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2024/0140 (NLE)

Proposal for a

COUNCIL REGULATION

amending Council Regulation (EU) 2021/2061 on the allocation of fishing opportunities under the Protocol on the implementation of the Sustainable Fisheries Partnership Agreement between the European Union and the Islamic Republic of Mauritania

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The Sustainable Fisheries Partnership Agreement (SFPA) between the Union and Mauritania and the implementing protocol thereto were signed on 15 November 2021 (the Agreement) ([1]). The duration of the implementing protocol is five years from its provisional application, thus until 15 November 2026.

Under the implementing protocol, the EU fleet is allowed to fish in Mauritanian waters for shrimp, demersal fish, tuna and small pelagic fish, up to a total of 287 050 tonnes a year. The total allowable catches (TAC) for fishing category 1 (crustaceans other than spiny lobster) is 5 000 tonnes a year.

For each fishing category, Appendix 2 to the implementing protocol specifies the number of Union vessels authorised to fish at the same time. For fishing category 1 (crustaceans other than spiny lobster), Appendix 2 to the implementing protocol as signed on 15 November 2021 provided that the number of Union vessels authorised to fish at the same time must not exceed 15. The fishing opportunities provided for in the Protocol were allocated among the Member States by Council Regulation (EU) 2021/2061 ([2]). Article 1(1) of that Council Regulation provides that in category 1, no more than 15 vessels may operate in Mauritanian waters at the same time .

In line with Article 14(3)(a) of the Agreement and Article 11(1)(a) of the implementing protocol, the Joint Committee may approve amendments of the Protocol and its annexes and appendices with regard to the fishing opportunities, including the number of vessels that are allowed to fish within a category.

At the Joint Committee Meeting, held in December 2022, the parties requested the Joint Scientific Committee (JSC) to assess the possibility to increase the number of vessels authorised to fish at the same time for fishing category 1 up to 18, without modification of the current TAC for that fishing category. This request was based on a request formulated by the EU fishing industry fishing under the category 1 and aimed at maximising the use of the TAC fixed in the protocol.

The JSC analysed the latest available catch data over the period 1991-2022 and the fish mortality per fishing effort. In its report published in March 2023, the JSC concluded on this basis that increasing the EU fleet from 15 to 18 vessels with regards to fishing category 1 would be possible within the limit of the current TAC, set at 5000 tonnes.

Based on the Joint Scientific Committee report, a proposal for an amendment of Point 5 of data sheet Category 1 in Appendix 2 which sets the maximum number of vessels allowed to

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1 Partnership Agreement on sustainable fisheries between the European Union and the Islamic Republic of Mauritania, ST/12446/2021/INIT (OJ L 439, 8.12.2021, p. 3, ELI: http://data.europa.eu/eli/agree_internation/2021/2123/oj).

2 Council Regulation (EU) 2021/2061 of 11 November 2021 on the allocation of fishing opportunities under the Protocol on the implementation of the Sustainable Fisheries Partnership Agreement between the European Union and the Islamic Republic of Mauritania (2021-2026), ST/12411/2021/INIT (OJ L 421, 26.11.2021, p. 1, ELI: http://data.europa.eu/eli/reg/2021/2061/oj).

fish for category 1 at the same time was tabled for the EU-Mauritania Joint Committee meeting held on 6th to 8th December 2023.

In line with Article 3 of Council Decision (EU) 2022/1448[3] the Commission is authorised to approve, on behalf of the Union, amendments to the Protocol adopted by the Joint Committee in accordance with the procedure set out in the Annex to that decision. Prior to the meeting of the Joint Committee, the Commission submitted the proposal for assessment to the Council, in line with paragraph 3 of the Annex to Council Decision (EU) 2022/1448. The Council did not object to the proposed amendment and in accordance with paragraph 4 of the Annex to that decision, and thus the Commission approved it on behalf of the Union.

At the Joint Committee meeting of 8 December 2023, the parties approved the amendment of the protocol increasing the number of Union vessels authorised to fish at the same time for fishing category 1 up to 18, without modification of the current TAC for that fishing category. For this TAC, the Union pays a financial contribution to Mauritania which remains the same with the amendment.

The proposal seeks to implement the amendment of the Protocol as described above by amending Article 1(1) of Council Regulation (EU) 2021/2061. This amendment should apply as from the date of approval of the amendment of the Protocol by the Joint Committee. This retroactive application will help optimizing the utilization of the fishing opportunity under this category in 2024.

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

This modification does not affect the coherence with the existing legislation in the fisheries policy.

- **Consistency with other Union policies**

This modification does not affect the coherence with the existing legislation in the EU.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis chosen is the Treaty on the Functioning of the European Union, Article 43(3) of which establishes that the Council, on a proposal from the Commission, shall adopt measures on the allocation of fishing opportunities.

This amendment amends existing legislation and complies with the same legal principles as the regulation it amends.

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

The policy area is an exclusive competence.

[3] Council Decision (EU) 2022/1448 of 18 July 2022 on the conclusion of the Sustainable Fisheries Partnership Agreement between the European Union and the Islamic Republic of Mauritania and the Implementing Protocol thereto (OJ L 228, 2.9.2022, p. 2, ELI: http://data.europa.eu/eli/dec/2022/1448/oj).

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

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

The amendment of Council Regulation (EU) 2021/2061 does not change the conditions for fishing laid down in the Agreement and its related Protocol.

Therefore, there is no need for ex-post evaluations, stakeholders' consultation and impact assessment.

4. BUDGETARY IMPLICATIONS

The draft Regulation does not affect the Union budget.

5. OTHER ELEMENTS

The amendment of Council Regulation (EU) 2021/2061 does not change the conditions laid down in the Agreement and its related Protocol.

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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) In accordance with Council Decision (EU) 2021/2123[1] the Sustainable Fisheries Partnership Agreement between the Union and Mauritania (SFPA) and the Implementing Protocol thereto were signed on 15 November 2021 and provisionally applied since then.

(2) On 18 July 2022, the Council adopted Decision (EU) 2022/1448[2] on the conclusion of the SFPA between the European Union and the Islamic Republic of Mauritania and the Implementing Protocol thereto, which in Article 3 authorises the Commission to approve amendments to the Agreement on behalf of the Union.

(3) In relation to Fishing Category 1 (Vessels fishing for crustaceans other than spiny lobster), Point 5 of data sheet Category 1 in Appendix 2 to the Implementing Protocol provided that the number of vessels authorised at the same time must not exceed 15.

(4) On 11 November 2021, the Council adopted Regulation (EU) 2021/2061 on the allocation of fishing opportunities under the Implementing Protocol[3].

(5) In accordance with Point 5 of data sheet Category 1 in Appendix 2 to the Implementing Protocol, Article 1(1), second subparagraph of that Regulation provides that no more than 15 vessels may operate in Mauritanian waters at any one time in Fishing Category 1.

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1 Council Decision (EU) 2021/2123 of 11 November 2021 on the signing, on behalf of the European Union, and provisional application of the Sustainable Fisheries Partnership Agreement between the European Union and the Islamic Republic of Mauritania and the Implementing Protocol thereto (OJ L 439, 8.12.2021, p. 1,*:* http://data.europa.eu/eli/dec/2021/2123/oj*)*

2 Council Decision (EU) 2022/1448 of 18 July 2022 on the conclusion of the Sustainable Fisheries Partnership Agreement between the European Union and the Islamic Republic of Mauritania and the Implementing Protocol thereto (OJ L 228, 2.9.2022, p. 2, ELI: http://data.europa.eu/eli/dec/2022/1448/oj).

3 Council Regulation (EU) 2021/2061 of 11 November 2021 on the allocation of fishing opportunities under the Protocol on the implementation of the Sustainable Fisheries Partnership Agreement between the European Union and the Islamic Republic of Mauritania (2021-2026) (OJ L 421, 26.11.2021, p. 1, ELI: http://data.europa.eu/eli/reg/2021/2061/oj).

(6) By a decision of 8 December 2023, the Joint Committee operating under the SFPA and the Implementing Protocol amended Point 5 of data sheet Category 1 in Appendix 2 to the Implementing Protocol and increased the number of vessels authorised to fish at the same time to 18 in Fishing Category 1, without modification of the current total allowable catches (TAC) for that fishing category. This decision was based on an evaluation of the effects of such an increase on the stock through the Joint Scientific Committee, which came to the conclusion that an increase of fishing effort would be possible within the current TAC.

(7) Article 1(1) of Regulation (EU) 2021/2061 should therefore be amended to reflect the increase of the number of vessels allowed to fish at the same time in Fishing Category 1 under the Implementing Protocol.

(8) The increase of authorisations available should apply from the date of the amendment of the Implementing Protocol. This retroactive application will help optimizing the utilization of the fishing opportunity under this category. This Regulation should therefore also apply from 8 December 2023. Such retroactive application does not affect the principles of legal certainty and protection of legitimate expectations, as the number of vessels allowed to fish under Fishing Category 1 is increased. Consequently, the Regulation should enter into force as a matter of urgency on the day following that of its publication in the *Official Journal of the European Union*,

HAS ADOPTED THIS REGULATION:

Article 1

Article 1(1) of Council Regulation (EU) 2021/2061 is replaced by the following:

"(1) Category 1 – Vessels fishing for crustaceans other than spiny lobster:

Spain	4 150 tonnes
Italy	600 tonnes
Portugal	250 tonnes

In this category, no more than 18 vessels may operate in Mauritanian waters at any one time."

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 8 December 2023.

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

Done at Brussels,

For the Council
The President