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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Regulation (EU) No 1379/2013 and Regulation (EU) No 508/2014 as regards specific measures to mitigate the impact of the COVID-19 outbreak in the fishery and aquaculture sector

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

The COVID-19 outbreak has affected the Member States in a sudden and dramatic manner, with a major impact on their societies and economies, as economic activity decelerates sharply. This has created an exceptional situation for the whole EU that necessitates that all available resources, at Union and Member State level, are mobilised to overcome the unprecedented challenges related to the COVID-19 outbreak.

On 13 March 2020, the Commission proposed a “Coronavirus Response Investment Initiative” directed at promoting investments by mobilising available cash reserves in the European Structural and Investments Funds, to fight the crisis immediately. On 19 March 2020, the Commission adopted a new State Aid Framework.

However, Member States’ scope for intervention in the area of fisheries is restricted by the provisions of the European Maritime and Fisheries Fund (EMFF), which does not presently offer support for the most urgently needed actions to overcome the effects of the COVID-19 outbreak. Those limitations restrict Member States’ ability to use the EMFF to fight the crisis.

The fishery and aquaculture sector has been particularly hard hit by the market disruption generated by a significant drop in demand. The closure of sales venues, markets, outlets and distribution channels has seen prices and volumes drop substantially. The drop in demand and prices combined with the vulnerability and complexity of the supply chain (perishable products, important need of workforce) made the operations of fishing fleets and seafood production loss-making. Consequently, fishers are forced to stay in port and aquaculture producers will have to discard or destroy products within weeks or face exceptional stock management costs, including more space and feed for grown out fish that cannot be slaughtered due to drop in demand. The rapid decline particularly affects small-scale coastal fishing operators and fish producers.

Because the end of the current crisis cannot be predicted, it can rapidly lead to a cessation of activities and of businesses in a sector that is very sensitive to cyclical variations. This crisis can consequently have dramatic socio-economic consequences in certain communities where fishing and aquaculture play a key role. Small-scale coastal fisheries represent close to 75% of all active vessels and over 55% of direct employment; they constitute the main economic activity in many coastal areas. The fish farming sector sustains coastal communities and rural areas. Fishing and aquaculture operators, being mostly micro-enterprises, often lack the financial reserves to cover on-going costs. Once their operation ceases, marketing chains will be interrupted.

Unlike most other sectors of the economy, fisheries are subject to the Union’s exclusive competence and are regulated at Union level through a common policy, thereby largely excluding national regulations, including those in respect of financial support. The conditions for public support are governed by the EMFF.

The Commission is therefore adopting a legislative proposal to amend Regulation (EU) No 508/2014 (the EMFF Regulation), as well as Regulation (EU) No 1379/2013 (the CMO Regulation) to introduce specific measures in the EMFF to mitigate the impact of the COVID-19 outbreak in the fishery and aquaculture sector.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

Articles 43(2) and 175 of the Treaty on the Functioning of the European Union.

• Subsidiarity (for non-exclusive competence)

Provisions of the proposal are implemented within the framework of shared management, in accordance with the Financial Regulation.

• Proportionality

The proposed provisions comply with the proportionality principle as they are appropriate, necessary and no other less restrictive measures are available to obtain the desired policy objectives.

• Choice of the instrument

Proposed instrument: Regulation of the European Parliament and of the Council.

3. CONTENT OF THE PROPOSAL

The proposed specific measures to mitigate the impact of the COVID-19 outbreak in the fishery and aquaculture sector comprise:

- support to fishermen for the temporary cessation of fishing activities caused by the COVID-19 outbreak,
- support to aquaculture farmers for the temporary suspension or the reduction of production caused by the COVID-19 outbreak,
- support to producer organisations and associations of producer organisations for the storage of fishery and aquaculture products, in accordance with the Common Market Organisation.

It is proposed that these measures are retroactively eligible as of 1 February 2020 and available until 31 December 2020.

Additional amendments to the EMFF Regulation aim to ensure a flexible reallocation of financial resources within the operational programmes:

- a deletion of the ring-fenced amounts in Article 13, with the exception of those for fisheries control, collection of scientific data and compensation of additional costs in the outermost regions,
- a modification of the simplified procedure for amending operational programmes, in view of the introduction of the specific measures and the reallocation of financial resources thereto.

The specific EMFF measures are complemented by an amendment to the CMO Regulation to:

- enable resort to the storage mechanism if Member States have not set and published trigger prices,
- allow aquaculture producer organisations to benefit from the storage mechanism.

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

The Commission consulted with stakeholders by seeking the input of fisheries and aquaculture producer organisations, Advisory Councils, and receiving feedback about market developments and possible relief measures from industry associations, individual operators and Member States. The stakeholders' assessment of the crisis situation and of how to fight its effects is almost entirely coherent and unanimous. The Commission took that feedback into account in preparing this proposal.

5. BUDGETARY IMPLICATIONS

The proposed modification does not imply any changes in the Multiannual Financial Framework annual ceilings for commitments and payments as per Annex I of Regulation (EU) No 1311/2013. The annual breakdown of commitment appropriations for the EMFF remains unchanged.

With fishing and aquaculture activities locked down or significantly reduced, there is little room for implementing the current EMFF measures and operational programmes normally. Without an effective counter to the crisis, the EMFF stands little chance of being fully implemented by the end of the current programming period. Member States should therefore have the possibility to reallocate at short notice existing financial resources within their operational programme to the specific measures. That possibility will be limited by the budget allocations that Member States have already received, which they cannot exceed.

The available payment appropriations in the 2020 budget for the EMFF can accommodate a shift between Union Priorities within operational programmes. The new measures will in fact to a large extent replace initially planned initiatives, which are now being stopped due to the general decline of economic activity. By consequence, the proposed measures aim to ensure an effective implementation of the 2020 budget and the 2014-2020 allocation for the EMFF.

The Commission will carefully monitor the impact of the proposed modification on payment appropriations in 2020 taking into account both the implementation of the budget and revised Member States forecasts.

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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 Articles 43(2) and 175 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,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The fishery and aquaculture sector has been particularly hard hit by the market disruption generated by a significant drop in demand ensuing from the COVID-19 outbreak. The closure of sales venues, markets, outlets and distribution channels has seen prices and volumes drop substantially. The drop in demand and prices combined with the vulnerability and complexity of the supply chain made the operations of fishing fleets and seafood production loss-making. Consequently, fishers are forced to stay in port and fish farmers will have to discard or destroy products within weeks.
- (2) It should be possible for the European Maritime and Fisheries Fund (EMFF) established by Regulation (EU) No 508/2014² to support specific measures until 31 December 2020 to mitigate the impact of the COVID-19 outbreak in the fishery and aquaculture sector. These measures should comprise support for the temporary cessation of fishing activities, including for inland fishing, and for the temporary suspension or the reduction of aquaculture production, provided that they are the consequence of the COVID-19 outbreak. These specific measures should also comprise support to producer organisations and associations of producer organisations for the storage of fishery and aquaculture products in accordance with Regulation (EU) No 1379/2013³. Expenditure for operations supported under these measures should be eligible as of 1 February 2020.

¹ OJ C [...], [...], p. [...].

² 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).

³ Regulation (EU) No 1379/2013 of the European Parliament and of the Council of 11 December 2013 on the common organisation of the markets in fishery and aquaculture products, amending Council

- (3) The resources available for commitments from the EMFF under shared management should be broken down in a way that ensures that fixed amounts are established for fisheries control, the collection of scientific data and the compensation of additional costs in the outermost regions. The other resources under shared management should be allocated by Member States on the basis of their needs.
- (4) Given the significant socio-economic consequences of the COVID-19 outbreak and the need for liquidity in the economy, it should be possible to support the temporary cessation of fishing activities caused by the COVID-19 outbreak crisis with a maximum co-financing rate of 75 % of eligible public expenditure.
- (5) Given the need for flexibility in the reallocation of financial resources to address the consequences of the COVID-19 outbreak, support for the temporary cessation of fishing activities caused by this outbreak should not be subject to a financial capping. This should be without prejudice to the existing financial capping for the other cases of temporary cessation. The obligation to deduct support granted for temporary cessation from support granted for the permanent cessation of fishing activities to the same vessel should continue to apply.
- (6) Given the urgency of the support needed, it should be possible to extend the scope of the simplified procedure to include amendments to operational programmes related to the specific measures and the reallocation of financial resources thereto to address the consequences of the COVID-19 outbreak. This simplified procedure should cover all the amendments necessary for a full implementation of the measures concerned, including their introduction and the description of the methods for calculating support.
- (7) Given the key role played by producer organisations in the management of the crisis, the ceiling for support to production and marketing plans should be increased to 12 % of the average annual value of the production placed on the market. It should also be possible for Member States to grant advances up to 100 % of the financial support to producer organisations for this support.
- (8) The sudden disruptions of fishery and aquaculture activities ensuing from the COVID-19 outbreak, and the resulting risk of jeopardising markets of fishery and aquaculture products, make it appropriate to set up a mechanism for storing fishery and aquaculture products for human consumption. This will aim to foster greater market stability, mitigate the risk of having such products wasted or redirected to non-human food purposes, and contribute to absorbing the impact of the crisis on the return on products. That mechanism should enable fishery and aquaculture producers to make use of the same preservation or conservation techniques for similar species to ensure that fair competition between producers is maintained.
- (9) Given the suddenness and magnitude of the contraction of demand for fishery and aquaculture products resulting from the COVID-19 outbreak, it should be possible to increase the quantities eligible for storage aid to 25 % of the annual quantities of the products concerned put up for sale by the producer organisation concerned.
- (10) To enable Member States to react promptly to the suddenness and unpredictability of the COVID-19 outbreak, they should be entitled to set trigger prices for their producer organisations to trigger the storage mechanism. These trigger prices should be set in such a way that fair competition between operators is maintained.

Regulations (EC) No 1184/2006 and (EC) No 1224/2009 and repealing Council Regulation (EC) No 104/2000 (OJ L 354, 28.12.2013, p. 1).

- (11) Given the urgency of the support needed, this Regulation should enter into force as soon as possible.
- (12) Regulation (EU) No 1379/2013 and Regulation (EU) No 508/2014 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1
Amendments to Regulation (EU) No 508/2014

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

- (1) Article 13 is replaced by the following:

“Article 13
Budgetary resources under shared management

1. The resources available for commitments from the EMFF for the period from 2014 to 2020 under shared management shall be EUR 5 749 331 600 in current prices in accordance with the annual breakdown set out in Annex II.
2. EUR 580 000 000 of the budgetary resources referred to in paragraph 1 shall be allocated to the control and enforcement measures referred to in Article 76.
3. EUR 520 000 000 of the budgetary resources referred to in paragraph 1 shall be allocated to the measures on data collection referred to in Article 77.
4. EUR 192 500 000 of the budgetary resources referred to in paragraph 1 shall be allocated to the compensation of outermost regions under Chapter V of Title V. That compensation shall not exceed, per year:
 - (a) EUR 6 450 000 for the Azores and Madeira;
 - (b) EUR 8 700 000 for the Canary Islands;
 - (c) EUR 12 350 000 for the French outermost regions referred to in Article 349 TFEU.
5. Member States shall have the possibility to use interchangeably the resources available under paragraphs 2 and 3.”;

- (2) Article 16(1) is amended as follows:

“1. The resources available for commitments by Member States referred to in Article 13(1) for the period from 2014 to 2020, as set out in the table in Annex II, shall be determined on the basis of the following objective criteria:”;

- (3) In Article 22(2), the following point (e) is added:

“(e) amendments to operational programmes concerning the support referred to in Articles 33(1)(d), 35, 44(4a), 55(1)(b), 57, 66 and 67, including the reallocation of financial resources thereto to address the consequences of the COVID-19 outbreak.”;

- (4) Article 22(3) is amended as follows:

“3. Paragraph 2 shall not apply to the support referred to in Article 33(1)(a) to (c), Article 34 and Article 41(2).”;

- (5) Article 25(3) is amended as follows:

“3. Without prejudice to paragraph 5, the total financial contribution from the EMFF to the measures referred to in Article 33(1)(a) to (c) and in Article 34 and to the

replacement or modernisation of main or ancillary engines referred to in Article 41, shall not exceed the higher of the following two thresholds:”;

(6) Article 33(1) and (2) are amended as follows:

“1. The EMFF may support measures for temporary cessation of fishing activities in the following cases:

(a) the implementation of Commission measures or Member States emergency measures referred to in Articles 12 and 13, respectively, of Regulation (EU) No 1380/2013 or of conservation measures referred to in Article 7 of that Regulation, including biological recovery periods;

(b) a non-renewal of Sustainable fisheries partnership agreements or protocols thereto;

(c) where the temporary cessation is provided for in a management plan adopted in accordance with Council Regulation (EC) No 1967/2006 or in a multiannual plan adopted under Articles 9 and 10 of Regulation (EU) No 1380/2013, where, based on scientific advice, a reduction of fishing effort is needed in order to achieve the objectives referred to in Article 2(2) and point (a) of Article 2(5) of Regulation (EU) No 1380/2013;

(d) where the temporary cessation occurs between 1 February and 31 December 2020 as a consequence of the COVID-19 outbreak, including for vessels operating under a Sustainable fisheries partnership agreement.

By way of derogation from the first subparagraph of Article 65(9) of Regulation (EU) No 1303/2013, expenditure for operations supported under point (d) shall be eligible as of 1 February 2020.

2. The support referred to in points (a) to (c) of paragraph 1 may be granted for a maximum duration of six months per vessel during the period from 2014 to 2020. This maximum duration shall not apply to the support referred to in point (d) of that paragraph.”;

(7) Article 44 is amended as follows:

(a) the following paragraph 4a is added:

“4a. The EMFF may support measures for temporary cessation of fishing activities caused by the COVID-19 outbreak, as provided for in Article 33(1)(d), under the conditions laid down in Article 33.”;

(b) paragraph 5 is amended as follows:

“5. For the purposes of paragraphs 1 and 4a:

(a) references made in Articles 30, 32, 33, 38, 39, 41 and 42 to fishing vessels shall be understood as references to vessels operating exclusively in inland waters;

(b) references made in Article 38 to the marine environment shall be understood as references to the environment in which the inland fishing vessel operates.”;

(8) Article 55 is replaced by the following:

“Article 55
Public health measures

1. The EMFF may support the following compensation schemes:

(a) compensation to mollusc farmers for the temporary suspension of harvesting of farmed molluscs, where such suspension occurs exclusively for reasons of public health;

(b) compensation to aquaculture farmers for the temporary suspension or the reduction of production occurred between 1 February and 31 December 2020, as a consequence of the COVID-19 outbreak.

2. Support under paragraph 1(a) may only be granted where the suspension of harvesting due to the contamination of molluscs is the result of the proliferation of toxin-producing plankton or the presence of plankton containing biotoxins, and provided that:

(a) the contamination lasts for more than four consecutive months; or

(b) the loss, resulting from the suspension of harvesting, amounts to more than 25 % of the annual turnover of the business concerned, calculated on the basis of the average turnover of that business over the three calendar years preceding the year in which the harvest was suspended.

For the purposes of point (b) of the first subparagraph, Member States may establish special calculation rules in respect of companies with less than three years of activity.

3. The duration for which compensation under paragraph 1(a) may be granted shall be a maximum of 12 months over the entire programming period. In duly justified cases, it may be extended once for a maximum of an additional 12 months up to a combined maximum of 24 months.

By way of derogation from the first subparagraph of Article 65(9) of Regulation (EU) No 1303/2013, expenditure for operations supported under paragraph 1(b) shall be eligible as of 1 February 2020.”;

(9) Article 66(3) and (4) are amended as follows:

“3. Support granted per producer organisation per year under this Article shall not exceed 12 % of the average annual value of the production placed on the market by that producer organisation during the preceding three calendar years. For any newly recognised producer organisation, that support shall not exceed 12 % of the average annual value of the production placed on the market by the members of that organisation during the preceding three calendar years.”

“4. The Member State concerned may grant an advance ranging between 50 % and 100 % of the financial support after approval of the production and marketing plan in accordance with Article 28(3) of Regulation (EU) No 1379/2013.”;

(10) Article 67(1) and (2) are amended as follows:

“1. Where this is needed to respond to the COVID-19 outbreak, the EMFF may support compensation to recognised producer organisations and associations of producers organisations which store fishery or aquaculture products listed in Annex II to Regulation (EU) No 1379/2013 or products of the CN code 0302 listed in Annex I, section (a) of Regulation (EU) No 1379/2013, provided that those products are stored in accordance with Articles 30 and 31 of Regulation (EU) No 1379/2013 and subject to the following conditions:

(a) the amount of the storage aid does not exceed the amount of the technical and financial costs of the actions required for the stabilisation and storage of the products in question;

(b) the quantities eligible for storage aid do not exceed 25 % of the annual quantities of the products concerned put up for sale by the producer organisation;

(c) the financial support per year does not exceed 20 % of the average annual value of the production placed on the market by the members of the producer organisation in the period 2017-2019.

For the purposes of point (c) of the first subparagraph, where a member of the producer organisation did not have any production placed on the market in the period 2017 to 2019, the average annual value of production placed on the market in the first three years of production of that member shall be taken into account.”;

2. The support referred to in paragraph 1 shall end on 31 December 2020.

By way of derogation from the first subparagraph of Article 65(9) of Regulation (EU) No 1303/2013, expenditure for operations supported under this Article shall be eligible as of 1 February 2020.”;

(11) In Article 79, paragraph 2 is deleted;

(12) Article 94(3)(c) is amended as follows:

(c) 50% of the eligible public expenditure for the support referred to in Article 33(1)(a) to (c), Article 34 and Article 41(2);”.

Article 2

Amendments to Regulation (EU) No 1379/2013

Regulation (EU) No 1379/2013 is amended as follows:

(1) In Article 8(3), the following point (f) is added:

“(f) managing temporary storage for aquaculture products in accordance with Articles 30 and 31 of this Regulation.”;

(2) Article 30 is replaced by the following:

“Article 30

Storage mechanism

Fishery and aquaculture producer organisations may receive financial support for storage of products listed in Annex II or products of the CN code 0302 listed in Annex I, section (a) of Regulation (EU) No 1379/2013, provided that:

(a) the conditions for storage aid, laid down in Regulation (EU) No 508/2014, are complied with;

(b) the products have been placed on the market by producer organisations and no buyer for them has been found at the trigger price referred to in Article 31;

(c) the products meet the common marketing standards, where applicable, established in accordance with Article 33 and are of adequate quality for human consumption;

(d) the products are stabilised or processed and stored in tanks or cages, by way of freezing, either on board vessels or in land facilities, salting, drying, marinating or,

where relevant, boiling and pasteurisation, whether or not filleted, cut-up or, where appropriate, headed;

(e) aquaculture products are not stored alive;

(f) the products are reintroduced from storage into the market for human consumption at a later stage, and

(g) the products remain in storage for at least five days.”;

(3) Article 31 is amended as follows:

(a) paragraph 1 is amended as follows:

“Before the beginning of each year, each producer organisation may individually make a proposal for a price triggering the storage mechanism referred to in Article 30 for products listed in Annex II or products of the CN code 0302 listed in Annex I, section (a) of Regulation (EU) No 1379/2013.”;

(b) the following paragraph 5 is added:

“5. Where a Member State has not determined the trigger prices pursuant to paragraph 4 prior to the COVID-19 outbreak, this Member State shall, without delay, determine the trigger prices concerned on the basis of the criteria referred to in paragraphs 2 and 3 of this Article. The prices shall be made publicly available.”.

Article 3

This Regulation shall enter into force on the 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