EUROPEAN COMMISSION

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2012/0187 (NLE)

Proposal for a

COUNCIL REGULATION

amending Regulation (EU) No 44/2012 as regards fishing opportunities for capelin in Greenland waters

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Council Regulation (EU) No 44/2012[1] fixes for 2012 the fishing opportunities available in EU waters and, to EU vessels, in certain non-EU waters for certain fish stocks and groups of fish stocks which are subject to international negotiations or agreements. Fishing opportunities are usually amended several times during the period in which they are in effect.

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

Not applicable.

3. LEGAL ELEMENTS OF THE PROPOSAL

The proposed amendments seek to modify the Regulation mentioned above as follows:

Capelin in Greenland waters

Under Article 5(3) of Council Regulation (EU) 44/2012, the Commission shall fix the Union quota for capelin in Greenland waters of ICES zones V and XIV. Under this Article, on the basis of the allocation established by Greenland, and in accordance with the Fisheries Partnership Agreement (FPA) between the European Community on the one hand, and the Government of Denmark and the Home Rule Government of Greenland, on the other hand, and the Protocol thereto, the Union is to receive 7.7 % of the TAC for capelin in Greenland waters of ICES zones V and XIV. The Commission received information from the Greenland authorities that Greenland will allocate pm tonnes to the Union in accordance with the share fixed under the Protocol, to be fished until 30 April 2013.

When Regulation (EU) No 44/2012 was adopted on 17 January 2012, the Commission made a statement relating to capelin caught in Greenland waters of V and XIV undertaking to enter into discussions with the Member states on the possibility of allocating between them the fishing opportunities of capelin offered by Greenland, in the context of the EU-Greenland FPA and the Protocol mentioned above.

Considering that there was no targeted fishery of capelin by any EU vessel under the Fisheries Partnership Agreement with Greenland between 2004 and 2010, and that in 2011 there was an unallocated fishery by Denmark alone, the Commission proposes to use 1998-2003 as the reference period for establishing the allocation between Member States .

Finally, having regard to the annual consultations on fisheries between the European Union and Norway for 2012 and in particular to the commitment made by the European Union to provide Norway with an additional quantity of 20 000 tonnes of capelin above the normal

[1] Council Regulation (EU) No 44/2012 of 17 January 2012 fixing for 2012 the fishing opportunities available in EU waters and, to EU vessels, in certain non-EU waters for certain fish stocks and groups of fish stocks which are subject to international negotiations or agreements (OJ L 25, 27.1.2012, p. 55–147).

balance as soon as the capelin in Greenland waters becomes available, it is appropriate to provide for this amount from the Union quota of pm tonnes mentioned above.

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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,[2]

Whereas:

(1) The Fisheries Partnership Agreement between the European Community on the one hand, and the Government of Denmark and the Home Rule Government of Greenland, on the other hand[3], and the Protocol thereto[4], provide that the Union is to receive 7,7 % of the total availabe catches (TAC) for capelin in Greenland waters of ICES zones V and XIV.

(2) Council Regulation (EU) No 44/2012[5] fixed for the period from 1 January to 30 April 2012 a provisional Union quota for the stock of capelin in those Greenland waters, without specific allocations to Member States.

(3) On … the Union received information from the Greenland authorities that the TAC for capelin in Greenland waters of ICES subareas V and XIV had been established at … tonnes for the period from 1 May 2012 until 30 April 2013. The relevant Union quota for that period should therefore be fixed at pm tonnes.

(4) In the framework of the annual consultations on fisheries between the Union and Norway, the Union undertook to provide Norway with an additional quantity of 20 000 tonnes of capelin in Greenland waters of ICES zones V and XIV for 2012. It is appropriate to allocate that amount from the Union quota available in those waters.

(5) It is furthermore appropriate to allocate the Union quota among Member States. Considering that Union vessels did not carry out fishing activities targeting capelin under the Fisheries Partnership Agreement with Greenland between 2004 and 2010, and that in 2011 only one Member State made use of the unallocated Union quota , the

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2 [OJ Ref]
3 OJ L 172, 30.6.2007, p. 4.
4 OJ L 172, 30.6.2007, p. 9.
5 OJ L 25, 27.1.2012, p. 55.

reference period for allocating the Union quota among Member States should be the years 1998-2003.

(6) The allocation of the Union quota among Member States goes beyond the implementing powers granted to the Commission by Article 5(3) of Regulation (EU) No 44/2012. In order to avoid the dispersal of provisions between Commission and Council acts, this Regulation should establish both the Union quota and its allocation between Member States.

(7) The capelin catch limits provided for by this Regulation should apply from 1 May 2012. Such retroactive application will be without prejudice to the principles of legal certainty and protection of legitimate expectations as the fishing opportunities concerned have not yet been exhausted. Since catch limits have 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.

(8) Regulation (EU) No 44/2012 should be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1
Amendments to Regulation (EU) No 44/2012

Annex IB to Regulation (EU) No 44/2012 is amended in accordance with the text in the Annex to this Regulation.

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 shall apply from 1 May 2012.

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

Done at Brussels,

For the Council
The President

ANNEX

In Annex IB to Regulation (EU) No 44/2012, the entry for capelin in Greenland waters of V and XIV is replaced by the following:

"Species:	Capelin *Mallotus villosus*	Zone:	Greenland waters of V and XIV (CAP/514GRN)
Denmark	pm		
UK	pm		
Sweden	pm		
Germany	pm		
All Member States	pm	(1) (2)	
EU	pm	(3) (4)	
TAC	Not relevant		

(1) Except Member States with more than 10% of the Union quota

(2) Member States with an assigned quota may access the "All Member States" quota only once they have exhausted their own quota.

(3) Of which 20 000 tonnes are allocated to Norway.

(4) To be fished until 30 April 2013, by way of derogation from Article 1(2)(a) of this Regulation."