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PROPOSAL

from: European Commission
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Subject: Proposal for a Regulation of the European Parliament and of the Council amending certain Regulations in the field of fisheries and animal health by reason of the change of status of Mayotte with regard to the Union

Delegations will find attached a proposal from the Commission, submitted under a covering letter from Mr Jordi AYET PUIGARNAU, Director, to Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union.

Encl.: COM(2013) 417 final



Brussels, 13.6.2013
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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**amending certain Regulations in the field of fisheries and animal health by reason of the
change of status of Mayotte with regard to the Union**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

By Decision 2012/419/EUⁱ, the European Council amended the status of Mayotte with regard to the Union with effect from 1 January 2014. Therefore, from that date Mayotte will cease to be an overseas territory to become an outermost region within the meaning of Articles 349 and 355(1) TFEU. Union law will apply to Mayotte from 1 January 2014.

This proposal takes account of requests made by the French authorities, to have the Union *acquis* amended through specific measures applicable to Mayotte in different areas, such as fisheries and animal health.

The examination of the situation regarding Mayotte has revealed that it is necessary to protect the sensitive biological situation of its waters and therefore to include the waters around Mayotte within the scope of application of Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organism. . In certain respects, France needs additional time to comply with the Union *acquis* with regard to Mayotte. This goes in particular to the registering and control obligations in the area of fisheries, to the extent it concerns certain vessels dispersed around the island and not associated to a specific landing site.

In the area of animal health, it appears justified to grant additional time to comply with Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002, since Mayotte has currently no industrial capacity for the processing of animal by-products.

In the interest of simplicity and speediness, it has been considered expedient not to resort to individual proposals for each of the acts concerned but, where legally possible, to bundle the amendments to several acts in a single proposal. The amendments proposed in the present document all relate to Regulations and fall under the ordinary legislative procedure (Articles 289(1) and 294 TFEU).

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

The Commission has not used an impact assessment. However, when examining the various issues and in particular the requests made by France, it had contacts with representatives of national and regional authorities in order to better evaluate the grounds of the specific measures.

3. LEGAL ELEMENTS OF THE PROPOSAL

In accordance with Article 43(2) TFEU, the European Parliament and the Council are empowered to define the provisions necessary for the pursuit of the objectives of the common fisheries policy.

Under this legal basis, it is proposed to amend four Council Regulations in the areas of fisheries, having regard to the particular situation of Mayotte as summarised above and set out in detail in the draft recitals:

ⁱ OL L 204, 31.7.2012, p.131.

- Council Regulation (EC) No 850/98 of 30 March 1998 in order to include the waters around Mayotte and to prohibit the use of purse-seines on tuna and tuna-like schools of fish inside the area within 24 miles from the baselines of the island in order to preserve the shoals of large migratory fish in the vicinity of the island of Mayotte;
- Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products
- Council Regulation (EC) No 2371/2002 of 20 December 2002 in order to introduce specific measures with respect to the fleet register and the access regime;
- Council Regulation (EC) No 639/2004 of 30 March 2004 in order to introduce the development plan presented by France to the Indian Ocean Tuna Commission (IOTC) as a reference for the capacity of the fleet registered in the ports of Mayotte and to allow France to increase its fleet up to the objectives of the said development plan;
- Council Regulation (EC) No 1224/2009 of 20 November 2009 in order to provide for transitional measures and temporary derogations from certain rules concerning the control of fishing vessels in view of progressively comply with all the Union control obligations and objectives of that Regulation.

Pursuant to Article 168(4)(b) TFEU, the European Parliament and the Council are entitled to adopt measures in the veterinary and phytosanitary fields which have as their direct objective the protection of public health.

Under this legal basis, it is proposed to modify Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 in order to grant France a transitional period of five years with regard to Mayotte, allowing it to establish the infrastructure necessary for the identification, handling, transport, treatment and disposal of animal by-products.

4. BUDGETARY IMPLICATION

The proposal has no impact on the budget of the European Union.

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amending certain Regulations in the field of fisheries and animal health by reason of the change of status of Mayotte with regard to the Union

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) and Article 168(4)(b) thereof,
Having regard to the proposal from the European Commission,
After transmission of the draft legislative act to the national Parliaments,
Having regard to the opinion of the European Economic and Social Committee¹,
Having regard to the opinion of the Committee of the Regions²,
Acting in accordance with the ordinary legislative procedure,
Whereas:

- (1) By Decision 2012/419/EU³, the European Council amended the status of Mayotte with regard to the Union with effect from 1 January 2014. Therefore, from that date Mayotte will cease to be an overseas territory to become an outermost region within the meaning of Articles 349 and 355(1) TFEU. Union law will apply to Mayotte from 1 January 2014. It is appropriate to provide for certain specific measures justified by the particular situation of Mayotte in a number of areas.
- (2) In the field of fisheries and animal health, the following Regulations should be amended.
- (3) As regards Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organism⁴, the waters around Mayotte should be included within the scope of that Regulation and the use of purse-seines on tuna and tuna-like schools of fish inside the area within 24 miles from the baselines of the island should be prohibited in order to preserve the shoals of large migratory fish in the vicinity of the island of Mayotte.
- (4) As regards Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products⁵, in view of the very fragmented and under-developed marketing schemes of Mayotte, the application of the rules on the labelling of fishery products would impose on retailers a burden that is disproportionate to the information that will be transmitted to the consumer. It is therefore appropriate to provide for a temporary derogation from the

¹ OJ C , , p. .

² OJ C , , p. .

³ OL L 204, 31.7.2012, p.131.

⁴ OJ L 125, 27.4.1998, p. 1.

⁵ OJ L 17, 21.1.2000, p. 22.

rules concerning the labelling of fishery products offered for retail sale to the final consumer in Mayotte.

- (5) As regards Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy⁶, specific measures should be introduced with respect to the fleet register and the access regime.
- (6) First, an important part of the fleet flying the flag of France and operating from the French Department of Mayotte is composed by vessels of less than 9 meters which are dispersed around the island, have no specific landing sites and still need to be identified, measured and equipped with minimum safety implements in order to be included in the register of Union fishing vessels; as a consequence, France will not be able to complete this register until 31 December 2016. France should, however, install a provisional fleet register guaranteeing minimum identification of the vessels of this segment in order to avoid proliferation of informal fishing vessels.
- (7) Second, it is necessary for the protection of the sensitive biological situation of the waters around Mayotte and the preservation of the local economy of that island, having regard to its structural, social and economic situation, to limit certain fishing activities in those waters to vessels registered in the ports of that island.
- (8) As regards Council Regulation (EC) No 639/2004 of 30 March 2004 on the management of fishing fleets registered in the Community outermost regions⁷, a particular feature of Mayotte is that no objective has been set for its fleet under Regulation (EC) No 2371/2002 which refers to the Multiannual Guidance Programme 1997-2002. From the point of view of conservation of fish resources, it is appropriate to freeze the fishing capacity of the fleets at current levels, especially for the segment of large vessels with a great fishing capacity. However, for smaller vessels, in view of the fact that France presented to the Indian Ocean Tuna Commission (IOTC) a development plan indicating the expected evolution of the fleet based in Mayotte, to which no IOTC contracting party, including the Union, has objected, it is appropriate to use the objectives of that plan as reference levels for the capacity of the fleet registered in the ports of Mayotte and to allow France to increase its fleet up to the objectives of its development plan.
- (9) As regards Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002⁸, it should be noted that Mayotte has no industrial capacity for the processing of animal by-products. It is therefore appropriate to allow France a period of five years in order to establish the infrastructure necessary for the identification, handling, transport, treatment and disposal of animal by-products in Mayotte in full compliance with Regulation (EC) No 1069/2009.
- (10) As regards Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No

⁶ OJ L 320, 5.12.2001, p. 7.

⁷ OJ L 102, 7.4.2004, p. 9.

⁸ OJ L 300, 14.11.2009, p.1.

1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006⁹, it appears that France will not be in a position to comply with all Union control obligations for the segment "Mayotte. Pelagic and demersal species. Length < 9m" of the fleet of Mayotte by the date on which Mayotte becomes an outermost region. The vessels of that segment, dispersed around the island, have no specific landing sites and still need to be identified. In addition, it is necessary to train fishermen and controllers and to set up the appropriate administrative and physical infrastructure. It is therefore necessary to provide for a temporary derogation from certain rules concerning the control of fishing vessels and their characteristics, their activities at sea, their gear and their catches at all stages from the vessel to the market in respect of that segment of the fleet. However, in order to attain at least some of the most important objectives of Regulation (EC) No 1224/2009, France should establish a national control system allowing it to control and monitor the activities of that segment of the fleet and to comply with the international reporting obligations of the Union.

- (11) Regulations (EC) No 850/98, (EC) No 104/2000, (EC) No 2371/2002, (EC) No 639/2004, (EC) No 1069/2009 and (EC) No 1224/2009 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1
Amendments to Regulation (EC) No 850/98

Regulation (EC) No 850/98 is amended as follows:

- (1) In Article 2(1), point (h) is replaced by the following:
- "(h) Region 8:
- All waters off the coasts of the French departments of Réunion and Mayotte that come under the sovereignty or jurisdiction of France.";
- (2) The following Article 34a is inserted after Article 34:

"Article 34a

Restrictions on fishing activities in the 24-mile zone around the island of Mayotte

Vessels shall be prohibited from using any purse-seine on tuna and tuna-like schools of fish inside the areas within 24 miles of the coasts of the island of Mayotte, measured from the baselines from which territorial waters are measured."

Article 2
Amendment to Regulation (EC) No 104/2000

In Article 4 of Regulation (EC) No 104/2000, the following paragraph 3a is inserted after paragraph 3:

"3a. Until 16 December 2016, paragraphs 1, 2 and 3 shall not apply to products offered for retail sale to the final consumer in Mayotte."

⁹ OJ L 343, 22.12.2009, p.1.

Article 3
Amendments to Regulation (EC) No 2371/2002

Regulation (EC) No 2371/2002 is amended as follows:

- (1) In Article 15, the following paragraphs 5 and 6 are added:
- “5. By way of derogation from paragraph 1, France shall be exempted until 31 December 2016 from the obligation to include in its register of Union fishing vessels those vessels which are less than 9 meters in overall length and operate from Mayotte.
6. Until 31 December 2016, France shall keep a provisional register of fishing vessels which are less than 9 meters in overall length and operate from Mayotte. That register shall contain, for each vessel, at least its name, its overall length and an identification code.”
- (2) The following Article 18a is inserted after Article 18:

"Article 18a

Mayotte

By way of derogation from Article 17, in the waters up to 100 nautical miles from the baselines of Mayotte, France may restrict fishing to fishing vessels registered in the ports of Mayotte, either in the register of Union vessels or in the provisional register referred to in Article 15(6), except for Union vessels that, within the two years preceding 1 January 2014, fished in those waters for at least 40 days insofar as they do not exceed the fishing effort traditionally exerted."

Article 4
Amendment to Regulation (EC) No 639/2004

In Regulation (EC) No 639/2004, the following Article 1a is inserted after Article 1:

“Article 1a

Fleet of Mayotte

1. By way of derogation from Article 1(1)(a), the reference levels for fishing vessels registered in the ports of Mayotte, either in the register of Union vessels or in the provisional register referred to in Article 15(6) of Regulation (EC) No 2371/2002, shall be the capacity of that fleet at 31 December 2013.
- However, for fishing vessels which are between 8 and 12 meters in overall length and use longlines and fishing vessels which are less than 9 meters in overall length, the reference level shall be the capacity foreseen in the development plan presented by France to the Indian Ocean Tuna Commission on 7 January 2011.
2. By way of derogation from Article 13 of Regulation (EC) No 2371/2002, France shall be authorised to introduce new capacity in the fleet segments defined for fishing vessels which are between 8 and 12 meters in overall length and use longlines and

fishing vessels which are less than 9 meters in overall length without the withdrawal of an equivalent capacity.”

Article 5
Amendment to Regulation (EC) No 1069/2009

In Regulation (EC) No 1069/2009, Article 56 is replaced by the following:

"Article 56

Entry into force

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

It shall apply from 4 March 2011.

However, Article 4 shall apply to Mayotte from 1 January 2019. Animal by-products and derived products generated in Mayotte before 1 January 2019 shall be disposed of in accordance with Article 19(1)(b).

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

Article 6
Amendment to Regulation (EC) No 1224/2009

In Regulation (EC) No 1224/2009, the following Article 2a is inserted after Article 2:

"Article 2a

Application of the Community control system to certain segments of the fleet of the French overseas department of Mayotte

1. Until 31 December 2016, Article 5(3) and Articles 6, 8, 41, 56, 58 to 62, 66, 68 and 109 shall not apply to France in respect of fishing vessels which are less than 9 meters in overall length and operate from Mayotte, their activities and their catch.
2. By 1 January 2014, France shall establish a national scheme of control applicable to fishing vessels which are less than 9 meters in overall length and operate from Mayotte. That scheme shall comply with the following requirements:
 - (a) a single authority, located in Mayotte, shall coordinate the control activities of all local authorities;
 - (b) control, inspection and enforcement shall be carried out on a non-discriminatory basis;
 - (c) the scheme shall ensure the control of catches of species subject to management under the Indian Ocean Tuna Commission and of species subject to protection;

- (d) the scheme shall ensure the control of access to waters around Mayotte, in particular to areas subject to access restrictions applicable to certain segments of the fleet;
 - (e) the scheme shall set as a priority the objective of mapping fishing activities around the island with a view to prepare the grounds for targeted action in terms of control.
- (3) By 30 September 2014 France shall present to the Commission an action plan setting out the measures to be taken in order to ensure the full implementation of Regulation (EC) No 1224/2009 from 1 January 2017 concerning fishing vessels which are less than 9 meters in overall length and operate from the French department of Mayotte. The action plan shall be the subject of a dialogue between France and the Commission. France shall take all necessary measures to implement that action plan.”

Article 7
Entry into force

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

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President