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Delegations will find attached document COM(2019) 48.

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Brussels, **XXX**
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2019/0009 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) No 508/2014 as regards certain rules relating to the European Maritime and Fisheries Fund by reason of the withdrawal of the United Kingdom from the Union

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, if the Withdrawal Agreement is not ratified, the Union's primary and secondary law will cease to apply to the United Kingdom from 30 March 2019 ('the withdrawal date'). The United Kingdom will then become a third country.

The Commission Communication 'Preparing for the withdrawal of the United Kingdom from the European Union on 30 March 2019: a Contingency Action Plan' of 13 November 2018 set out the contingency measures it plans to take if no withdrawal agreement enters into force on the withdrawal date. In that Communication, the Commission listed the actions it considered necessary while recalling that additional actions may be necessary at a later stage. The Communication also presented the six general principles which contingency measures at all levels should comply with. These include the principles that measures should not replicate the benefits of membership of the Union, nor the terms of any transition period, as provided for in the Withdrawal Agreement; they must be temporary in nature and should in principle not go beyond the end of 2019; and they must be unilateral actions of the European Union in pursuit of its interests, and therefore in principle the Union can revoke them at any time.

The European Council (Article 50) reiterated its call, on 13 December 2018, for work on preparedness at all levels for the consequences of the United Kingdom's withdrawal to be intensified, taking into account all possible outcomes. The Commission presented a package of measures on 19 December 2018 in response to that call. On 17 and 18 December 2018 the Agriculture and Fisheries Council fixed the fisheries opportunities for 2019. Based on this, and taking into account on-going contacts with Member States on the significant negative impact on the fisheries sector of a withdrawal of the United Kingdom without a withdrawal agreement, and the fact that stakeholders cannot themselves mitigate these adverse consequences, the Commission has concluded that two contingency measures are necessary for the fisheries sector. Alongside this measure to amend the European Maritime and Fisheries Fund, the Commission is proposing a measure on the sustainable management of external fishing fleets.

Pursuant to Regulation (EU) No 1380/2013¹ (the CFP Basic Regulation) Union fishing vessels have equal access to Union waters and resources subject to the rules of the Common Fisheries Policy (CFP). As from the withdrawal date, the CFP will no longer apply to the United Kingdom. The United Kingdom waters (12 nautical miles territorial sea and adjacent exclusive economic zone) will then no longer be part of the Union waters. In the absence of any provisions to the contrary, access to each other's waters would no longer be automatic. The default scenario in the absence of other arrangements is that Union fishing vessels would not be authorised to fish in UK waters anymore and vice versa.

¹ Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC, *OJ L 354, 28.12.2013, p. 22–61*

The fisheries sector is a key component of the economic life of many coastal regions of the European Union. In view of the considerable uncertainties, in absence of an agreement with the United Kingdom, Union vessels risk losing access to these waters and fishing opportunities therein. This would have immediate significant impacts in terms of fishing activities of the EU fleet, employment and economic returns.

The gross added value of fisheries in the EU was 4.5 billion EUR in 2016. About 150.000 jobs depend on fisheries, mostly in coastal areas where employment opportunities are limited. Fishing activities also generate employment in other ancillary sectors: for each fisherman between 0.5 and 1 full time employment equivalent is created in ancillary activities. Member States carry out fishing activities at a value of €585 million in the United Kingdom waters. The overall dependency of 8 Member States² on United Kingdom waters averages 14 % of their overall landings, ranging from 50 % for the Belgium fleet to around 1 % for Spain. At the local community level the socio-economic impact can be significant, where fishing vessels are particularly dependent on access to United Kingdom waters. The fisheries sector also links up to ancillary activities upstream and downstream.

The impact of a sudden closure of UK waters to Union fishing vessels would therefore be substantial for specific fleet segments, with a strong negative economic impact in certain regions and coastal communities. As regions in several Member States along the Atlantic and North Sea coast would be affected, such an emergency situation requires coordinated solutions at EU level.

The scope for mitigating the impacts in this situation would be limited. Current UK catches in Union waters could be reclaimed by Union fishing vessels, but there might not be a complete match in the species concerned. The vessels and fleet segments most heavily impacted by a closure of United Kingdom waters might not be the same ones fishing for the species that would become available in Union waters. Furthermore, there are limits to how much fishing efforts could be redirected from United Kingdom waters to Union waters for reasons related to cost-effectiveness and quality of catches. The requirement for fishing activities to be sustainable could also limit a redirection and concentration of fishing effort in Union waters. These options would therefore only ever be able to partially make up for the economic losses for Union fishing vessels resulting from a loss of access to United Kingdom waters. The economic impacts for the affected EU fleet segments would remain very significant.

The European Maritime and Fisheries Fund (EMFF) established by Regulation (EU) No 508/2014 of the European Parliament and of the Council³ is the fund for the EU's maritime and fisheries policies for 2014-2020. It is one of the five European Structural and Investment (ESI) Funds which complement each other and seek to promote a growth and job based recovery in Europe. The fund helps fishermen in the transition to sustainable fishing; supports coastal communities in diversifying their economies and finances projects that create new jobs and improve quality of life along European coasts.

Measures are already available under the EMFF Regulation for mitigating the adverse economic effects resulting from the withdrawal of the United Kingdom from the European Union throughout the whole chain of production and marketing. Under shared management,

² Belgium, Denmark, France, Germany, Ireland, Spain, Sweden, The Netherlands

³ Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC) No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council (OJ L 149, 20.5.2014, p. 1).

Member States affected by the withdrawal of the United Kingdom from the European Union may decide to redirect available appropriations to any necessary measure mitigating its consequences. However, this discretion is currently limited to some priorities. This would limit the room for manoeuvre Member States have to mitigate the impacts of a closure of United Kingdom waters on their fleets and would limit the effectiveness of those measures.

The EMFF Regulation provides detailed rules and arrangements for granting financial compensation to fishermen and owners of fishing vessels in cases of temporary cessation of fishing activities. However, the criteria set to allow for temporary cessation do not allow for compensation due to the withdrawal of a Member State from the European Union and the subsequent loss of access to and fishing opportunities within the waters of that State.

In addition to the measures already available under the EMFF Regulation, this proposal introduces the possibility to provide public support for the temporary cessation of fishing activities for fishermen and operators that have significant dependence on access to United Kingdom waters and who are affected by a closure of United Kingdom waters. This measure should be available from the day following that on which Union law ceases to apply to the United Kingdom pursuant to Article 50(3) of the Treaty on European Union.

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

Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC) No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council.

- **Consistency with other Union policies**

The measures proposed are designed in accordance with the objective of the Common fisheries Policy and are consistent with the Union's policy on sustainable development.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The legal basis is Article 42 and Article 43(2) of the Treaty on the Functioning of the European Union.

- **Subsidiarity**

The proposed act would amend Union Regulation (EU) No 508/2014, so as to provide financial mitigation measures Union vessels impacted by a possible closure of the United Kingdom waters due to the withdrawal of the United Kingdom from the European Union. Action is therefore indispensable at Union level and the result could not be achieved through action at Member State level. Provisions of this proposal are implemented within the framework of shared management in accordance with Regulation (EU) 2018/1046 of the European Parliament and of the Council⁴.

⁴ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

- **Proportionality**

The proposal complies with the proportionality principle. The proposed Regulation is considered proportionate as it aims to ensure that the severe economic impacts due to the withdrawal of the United Kingdom from the Union are mitigated.

- **Choice of the instrument**

This act is an amendment of a Regulation.

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

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

This is not applicable due to the exceptional, temporary and one-off nature of the event necessitating this proposal.

- **Stakeholder consultations**

The challenges arising from the United Kingdom's withdrawal from the Union and possible solutions have been raised by various fisheries stakeholders and Member States representatives. All operators, stakeholders and concerned Member States have emphasised the need to secure adequate compensation in case fishing opportunities would no longer be available because of the withdrawal of the United Kingdom from the Union.

- **Collection and use of expertise**

There was no need for external expertise.

Impact assessment

An impact assessment is not needed, due to the exceptional nature of the situation and limited needs of the period during which the change of status of the United Kingdom is implemented. No materially and legally different policy options are available other than the one proposed.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

This proposal has no consequence for the protection of fundamental rights.

4. BUDGETARY IMPLICATIONS

The proposed modification does not imply any changes in the multiannual financial framework, annual ceilings, or for commitments and payments as per Annex I of Regulation (EU) No 1311/2013⁵. The proposal consists of the frontloading of payment appropriations and is budgetary-neutral over the programming period.

⁵ Council Regulation (EU, Euratom) No 1311/2013 of 2 December 2013 laying down the multiannual financial framework for the years 2014-2020 (OJ L 347, 20.12.2013, p. 884).

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Not applicable.

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amending Regulation (EU) No 508/2014 as regards certain rules relating to the European Maritime and Fisheries Fund by reason of the withdrawal of the United Kingdom from 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 42 and 43(2) thereof,

Having regard to the proposal from the European Commission,⁶

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the Economic and Social Committee,⁷

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) On 29 March 2017, the United Kingdom submitted the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. The Treaties will cease to apply to the United Kingdom from the date of entry into force of a withdrawal agreement or failing that, two years after that notification, i.e. from 30 March 2019, unless the European Council, in agreement with the United Kingdom, unanimously decides to extend that period.
- (2) The withdrawal agreement contains arrangements for the application of provisions of Union law to and in the United Kingdom beyond the date the Treaties cease to apply to and in the United Kingdom. If that agreement enters into force, the Common Fisheries Policy (CFP) will apply to and in the United Kingdom during the transition period, in accordance with that agreement and will cease to apply at the end of that period.
- (3) When the Common Fisheries Policy ceases to apply to the United Kingdom, the United Kingdom waters (territorial sea and Exclusive Economic Zone) will no longer be part of the Union waters. Consequently, in case of a disorderly withdrawal, Union vessels risk losing access to these waters and fishing opportunities therein as of 30 March 2019. This would have significant impact in terms of fishing activities of the Union fleet and economic returns.
- (4) Measures are already available under Regulation (EU) No 508/2014 of the European Parliament and of the Council⁸ that can be used for mitigating the adverse economic

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⁸ Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC)

effects due to the withdrawal of the United Kingdom from the Union throughout the whole chain of production and marketing.

- (5) Regulation (EU) No 508/2014 lays down the rules and arrangements for granting financial compensation to fishermen and owners of fishing vessels in cases of temporary cessation of fishing activities. The criteria to allow for temporary cessation do not allow for compensation due to the withdrawal of a Member State from the Union and the subsequent loss of access to and fishing opportunities within the waters of that State.
- (6) In addition to the measures already available under Regulation (EU) No 508/2014, the adverse economic effects caused by the withdrawal of a Member State from the Union, public support for the temporary cessation of fishing activities should be available for fishermen and operators that have significant dependence on access to United Kingdom waters.
- (7) Regulation (EU) No 508/2014 should therefore be amended accordingly.
- (8) The remaining appropriations are available to be dedicated to any measure mitigating the consequences of the withdrawal of the United Kingdom from the European Union.
- (9) For the sake of simplification, Member States concerned are invited to consider combining amendments to their operational programme within the context of Article 22(4) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council⁹.
- (10) In accordance with Article 4(3) of Regulation (EEC, Euratom) No 1182/71 of the Council¹⁰, the cessation of application of acts fixed at a given date occurs on the expiry of the last hour of the day falling on that date. This Regulation should therefore apply from the day following that on which the Treaties cease to apply to and in the United Kingdom.
- (11) This Regulation should enter into force as a matter of urgency and should apply from the day following that on which the Treaties cease to apply to and in the United Kingdom in the absence of a withdrawal agreement concluded with the United Kingdom or an extension of the two-year period referred to in Article 50(3) of the Treaty on European Union,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 508/2014 is amended as follows:

- (1) In Article 13, the following paragraph 9 is added.

No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council (OJ L 149, 20.5.2014, p. 1).

⁹ Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17 December 2013 laying down common provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund, the European Agricultural Fund for Rural Development and the European Maritime and Fisheries Fund and laying down general provisions on the European Regional Development Fund, the European Social Fund, the Cohesion Fund and the European Maritime and Fisheries Fund and repealing Council Regulation (EC) No 1083/2006 (OJ L 347, 20.12.2013, p. 320)

¹⁰ Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits (OJ L 124, 8.6.1971, p. 1).

"9. Member States shall have the possibility to exceed the amount set out in paragraph 2 and to go below the amounts set out in paragraphs 3 to 6 to support the measures set out in Article 33 of this Regulation if the United Kingdom does not extend access rights to United Kingdom waters for Union fishing vessels that have significant dependence on access to those waters for their fishing activities in the event that the Treaties cease to apply to the United Kingdom pursuant to Article 50(3) of the Treaty on European Union.";

(2) In Article 25, the following paragraph 3a is inserted:

"3a. The total financial contribution from the EMFF to the measures referred to in Article 33 of this Regulation which are supported to address the consequences resulting from the fact that the United Kingdom does not extend access rights to United Kingdom waters for Union fishing vessels that have significant dependence on access to those waters for their fishing activities in the event that the Treaties cease to apply to the United Kingdom pursuant to Article 50(3) of the Treaty on European Union, shall not be taken into account when determining whether the thresholds set out in points (a) and (b) of paragraph 3 are exceeded.";

(3) Article 33 is amended as follows:

(a) in paragraph 1, the following point (d) is added:

"(d) to address the consequences of the fact that the United Kingdom does not extend access rights to United Kingdom waters for Union fishing vessels that have significant dependence on access to those waters for their fishing activities in the event that the Treaties cease to apply to the United Kingdom pursuant to Article 50(3) of the Treaty on European Union.";

(b) paragraph 2 is replaced by the following:

2. The support referred to in points (a), (b) and (c) of paragraph 1 may be granted for a maximum duration of six months per vessel during the period from 2014 to 2020 and the support referred to in point (d) of that paragraph may be granted for a maximum duration of nine months per vessel during the period from 2014 to 2020. Expenditure related to point (d) of paragraph 1 shall be eligible from the date of application of Regulation (EU) [...] of the European Parliament and of the Council*.

* Regulation (EU) [2019/...] of the European Parliament and of the Council of [date] amending Regulation (EU) No 508/2014 as regards certain rules relating to the European Maritime and Fisheries Fund by reason of the withdrawal of the United Kingdom from the Union (OJ L , ... , p.)." [number and reference of this amending Regulation to be inserted by the Publication Office].

Article 2

Entry into force and application

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 the day following that on which the Treaties cease to apply to and in the United Kingdom pursuant to Article 50(3) of the Treaty on European Union.

However, this Regulation shall not apply if a withdrawal agreement concluded with the United Kingdom in accordance with Article 50(2) of the Treaty on European Union has entered into force by the date referred to in the second paragraph of this Article.

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