



Council of the  
European Union

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**Interinstitutional File:**  
**2017/0054 (NLE)**

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**PECHE 95**

## PROPOSAL

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| From:            | Secretary-General of the European Commission,<br>signed by Mr Jordi AYET PUIGARNAU, Director                    |
| date of receipt: | 14 March 2017   |
| To:              | Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of<br>the European Union                          |
| No. Cion doc.:   | COM(2017) 126 final   |
| Subject:         | Proposal for a COUNCIL REGULATION amending Regulation (EU)<br>2017/127 as regards certain fishing opportunities |

Delegations will find attached document COM(2017) 126 final.

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Encl.: COM(2017) 126 final



EUROPEAN  
COMMISSION

Brussels, 14.3.2017  
COM(2017) 126 final

2017/0054 (NLE)

Proposal for a

**COUNCIL REGULATION**

**amending Regulation (EU) 2017/127 as regards certain fishing opportunities**

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

- **Reasons for and objectives of the proposal**

Council Regulation (EU) No 2017/127 fixes for 2017 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 2017/127 as described below.

Sandeel is a short-lived species and the scientific advice becomes available in the second half of February, while the fishery starts already in April. In Council Regulation (EU) 2017/127 the total allowable catch (TAC) limits were set at zero. Therefore, they should be amended in line with the latest scientific advice from ICES.

The Inter-American Tropical Tuna Commission (IATTC) adopted measures for yellowfin tuna, bigeye tuna and skipjack tuna in the IATTC Convention Area. Those measures should be implemented in the law of the Union.

In accordance with the procedure provided for in the agreement and protocol on fisheries relations with Greenland, the Joint Committee has established the level of fishing opportunities for capelin in Greenland waters in 2017. It is therefore necessary to include these fishing opportunities in this Regulation.

At its fifth annual meeting in 2017, the South Pacific Regional Fisheries Management Organisation (SPRFMO) fixed fishing opportunities consisting of a total allowable catch (TAC) for jack mackerel. This TAC should be included in the Regulation.

After the consultations with the Faroe Islands it was decided to increase the number of licences for vessels fishing for mackerel: for Union vessels fishing in Faroe waters and for Faroese vessels fishing in Union waters.

Certain reporting codes should be modified in order to ensure proper reporting of catches.

Proposal for a

## **COUNCIL REGULATION**

**amending Regulation (EU) 2017/127 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) No 2017/127 fixes for 2017 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) The Inter-American Tropical Tuna Commission (IATTC) at its 91th Annual (Extraordinary) Meeting on 7-10 February 2017 adopted measures for yellowfin tuna, bigeye tuna and skipjack tuna in the IATTC Convention Area. Those measures should be implemented in the law of the Union.
- (3) In Regulation (EU) 2017/127 the total allowable catch (TAC) for sandeel was set at zero. Sandeel is a short lived species and the scientific advice becomes available in the second half of February, while the fishery starts already in April. The catch limits for that species should now be amendment in line with the latest scientific advice from ICES issued on 23 February 2017.
- (4) In accordance with the procedure provided for in the agreement and protocol on fisheries relations with Greenland, the Joint Committee has established the level of fishing opportunities for capelin in Greenland waters in 2017. It is therefore necessary to include these fishing opportunities in this Regulation.
- (5) At its fifth annual meeting on 18-22 January 2017, 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.
- (6) After consultations with the Faroe Islands on fishing rights, it was agreed to increase the number of autorisations for Union vessels fishing for mackerel in Faroe waters and for Faroese vessels fishing for mackerel in Union waters. The number of autorisations should be modified accordingly.

- (7) Certain reporting codes should be modified in order to allow for accurate reporting of catches and certain references should be corrected.
- (8) The catch limits provided for in Regulation (EU) 2017/127 apply from 1 January 2017. 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.

HAS ADOPTED THIS REGULATION:

*Article 1*  
*Amendments to Regulation (EU) 2017/127*

1. In Article 12(1), point (v) is replaced by the following:  
  
"(v) picked dogfish (*squalus acanthias*) in Union waters of ICES subareas I, II, III, IV, V, VI, VII, VIII, IX, X and XII, with the exception of avoidance programmes as set out in Annex IA;"
2. In Article 27, the following paragraph is inserted after paragraph 2:  
  
"Member States shall close the fishery for purse-seine vessels fishing with FADs and flying their flag when the catch limit allocated to that fishery is reached."
3. In Article 41(1), point (p) is replaced by the following:  
  
"(p) picked dogfish (*squalus acanthias*) in Union waters of ICES subareas I, II, III, IV, V, VI, VII, VIII, IX, X and XII;"
4. Annexes IA, IB, ID, IE, IJ, IID, III and VIII to Regulation (EU) 2017/127 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 2017.

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

Done at Brussels,

*For the Council*  
*The President*