



EUROPEAN COMMISSION

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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**amending Council Regulation (EC) No 2371/2002 on the conservation and sustainable
exploitation of fisheries resources under the Common Fisheries Policy**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Article 17(2), first subparagraph, of Council Regulation (EC) No 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy¹ establishes a derogation for the 12 nautical mile zone of Member States (territorial waters) from the general equal access rule for Union fishing vessels to Union waters and resources set out in Article 17(1) of that Regulation, authorizing Member States to restrict access to certain vessels in that zone. The access restrictions put in place by Member States on the basis of that derogation have reduced fishing pressure in the most biologically sensitive areas and have contributed to economic stability for small scale, coastal activities.

The derogation is in place from 1 January 2003 to 31 December 2012. The continuation of the 12 nautical mile access regime is foreseen in Article 6(2) of the proposal for a new Regulation for the Common Fisheries Policy². In the event that the reform of the CFP is not concluded by the end of 2012, it is necessary to extend the validity of the 12 nautical mile access regime with a time limit until the entry into force of the new Regulation of the European Parliament and of the Council on the Common Fisheries Policy, to ensure that fishing activities can continue without interruption from 1 January 2013.

In accordance with Article 17(2), second subparagraph, of Regulation (EC) No 2371/2002, the Commission presented a report to the European Parliament and the Council on the arrangements concerning the access to resources within the 12 nautical mile zones of Member States³. It is noted in the report that the access regime is very stable and has continued to operate satisfactorily since 2002.

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

The proposal concerns the time limited extension of the validity of an existing access regime, currently set out in Article 17(2) of Regulation (EC) No 2371/2002. The extension of the access regime, until 31 December 2022, is included in Article 6(2) of the proposal for a new Regulation on the Common Fisheries Policy, which was covered by IA SEC(2011)891. There was therefore no need for consultation of interested parties or for a new impact assessment.

3. LEGAL ELEMENTS OF THE PROPOSAL

• Summary of the proposed action

The main action is to avoid a discontinuation of the specific access regime set out in Article 17(2) of Regulation (EC) No 2371/2002, in the event that the proposal for a Regulation of the European Parliament and of the Council on the Common Fisheries Policy has not been adopted and entered into force by 31 December 2012.

¹ OJ L 358, 31.12.2002, p. 59.

² COM(2011)425

³ COM(2011)418.

- **Legal basis**

Article 43(2) of the Treaty on the Functioning of the European Union.

- **Subsidiarity principle**

The proposal falls under exclusive competence of the Union.

- **Proportionality principle**

This proposal includes the time limited extension of the validity of a measure which already exists in Regulation (EC) No 2371/2002, therefore no concern on the proportionality principle arises.

- **Choice of instrument**

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

Other means would not be adequate for the following reason: a Regulation must be amended by a Regulation.

4. BUDGETARY IMPLICATION

This measure does not involve any additional Union expenditure.

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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 Article 43(2) 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 Committee⁴,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Union fishing vessels have equal access to Union waters and resources subject to the rules of the Common Fisheries Policy.
- (2) Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy⁵ provides for a derogation from the equal access rule, by authorising Member States to restrict fishing to certain vessels in waters up to 12 nautical miles from their baselines.
- (3) On 13 July 2011 the Commission presented a report to the European Parliament and the Council, in accordance with Council Regulation (EC) No 2371/2002, on the arrangements concerning access to fisheries resources within the 12 nautical mile zone⁶ which concluded that the access regime is very stable and has continued to operate satisfactorily since 2002.
- (4) Rules in place restricting access to resources within that zone have benefitted conservation by restricting fishing effort in the most sensitive part of Union waters. Those rules have also preserved traditional fishing activities which are important for the social and economic development of certain coastal communities.

⁴ OJ C [...], [...], p. [...].

⁵ OJ L 358, 31.12.2002, p. 59.

⁶ COM(2011)418.

(5) The derogation entered into force on 1 January 2003 and it is to expire on 31 December 2012. Its validity should be extended pending the adoption of the new Regulation of the European Parliament and of the Council on the Common Fisheries Policy⁷.

(6) Regulation (EC) No 2371/2002 should therefore be amended accordingly.

HAVE ADOPTED THIS REGULATION:

Article 1

In Article 17(2) of Regulation (EC) No 2371/2002, the first subparagraph is replaced by the following:

"2. In the waters up to 12 nautical miles from baselines under their sovereignty or jurisdiction, Member States shall be authorised from 1 January 2013 until 31 December 2014 to restrict fishing to fishing vessels that traditionally fish in those waters from ports on the adjacent coast, without prejudice to the arrangements for Union fishing vessels flying the flag of other Member States under existing neighbourhood relations between Member States and the arrangements contained in Annex I, fixing for each Member State the geographical zones within the coastal bands of other Member States where fishing activities are pursued and the species concerned."

Article 2

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

It shall apply from 1 January 2013.

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

⁷ COM(2011)425.