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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending and correcting Regulation (EU) No 508/2014 as regards specific measures to alleviate the consequences of the military aggression of Russia against Ukraine on fishing activities and to mitigate the effects of the market disruption caused by that military aggression on the supply chain of fishery and aquaculture products

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

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

The military aggression of Russia against Ukraine since 24 February 2022 is impacting on operators of the fishery and aquaculture sector in the Union. The disruption of trade flows of key commodities for the fishery and aquaculture sector from Russia and Ukraine abruptly intensified the increase in prices of key inputs such as energy and raw materials. Trade between Ukraine and the Union is also severely affected by the unavailability of transport, as Ukrainian airports were rendered inoperable because of the Russian attack and all commercial shipping operations in Ukrainian ports have been suspended. The current crisis is likely to have serious consequences for the supply of grain, vegetable oils and white fish from Ukraine and Russia to the Union, leading to a substantial increase in fish feed prices and to shortages of key raw materials. Part of the Union fleet has ceased fishing because of the decrease in profitability of that activity and the impossibility of offsetting the increase in input costs such as soaring prices for energy. The combined impact of the cost increases and shortages is also being felt by the seafood farming and processing sectors. There is therefore significant market disruption, caused by substantial cost increases, and trade disruptions, requiring effective and efficient action. The military aggression of Russia against Ukraine also jeopardises the security of fishing activities carried out by Union fishers in neighbouring areas. This has led to a precautionary interruption of activities in certain areas.

In the light of the above, the Commission is proposing an amendment to Regulation (EU) No 508/2014 on the European Maritime and Fisheries Fund (EMFF) by introducing specific measures to alleviate the consequences of the military aggression of Russia against Ukraine on fishing activities and to mitigate the effects of the market disruption caused by that military aggression on the supply chain of fishery and aquaculture products. Expenditure is still eligible for a contribution from that Fund until 31 December 2023.

This proposal complements Commission Implementing Decision (EU) 2022/500 of 25 March 2022 establishing the military aggression of Russia against Ukraine as the occurrence of an exceptional event causing a significant disruption of markets, thereby triggering crisis support measures under the European Maritime, Fisheries and Aquaculture Fund (EMFAF). Packages of measures under both the EMFF and the EMFAF maximise the use of available financial resources to support the fisheries, aquaculture and seafood processing sectors in the current crisis.

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

The proposal is consistent with Regulation (EU) No 1380/2013 on the common fisheries policy and with Regulation (EU) No 1303/2013 on common provisions for Union Funds implemented under shared management.

- **Consistency with other Union policies**

The proposal is limited to a targeted and exceptional amendment of Regulation (EU) No 508/2014 and maintains consistency with other Union policies.

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

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

Not applicable

- **Stakeholder consultations**

The challenges arising from and the need to alleviate the consequences of the military aggression of Russia against Ukraine on fishing activities and to mitigate the effects of the market disruption caused by that military aggression on the supply chain of fishery and aquaculture products have been raised by various stakeholders of the fishery and aquaculture sector and Member States representatives. All operators, stakeholders and concerned Member States have emphasised the need to secure financial support for the fishery and aquaculture sector.

- **Collection and use of expertise**

Not applicable

- **Impact assessment**

An impact assessment is not needed, due to the exceptional and critical nature of the military aggression of Russia against Ukraine, which requires immediate mitigating Union measures.

- **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 for commitments and payments.

With fishing, aquaculture and processing activities significantly impacted by the crisis, the current EMFF measures and operational programmes are not implemented normally. Therefore, to avoid losing financial resources for countering the crisis effectively, it should be made possible for Member States to reallocate financial resources within their operational programme to the specific measures, and to do so at short notice. 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 2022 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 measures, which have now to be reconsidered due to the general disruption of the supply chain. Consequently, the proposed measures aim to ensure effective implementation of the 2022 budget and the 2014-2020 allocation for the EMFF.

The Commission will carefully monitor the impact of the proposed modification on payment appropriations in 2022 taking into account both the implementation of the budget and revised Member State forecasts.

5. OTHER ELEMENTS

• Implementation plans and monitoring, evaluation and reporting arrangements

The implementation, monitoring, evaluation and reporting requirements established in Regulation (EU) No 508/2014 and Regulation (EU) No 1303/2013 apply.

• Explanatory documents (for directives)

Not applicable

• Detailed explanation of the specific provisions of the proposal

The proposal introduces the following measures to alleviate the consequences of the military aggression of Russia against Ukraine on fishing activities and to mitigate the effects of the market disruption caused by that military aggression on the supply chain of fishery and aquaculture products:

- Financial compensation for the temporary cessation of fishing activities where the military aggression of Russia against Ukraine jeopardises the security of fishing operations. This compensation is subject neither to the financial ceiling established in Article 25(3) of the EMFF Regulation, nor to the 6 months' maximum duration set out in Article 33(2) of that Regulation. It is supported with the standard Union co-financing rate of 75 % of the eligible public expenditure.
- Financial compensation to recognised producer organisations and associations of producer organisations which store fishery or aquaculture products in accordance with the storage mechanism of Regulation (EU) No 1379/2013 (common organisation of the markets).
- Financial compensation to operators of the fishery and aquaculture sector (including the processing sector) for their income forgone, and for additional costs they incurred due to the market disruption caused by the military aggression of Russia against Ukraine and its effects on the supply chain of fishery and aquaculture products.

The proposal introduces these compensation schemes in existing EMFF measures to facilitate their quick implementation. Using an existing framework obviates the need for significant amendments to the template of the operational programmes and facilitates reprogramming by Member States. However, it will be necessary to make minor technical adjustments to the template of the operational programmes and to the reporting and monitoring system. The adjustments concerning the reporting and monitoring system are not urgent, as Member States

have 1 year before they are next required to provide cumulative data on operations selected for funding pursuant to Article 97(1)(a) of the EMFF Regulation.

The proposal also introduces flexibility mechanisms to facilitate the quick implementation of these new measures:

- A simplified procedure for amending the operational programmes of Member States as regards the introduction of these measures, including the reallocation of financial resources thereto.
- Retroactive eligibility of expenditure as of 24 February 2022 for these measures.
- The possibility of reallocating the fixed amounts initially reserved for certain EMFF measures (i.e. control and enforcement, data collection) to the new measures.

The proposal also corrects a technical mistake in Article 96 of the EMFF Regulation, in which ‘income foregone’ should be replaced by ‘income forgone’.

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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,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The military aggression of Russia against Ukraine since 24 February 2022 is impacting on operators of the fishery and aquaculture sector in the Union. The disruption of trade flows of key commodities for the fishery and aquaculture sector from Russia and Ukraine abruptly intensified the increase in prices of key inputs such as energy and raw materials. Trade between Ukraine and the Union is also severely affected by the unavailability of transport, as Ukrainian airports were rendered inoperable because of the Russian attack and all commercial shipping operations in Ukrainian ports have been suspended. The current crisis is likely to have serious consequences for the supply of grain, vegetable oils and white fish from Ukraine and Russia to the Union, leading to a substantial increase in fish feed prices and to shortages of key raw materials. Part of the Union fleet has ceased fishing because of the decrease in profitability of that activity and the impossibility of offsetting the increase in input costs such as soaring prices for energy. The combined impact of the cost increases and shortages is also being felt by the seafood farming and processing sectors. There is therefore significant market disruption, caused by substantial cost increases, and trade disruptions, requiring effective and efficient action.
- (2) Therefore, it should be possible for the European Maritime and Fisheries Fund (EMFF) established by Regulation (EU) No 508/2014 of the European Parliament and of the Council³ to support specific measures to mitigate the effects of the market

¹ OJ C , , p. .

² OJ C , , p. .

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)

disruption caused by the military aggression of Russia against Ukraine on the supply chain of fishery and aquaculture products. Those measures should comprise financial compensation to recognised producer organisations and associations of producer organisations which store fishery or aquaculture in accordance with Articles 30 and 31 of Regulation (EU) No 1379/2013 of the European Parliament and of the Council⁴, and financial compensation to operators of the fishery and aquaculture sector for their income forgone, and for additional costs they incurred due to the market disruption caused by the military aggression of Russia against Ukraine and its effects on the supply chain of fishery and aquaculture products. Expenditure for operations supported under those measures should be eligible as of 24 February 2022, which is the date of the start of the military aggression of Russia against Ukraine.

- (3) It should also be possible for the EMFF to support financial compensation for the temporary cessation of fishing activities where the military aggression of Russia against Ukraine jeopardises the security of fishing activities. Such temporary cessation should occur as of 24 February 2022, which is the date of the start of the military aggression of Russia against Ukraine.
- (4) Given the significant socio-economic consequences of the market disruption caused by the military aggression of Russia against Ukraine on the supply chain of fishery and aquaculture products, it should be possible to support the temporary cessation of fishing activities caused by the military aggression of Russia against Ukraine with a maximum co-financing rate of 75 % of eligible public expenditure.
- (5) Given the need for flexibility in the reallocation of financial resources, it should be possible to reallocate the fixed amounts established for control and enforcement measures and for measures on data collection to the measures alleviating the consequences of the military aggression of Russia against Ukraine on fishing activities and mitigating the effects of the market disruption caused by that military aggression on the supply chain of fishery and aquaculture products. For the same reason, and without prejudice to the existing financial capping and limitation of duration for the other cases of temporary cessation of fishing activities, the provision of support for the temporary cessation of fishing activities caused by the military aggression of Russia against Ukraine should not be subject to financial capping and to a limitation of duration. 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. For the sake of legal clarity as regards the implementation of this new case of temporary cessation, it is necessary to refer to the eligibility period set out in Article 65(2) of Regulation (EU) No 1303/2013 of the European Parliament and of the Council⁵.

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).

⁴ 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 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).

⁵ 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).

- (6) Given the urgency of providing the support needed, the scope of the simplified procedure for amending the operational programmes of Member States should be extended to include amendments related to the specific measures to alleviate the consequences of the military aggression of Russia against Ukraine on fishing activities and to mitigate the effects of the market disruption caused by that military aggression on the supply chain of fishery and aquaculture products. That simplified procedure should cover all the amendments necessary for the full implementation of the measures concerned, including their introduction, the reallocation of financial resources from other measures, and the description of the methods for calculating support.
 - (7) For the sake of legal clarity as regards the implementation of the new measures, it is necessary to correct a technical mistake in Regulation (EU) No 508/2014 by replacing “income foregone” by “income forgone”. Article 96 of that Regulation is being corrected accordingly.
 - (8) Given the urgency of the support needed, this Regulation should enter into force on the day following that of its publication. Given the unexpected character of the military aggression of Russia against Ukraine and its serious impact on fishing activities and on the economic sectors and supply chains concerned, the eligibility of the costs should be retroactive as of 24 February 2022.
 - (9) In view of urgency caused by the military aggression of Russia against Ukraine and its social and economic impact in the fishery and aquaculture sector, it was considered appropriate to provide for an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the TEU, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community.
 - (10) Regulation (EU) No 508/2014 should therefore be amended and corrected accordingly,
- HAVE ADOPTED THIS REGULATION:

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

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

1. In Article 13, the following paragraph 7 is added:

“7. The budgetary resources referred to in paragraphs 2 and 3 may be reallocated to the support referred to in point (d) of Article 33(1), in Article 44(4a), in Article 67 and in Article 68(3) to alleviate the consequences of the military aggression of Russia against Ukraine on fishing activities and to mitigate the effects of the market disruption caused by that military aggression on the supply chain of fishery and aquaculture products.”

2. In Article 22(2), point (e) is replaced by the following:

“(e) amendments to operational programmes concerning the support referred to in point (d) of Article 33(1), Article 35, Article 44(4a), point (b) of Article 55(1), Articles 57, 66 and 67, Article 68(3) and Article 69(3), including the reallocation of financial resources thereto to address the consequences of the COVID-19 outbreak or to alleviate the

consequences of the military aggression of Russia against Ukraine on fishing activities and to mitigate the effects of the market disruption caused by that military aggression on the supply chain of fishery and aquaculture products.”

3. In Article 33(1), point (d) is replaced by the following:

“(d) where the temporary cessation of fishing activities 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, or occurs as of 24 February 2022 as a consequence of the military aggression of Russia against Ukraine that jeopardises the security of fishing activities. ”

4. In Article 33(1), the second subparagraph of point (d) is replaced by the following:

“In accordance with the second subparagraph of Article 65(9) of Regulation (EU) No 1303/2013 and by way of derogation from the first subparagraph thereof, expenditure for operations supported under point (d) of the first subparagraph of this paragraph shall be eligible as of 1 February 2020 if they are the consequence of the COVID-19 outbreak, or as of 24 February 2022 if they are the consequence of the military aggression of Russia against Ukraine that jeopardises the security of fishing activities.”

5. In Article 33, paragraph 2 is replaced by the following:

“2. The support referred to in points (a), (b) and (c) of the first subparagraph of paragraph 1 may be granted for a maximum duration of six months per vessel during the eligibility period referred to in Article 65(2) of Regulation (EU) No 1303/2013. That maximum duration shall not apply to the support referred to in point (d) of that subparagraph.”

6. In Article 44, paragraph 4a is replaced by the following:

“4a. The EMFF may support measures for temporary cessation of fishing activities caused by the COVID-19 outbreak or by the military aggression of Russia against Ukraine that jeopardises the security of fishing activities, as provided for in point (d) of Article 33(1), under the conditions laid down in Article 33.”

7. In Article 67, the introductory wording of the first subparagraph of paragraph 1 is replaced by the following:

“1. Where needed to respond to the COVID-19 outbreak or to mitigate the effects of the market disruption caused by the military aggression of Russia against Ukraine on the supply chain of fishery and aquaculture products, the EMFF may support compensation to recognised producer organisations and associations of producer organisations which store fishery or aquaculture products listed in Annex II to Regulation (EU) No 1379/2013 or products falling within CN code 0302 as listed in point (a) of Annex I to that Regulation, provided that those products are stored in accordance with Articles 30 and 31 of that Regulation, and subject to the following conditions:”

8. In Article 67, paragraph 2 is replaced by the following:

“2. The support referred to in paragraph 1 shall end on 31 December 2020, except if it mitigates the effects of the market disruption caused by the military aggression of Russia against Ukraine on the supply chain of fishery and aquaculture products.

In accordance with the second subparagraph of Article 65(9) of Regulation (EU) No 1303/2013 and by way of derogation from the first subparagraph thereof, expenditure for operations supported under this Article shall be eligible as of 1 February 2020 to respond to the COVID-19 outbreak, and as of 24 February 2022 to mitigate the effects of the market disruption caused by the military aggression of Russia against Ukraine on the supply chain of fishery and aquaculture products.”

9. In Article 68, the following paragraph 3 is added:

“3. The EMFF may support a financial compensation to operators of the fishery and aquaculture sector for their income forgone, and for additional costs they incurred due to the market disruption caused by the military aggression of Russia against Ukraine and its effects on the supply chain of fishery and aquaculture products.

In accordance with the second subparagraph of Article 65(9) of Regulation (EU) No 1303/2013, expenditure for operations supported under the first subparagraph shall be eligible as of 24 February 2022.

The compensation referred to in the first subparagraph shall be calculated in accordance with Article 96.”

10. In Article 95, paragraph 2, point (e) is replaced by the following:

“(e) the operation is related to support under Article 33 or 34 or to compensation under Article 54, Article 55, Article 56, Article 68(3) or Article 69(3);”

Article 2

Correction to Regulation (EU) No 508/2014

Article 96 of Regulation (EU) No 508/2014 is replaced by the following:

“Article 96

Calculation of additional costs or income forgone

Where aid is granted on the basis of additional costs or income forgone, Member States shall ensure that the relevant calculations are adequate, accurate and established in advance on the basis of a fair, equitable and verifiable calculation.”

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