union and non-Union waters**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

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

Council Regulation (EU) No 2021/92 fixing for 2021 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).

- **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) 2021/92 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) 2021/92 the total allowable catch (TAC) limits were set at zero. Therefore, they should be amended in line with the latest scientific advice from ICES.

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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) 2021/92¹ fixes for 2021 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) 2021/92, the total allowable catch ('TAC') for sandeel in ICES divisions 2a and 3a and ICES subarea 4, was set at zero pending the publication of the relevant scientific advice, provided by the International Council for the Exploration of the Sea ('ICES'), which became available on 25 February 2021. Sandeel is a short lived species and the fishery therefore starts on 1 April shortly after the publication of the scientific advice.
- (3) The catch limits for sandeel in ICES divisions 2a and 3a and ICES subarea 4 should be amended in line with the latest scientific advice from ICES.
- (4) Regulation (EU) 2021/92 establishes preliminary fishing opportunities for the first quarter of 2021. Furthermore, Article 14 thereof establishes a prohibition from 1 January to 31 March 2021 for vessels fishing for sandeels using certain gears in ICES divisions 2a, 3a and ICES subarea 4. As this regulation establishes fishing opportunities for the entire fishing year, that prohibition should also cover the period from 1 August to 31 December 2021 as in 2020.
- (5) Regulation (EU) 2021/92 should therefore be amended accordingly.
- (6) The catch limits provided for in Regulation (EU) 2021/92 apply from 1 January 2021. The provisions introduced by this amending Regulation concerning catch limits should therefore also apply from that date. Such retroactive application does not affect the principles of legal certainty and protection of legitimate expectations as the fishing opportunities concerned have not yet been exhausted.
- (7) This Regulation should enter into force the day after publication in view of the urgency to start the fishing season for sandeel on time on 1st April 2021.

¹ Council Regulation (EU) 2021/92 of 28 January 2021 fixing for 2021 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 31 of 29.1.2021, p. 31).

HAS ADOPTED THIS REGULATION:

Article 1

Amendment of Regulation (EU) 2021/92

Regulation (EU) 2021/92 is amended as follows:

(1) Article 14 is replaced by the following:

“Article 14

Closed fishing seasons for sandeels

Commercial fishing for sandeels with demersal trawl, seine or similar towed gears with a mesh size of less than 16 mm shall be prohibited in ICES divisions 2a, 3a and ICES subarea 4 from 1 January to 31 March 2021 and from 1 August to 31 December 2021.”;

(2) Annex IA 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 2021.

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

Done at Brussels,

For the Council
The President