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2021/0188 (NLE)

Proposal for a

COUNCIL REGULATION

amending Council Regulation (EU) 2019/440 on the allocation of fishing opportunities under the Sustainable Fisheries Partnership Agreement between the European Union and the Kingdom of Morocco and the Implementation Protocol thereto

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The Sustainable Fisheries Partnership Agreement between the European Union and the Kingdom of Morocco[1] establishes a framework for the legal, environmental, economic and social governance of fishing activities carried out by Union vessels in the fishing zone defined in Article 1(h) of the Agreement. The Protocol on the implementation of the Agreement provides for fishing opportunities for Union vessels in six categories.

Council Regulation (EU) 2019/440[2], which allocates the fishing opportunities under the Agreement between the EU Member States, currently still includes the United Kingdom of Great Britain and Northern Ireland (UK). In this Regulation, UK has fishing opportunities in category six.

On 31 January 2020, the UK withdrew from the European Union on the basis of Article 50 of the Treaty on European Union. In the Withdrawal Agreement[3], a transition period was decided that ended on 31 December 2020. Union law has therefore not been applicable to the UK since 1 January 2021.

The fishing opportunities attributed to the UK should therefore be removed from Regulation (EU) 2019/440 and reallocated as from 1 January 2021. This proposal amends the Regulation so as to redistribute the UK's fishing opportunities among the Member States benefiting from fishing opportunities in the same category in proportion to Member States' allocations. This does not prejudge future allocations under the next Protocol.

The Commission proposes that the Council adopts the attached proposal for a Regulation amending Council Regulation (EU) 2019/440.

• Consistency with existing policy provisions in the policy area

This amendment does not affect the consistency of the Regulation with existing fisheries legislation.

• Consistency with other Union policies

This amendment does not affect the consistency of the Regulation with other EU legislation.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The legal basis is Article 43(3) of the Treaty on the Functioning of the European Union,

[1] Sustainable Fisheries Partnership Agreement between the European Union and the Kingdom of Morocco (OJ L 77, 20.3.2019, p. 8).

[2] Council Regulation (EU) 2019/440 of 29 November 2018 on the allocation of fishing opportunities under the Sustainable Fisheries Partnership Agreement between the European Union and the Kingdom of Morocco and the Implementation Protocol thereto (OJ L 77, 20.3.2019, p. 1).

[3] Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ L 29, 31.1.2020, p. 7).

which provides that the Council, on a proposal from the Commission, is to adopt measures on the allocation of fishing opportunities.

This amendment concerns existing legislation and complies with the same legal principles as the Regulation in question.

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

The policy area is an area of exclusive Union competence.

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

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

The amendment does not change the conditions for fishing laid down in the Agreement and the Implementation Protocol. Therefore, there is no need for an *ex post* evaluation, stakeholder consultation or impact assessment.

4. BUDGETARY IMPLICATIONS

The draft Regulation does not affect the Union budget.

5. OTHER ELEMENTS

The amendment does not change the conditions laid down in the Agreement and the Implementation 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) On 4 March 2019, the Council adopted Decision (EU) 2019/441 on the conclusion of the Sustainable Fisheries Partnership Agreement between the European Union and the Kingdom of Morocco ('the Fisheries Agreement') and the Implementation Protocol thereto ('the Protocol')[1],

(2) On 29 November 2018, the Council adopted Regulation (EU) No 2019/440 on the allocation of fishing opportunities under the Fisheries Agreement (hereinafter 'the Council Regulation (EU) 2019/440')[2],

(3) Article 1 of the Council Regulation (EU) 2019/440 allocates fishing opportunities to Member States i.a. in category 6 — Industrial fishing for pelagic species, including the United Kingdom of Great Britain and Northern Ireland.

(4) Pursuant to 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 United Kingdom is not a Member State of the Union anymore since 1 February 2020 and the transition period provided for in that Agreement has ended on 31 December 2020. Therefore, the fishing opportunities allocated to the United Kingdom should be reallocated to the Member States as from 1 January 2021.

(5) This reallocation should be transparent and proportional to the original quota allocation.

(6) Council Regulation (EU) 2019/440 should therefore be amended accordingly.

(7) Due to its impact on the fisheries activities in 2021, this Regulation should apply from 1 January 2021.

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[1] Council Decision (EU) 2019/441 of 4 March 2019 on the conclusion of the Sustainable Fisheries Partnership Agreement between the European Union and the Kingdom of Morocco, the Implementation Protocol thereto and the Exchange of Letters accompanying the Agreement. OJ L 77, 20.3.2019, p. 4–7.

[2] Council Regulation (EU) 2019/440 of 29 November 2018 on the allocation of fishing opportunities under the Sustainable Fisheries Partnership Agreement between the European Union and the Kingdom of Morocco and the Implementation Protocol thereto. OJ L 77, 20.3.2019, p. 1–3.

(8) Taking into account the urgency linked to the retroactive application of this Regulation, it should enter into force the first day following that of its publication in the *Official Journal of the European Union*.

HAS ADOPTED THIS REGULATION:

Article 1

Article 1, paragraph 1 of Council Regulation (EU) 2019/440 is replaced by the following:

1. The fishing opportunities established pursuant to the Implementation Protocol to the Sustainable Fisheries Partnership Agreement between the European Union and the Kingdom of Morocco ('the Fisheries Agreement') shall be allocated among the Member States as follows:

Fishing category	Type of vessel	Member State	Licences or quota
1/ Small-scale fishing in the north, pelagic species	Seiners < 150 gross tonnage (GT)	Spain	22
2/ Small-scale fishing in the north	Bottom longliners < 40 GT	Spain	25
		Portugal	7
	Bottom longliners ≥ 40 GT < 150 GT	Portugal	3
3/ Small-scale fishing in the south	Pole-lines < 150 GT per vessel	Spain	10
	Total ≤ 800 GT		
4/ Demersal fishing	Bottom longliners ≤ 150 GT	Spain	7
		Portugal	4
	Trawlers ≤ 750 GT	Spain	5
		Italy	0
	Total ≤ 3 000 GT		
5/ Tuna fishing	Pole-and-line vessels	Spain	23
		France	4
6/ Industrial fishing for pelagic species	85 000 tonnes (t) in 2019	2019: 85 000 t	
		Germany	6 871.2 t
	90 000 t in 2020	Lithuania	21 986.3 t
		Latvia	12 367.5 t
	100 000 t each year in 2021 and 2022	Netherlands	26 102.4 t
		Ireland	3 099.3 t
		Poland	4 807.8 t
	Distribution of vessels authorised to fish:	United Kingdom	4 807.8 t
		Spain	496.2 t
		Portugal	1 652.2 t
	10 vessels ≥ 3 000 GT and < 7 765 GT	France	2 809.3 t
		2020: 90 000 t	
	4 vessels ≥ 150 and < 3 000 GT	Germany	7 275.4 t
		Lithuania	23 279.6 t
	4 vessels < 150 GT	Latvia	13 095.0 t
		Netherlands	27 637.9 t

Ireland	3 281.6 t
Poland	5 090.6 t
United Kingdom	5 090, 6 t
Spain	525.4 t
Portugal	1 749.4 t
France	2 974.5 t
2021 and 2022: 100 000 t each year	
Germany	8 568.4 t
Lithuania	27 417 t
Latvia	15 422.3 t
Netherlands	32 549.8 t
Ireland	3 864.9 t
Poland	5 995.4 t
Spain	618.8 t
Portugal	2 060.3 t
France	3 503.1 t

Article 2

This Regulation shall enter into force on the first day following that of its publication in the *Official Journal of the European Union*.

This Regulation 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