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COM(2016) 241 final

2016/0128 (NLE)

Proposal for a

**COUNCIL REGULATION**

**amending Regulation (EU) 2016/72 as regards fishing opportunities for sandeel in  
certain Union waters**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

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

Council Regulation (EU) 2016/72 fixes for 2016 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 and national administrations.

- **Collection and use of expertise**

The Proposal is based on the scientific advice of the International Council for the Exploration of the Sea (ICES).

- **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 2016/72 as described below.

In Regulation (EU) 2016/72 as amended by Council Regulation (EU) 2016/458 the total allowable catch (TAC) for sandeel in the Union waters of ICES divisions IIa, IIa and ICES subarea IV had been set at 79,219 tonnes, whilst the catch limit for sandeel in management area 1 was set at 13,000 tonnes. Sandeel is a short lived species and results from real-time monitoring only becomes available in mid-May. The TAC limit for this area now has to be amended according to these results and the most recent advice from ICES.

Proposal for a

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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) 2016/72<sup>1</sup> fixes for 2016 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) For the purposes of the management of the fishing opportunities of sandeel in ICES divisions IIa, IIIa and ICES subarea IV, Annex IID of Regulation (EU) 2016/72 defines seven management areas within which specific catch limits apply.
- (3) In Regulation (EU) 2016/72 as amended by Council Regulation (EU) 2016/458<sup>2</sup> the total allowable catch (TAC) for sandeel in the Union waters of ICES divisions IIa, IIIa and ICES subarea IV had been set at 79,219 tonnes, whilst the catch limit for sandeel in management area 1 was set at 13,000 tonnes. That catch limit should now be amended based on the results from the real-time monitoring and in line with the latest scientific advice from ICES, in order to allow for an optimal harvest of the stock.
- (4) Regulation (EU) 2016/72 should therefore be amended accordingly.
- (5) Since the modification of catch limits has an influence on the economic activities and the planning of the fishing season of Union vessels, this Regulation should enter into force immediately after its publication.
- (6) The catch limits provided for in Regulation (EU) 2016/72 apply from 1 January 2016. 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.

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<sup>1</sup> Council Regulation (EU) 2016/72 of 22 January 2016 fixing for 2016 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2015/104 (OJ L 22, 28.1.2016, p. 1)

<sup>2</sup> Council Regulation (EU) 2016/458 of 30 March 2016 amending Regulation (EU) 2016/72 as regards certain fishing opportunities (OJ L 80, 31.3.2016, p. 1)

HAS ADOPTED THIS REGULATION:

*Article 1*  
*Amendments to Regulation (EU) 2016/72*

The entry concerning sandeel (*Ammodytes spp.*) in Union waters of IIa, IIIa and IV in Annex IA to Regulation (EU) 2016/72 is replaced by the following:

Species: Sandeel <i>Ammodytes spp.</i>	Zone: Union waters of IIa, IIIa and IV(1)
Denmark	p.m. <sup>(2)</sup> Analytical TAC
United Kingdom	p.m. <sup>(2)</sup> Article 3 of Regulation (EC) No 847/96 shall not apply
Germany	p.m. <sup>(2)</sup> Article 4 of Regulation (EC) No 847/96 shall not apply
Sweden	p.m. <sup>(2)</sup>
Union	p.m.

TAC p.m.

(1) Excluding waters within six nautical miles of the UK baselines at Shetland, Fair Isle and Foula.

(2) Without prejudice to the landing obligation catches of dab, whiting and mackerel may be counted against up to 2 % of the quota (OT1/\*2A3A4), provided that not more than 9% in total of this quota for sandeel is accounted for by these catches and by-catches of those species that are accounted for under Article 15(8) of Regulation (EU) No 1380/2013.

Special condition: within the limits of the abovementioned quotas, no more than the quantities given below may be taken in the following sandeel management areas, as defined in Annex IID:

**Zone: Union waters of sandeel management areas**

	1	2	3	4	5	6	7
	(SAN/234_1)	(SAN/234_2)	(SAN/234_3)	(SAN/234_4)	(SAN/234_5)	(SAN/234_6)	(SAN/234_7)
Denmark	p.m.	4 717	59 428	5 659	0	206	0
United Kingdom	p.m.	103	1 299	124	0	5	0
Germany	p.m.	7	91	9	0	0	0
Sweden	p.m.	173	2 182	208	0	8	0
Union	p.m.	5 000	63 000	6 000	0	219	0
Total	p.m.	5 000	63 000	6 000	0	219	0

*Article 2*  
*Entry into force*

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

It applies from 1 January 2016.

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

Done at Brussels,

*For the Council*  
*The President*