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REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

in respect of the delegation of powers referred to in Article 5(2) and Article 15 of Regulation (EU) No 2017/2403 of the European Parliament and of the Council of 12 December 2017 on the sustainable management of external fishing fleets

1. Introduction

Regulation (EU) 2017/2403 on the sustainable management of external fishing fleets[1] (SMEFF Regulation) aims at:

(a) strengthening controls on fishing activities, mostly through authorisations for EU vessels fishing outside EU waters;

(b) implementing some of the EU flag state authorisations, derived from EU bilateral fisheries agreements and regional fisheries management organisations; and

(c) reinforcing the objectives of the common fisheries policy with regard to sustainable fisheries, control, and EU rules on tackling illegal, unreported and unregulated (IUU) fishing.

To fulfil the objectives of the SMEFF Regulation, and in particular to adapt it to possible developments, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union is delegated to the Commission. This power[2] can be used by the Commission to amend the Annex[3] to ensure appropriate monitoring of the activities of fishing vessels under the Regulation, in particular through new data requirements; and to supplement Article 10[4] by implementing in Union law the outcome of consultations between the Union and third countries with which the Union has concluded an agreement, or of arrangements with coastal states with which fish stocks are shared, as regards the conditions for fishing authorisations.

Article 44 of the SMEFF Regulation sets out the conditions under which the Commission can adopt delegated acts.

2. Legal basis

This report is required under Article 44(2) of the SMEFF Regulation. In accordance with this provision, the powers to adopt delegated acts referred to in Article 5(2) and Article 15 are conferred on the Commission for a period of 5 years from 17 January 2018. The Commission is required to prepare a report on the delegation of powers no later than 9 months before the end of the 5-year period. In the absence of any opposition by the co-legislators, the delegation of powers was tacitly extended for another 5 years, until 17 January 2028.

The SMEFF Regulation empowers the Commission to adopt delegated acts for:

a) amending the Annex to ensure appropriate monitoring of the activities of fishing vessels under the Regulation, in particular through new data requirements (Article 5(2) of the SMEFF Regulation); and

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1 Regulation (EU) 2017/2403 of the European Parliament and of the Council of 12 December 2017 on the sustainable management of external fishing fleets, and repealing Council Regulation (EC) No 1006/2008, OJ L 347, 28.12.2017, p. 81-104.

2 Provided for by recital 34 of the SMEFF Regulation.

3 Provided for by Article 5(2) of the SMEFF Regulation.

4 Provided for by Article 15 of the SMEFF Regulation.

b) supplementing Article 10 by implementing in Union law the outcome of the consultations between the Union and third countries with which the Union has concluded an agreement, or of arrangements with coastal states with which fish stocks are shared, as regards the conditions for fishing authorisations (Article 15 of the SMEFF Regulation).

3. Exercise of the delegation of powers

Since 17 January 2018, the Commission did not adopt any delegated act under the SMEFF Regulation. The powers to adopt delegated acts are provided for necessary adaptation of the SMEFF Regulation to the context in which the Regulation is applied (i.e. to new technologies or results of new negotiations with third states). No such adaptation has been necessary to date.

4. Conclusion

The Commission considers that so far there has been no need to adapt the SMEFF Regulation by exercising its powers under Article 5(2) or Article 15 of the SMEFF Regulation.

However, such delegated acts might still be necessary in the future to adapt the Regulation to technological changes or in the course of the implementation of agreements that will be concluded with third states.

The Commission invites the European Parliament and the Council to take note of this report.