



Brussels, 29.5.2018  
COM(2018) 352 final

2018/0183 (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.

##### Whale shark

In the 12th meeting of the Conference of the Parties to the Convention on the Conservation of Migratory Species of Wild Animals, whale shark (*Rincodon typus*) has been added to the Appendix I of the Convention. This species should thus be included in the lists of prohibited species.

##### Megrims

Provided that the scientific advice indicates that megrims in ICES subarea 7 and ICES divisions 8a, 8b, 8d and 8e are the same biological stocks, it is appropriate to provide for a inter-area flexibility of 25% from ICES subarea 7 to ICES divisions 8a, 8b, 8d and 8e for Member States having a quota for those species in both areas.

##### Northern prawn

On 26 March 2018 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, it was decided that the allocation of Northern prawn for the EU in Skagerrak would be 3 327 tonnes.

##### Sprat

ICES on 12 April provided its annual advice for sprat (*Sprattus sprattus*) in the North Sea. According to ICES advice, catches of sprat in the North Sea should be no more than 177 545 tonnes in the period from 1 July 2018 to 30 June 2019. The fishing opportunities for sprat should therefore be set accordingly.

##### Celtic Sea herring

ICES advice sets out that the stock of Celtic Sea herring is not within safe biological limits, the reference to art. 7, 2 should therefore be deleted.

#### Norway pout

ICES on 11 April 2018 updated its advice from October 2017 on fishing opportunities for Norway pout for the period 1 November 2017 to 31 October 2018. The fishing opportunities for Norway pout should therefore be amended accordingly, also to take account of exchange with third countries.

#### Norway lobster

In accordance with ICES advice, where an underwater TV (UWTV) survey cannot be conducted, a sentinel fishery to collect CPUE data on Norway lobster in functional unit 25, ICES division 8c could be established. The fishing opportunities are amended to provide for such a sentinel fishery.

#### Transposition of fishing opportunities for EU vessels in the SPRFMO area

At its sixth Annual Meeting in 2018, the South Pacific Regional Fisheries Management Organisation (SPRFMO) fixed fishing opportunities consisting of a total allowable catch (TAC) for jack mackerel of 35 186 tonnes. This TAC should be included in the Regulation.

Proposal for a

## COUNCIL REGULATION

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

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) 2018/120<sup>1</sup> 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 the 12th meeting of the Conference of the Parties to the Convention on the Conservation of Migratory Species of Wild Animals, whale shark (*Rincodon typus*) has been added to the Appendix I of the Convention. This species should thus be included in the lists of prohibited species.
- (3) The advice of the International Council for the Exploration of the Sea (ICES) indicates that megrims in ICES subarea 7 and in ICES divisions 8a, 8b, 8d and 8e are the same biological stocks, it is appropriate to provide for a inter-area flexibility of 25% from ICES subarea 7 to ICES divisions 8a, 8b, 8d and 8e for Member States having a quota for those species in both areas.
- (4) On 26 March 2018, 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 share of Northern prawn in Skagerrak at 3 327 tonnes.
- (5) According to ICES advice of 12 April 2018, catches of sprat (*Sprattus sprattus*) in the North Sea should be no more than 177 545 tonnes for the period from 1 July 2018 to 30 June 2019. The fishing opportunities for sprat should be set accordingly.
- (6) On 11 April 2018, ICES issued a revised advice for Norway pout for the period 1 November 2017 to 31 October 2018. The fishing opportunities for Norway pout should be amended accordingly.
- (7) ICES issued advice that if an underwater TV survey cannot be conducted, a sentinel fishery to collect catch per unit effort data on Norway lobster in functional unit 25, in ICES subarea 8c, could be established. The fishing opportunities should be amended to provide for this sentinel fishery.

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<sup>1</sup> 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 (OJ L 27, 31.1.2018, p. 1)

- (8) At its sixth annual meeting in 2018, the South Pacific Regional Fisheries Management Organisation (SPRFMO) fixed a total allowable catch (TAC) for jack mackerel. That measure should be implemented in the law of the Union.
- (9) The catch limits provided for in Regulation (EU) 2018/120 apply from 1 January 2018. The provisions of this 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.
- (10) Regulation (EU) 2018/120 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EU) 2018/120 is amended as follows:

- (a) In Article 13(1), the following point is inserted:  
"whale shark (*Rhincodon typus*) in all waters;"
- (b) In Article 45(1), the following point is inserted:  
"whale shark (*Rhincodon typus*) in Union waters;"
- (c) Annexes IA and IJ are 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, except points (a) and (b) of Article 1, which shall apply from the date of entry into force of this Regulation.

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

Done at Brussels,

*For the Council*  
*The President*