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European Union

**Brussels, 2 June 2023**  
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**PECHE 227**  
**DELECT 74**

**COVER NOTE**

|                  |                                                                                                                                                                                                                   |
|------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| From:            | Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director                                                                                                                               |
| date of receipt: | 1 June 2023                                                                                                                                                                                                       |
| To:              | Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union                                                                                                                                       |
| No. Cion doc.:   | C(2023) 3467 final                                                                                                                                                                                                |
| Subject:         | COMMISSION DELEGATED REGULATION (EU) .../... of 1.6.2023 correcting Delegated Regulation (EU) 2017/118 establishing fisheries conservation measures for the protection of the marine environment in the North Sea |

Delegations will find attached document C(2023) 3467 final.

Encl.: C(2023) 3467 final



EUROPEAN  
COMMISSION

Brussels, 1.6.2023  
C(2023) 3467 final

**COMMISSION DELEGATED REGULATION (EU) .../...**

**of 1.6.2023**

**correcting Delegated Regulation (EU) 2017/118 establishing fisheries conservation  
measures for the protection of the marine environment in the North Sea**

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE DELEGATED ACT**

Article 11 of Regulation (EU) No 1380/2013<sup>1</sup> empowers the Commission to adopt delegated acts on fisheries conservation measures to comply with Union environmental legislation.

The Habitats<sup>2</sup> and Birds Directives<sup>3</sup> require that Member States designate and effectively manage respectively special areas of conservation to protect habitats and species of EU interest. These areas form the European ecological network Natura 2000 network of protected areas. According to the relevant provisions of the directives, Member States have to establish the necessary conservation measures and take appropriate steps to protect the natural habitats and species for which the sites have been designated. Such measures are to correspond to the ecological requirements of the natural habitats and species present on the site, and may include measures related to fisheries.

According to Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive - MSFD)<sup>4</sup>, Member States shall take the necessary measures to achieve or maintain good environmental status (GES) of marine waters.

When Member States consider that certain fisheries conservation measures are required to comply with their obligations under Article 13(4) of the MSFD, Article 4 of the Birds Directive or Article 6 of the Habitats Directive, these measures have to be adopted in accordance with the rules of the common fisheries policy (CFP).

On 17 June 2021, Germany (initiating Member State) together with five Member States having a direct management interest in fisheries in the protected areas (Belgium, Denmark, France, the Netherlands, and Sweden), submitted to the Commission a joint recommendation (JR) regarding fisheries management measures in four Natura 2000 sites, namely DE1209-301 Sylter Aussenriff (Sylt Outer Reef), DE2104-301 Borkum-Riffgrund (Borkum Reef Ground), DE1003-301 Doggerbank (Dogger Bank) and DE1011-401 Östliche Deutsche Bucht SPA (Eastern German Bight), situated in the German Exclusive Economic Zone (EEZ) of the North Sea.

On 1 July 2021, the Netherlands (initiating Member State) together with five Member States having a direct management interest in fisheries in the protected areas (Belgium, Denmark, France, Germany and Sweden), submitted to the Commission three JRs regarding fisheries

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<sup>1</sup> Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

<sup>2</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

<sup>3</sup> Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

<sup>4</sup> Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) (OJ L 164, 25.6.2008, p. 19).

management measures in two Natura 2000 sites, namely NL2008002 Klaverbank SAC (Cleaver Bank), NL2016166 Friese Front SPA (Frisian Front) and in the Friese Front and Centrale Oestergronden (Frisian Front and Central Oyster Grounds) marine protected areas, situated in the North Sea.

Delegated Regulation (EU) 2017/118<sup>5</sup> established fisheries conservation measures in certain areas of the North Sea. Following the joint recommendations submitted by Germany and the Netherlands in 2021, this delegated regulation was amended to introduce the new proposed measures.

The amending regulation was published on 16 February 2023 (Commission Delegated Regulation (EU) 2023/340<sup>6</sup>, “the delegated regulation”).

Germany informed the Commission on 22 February 2023 about an error as regards a sentence contained in the joint recommendation that was not transposed into the delegated regulation. The sentence concerns the fact that fisheries conservation measures in the central and eastern areas of the Sylter Aussenriff [areas 1(10)] shall take effect on 1 May 2023.

Germany further informed the Commission on 28 February 2023 about additional technical errors detected in the Annex to the delegated regulation, as regards the designation of the Dutch Exclusive Economic Zone and the geographical coordinates of the seaward separation line between the German and Dutch Exclusive Economic Zones.

Following this information and request for the respective amendments, this delegated act amends Commission Delegated Regulation (EU) 2017/118.

## **2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT**

The JRs submitted by Germany and by the Netherlands that are the basis of Delegated Regulation (EU) 2023/340 were assessed by the Scientific, Technical and Economic Committee for Fisheries (STECF)<sup>7,8</sup>. In addition, the Commission presented the delegated act on 2 March 2022 to the Fisheries and Aquaculture Expert Group. The notified errors do not affect the positive outcome of the assessment issued by the STECF.

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<sup>5</sup> Commission Delegated Regulation (EU) 2017/118 of 5 September 2016 establishing fisheries conservation measures for the protection of the marine environment in the North Sea (OJ L 19, 25.1.2017, p. 10).

<sup>6</sup> Commission Delegated Regulation (EU) 2023/340 of 8 December 2022 amending Delegated Regulation (EU) 2017/118 as regards conservation measures in Sylter Aussenriff, Borkum-Riffgrund, Doggerbank and Östliche Deutsche Bucht, and in Klaverbank, Friese Front and Centrale Oestergronden (OJ L 48, 16.2.2023, p. 18).

<sup>7</sup> Scientific, Technical and Economic Committee for Fisheries (STECF) – 60th Plenary Meeting Report (PLEN-19-01). Publications Office of the European Union, Luxembourg, 2019, ISBN 978-92-76-02904-5, doi: 10.2760/56785, JRC116423.

<sup>8</sup> Scientific, Technical and Economic Committee for Fisheries (STECF) – Review of Joint Recommendations for Natura 2000 sites at Dogger Bank, Cleaver Bank, Frisian Front and Central Oyster Grounds (STECF-19-04). Publications Office of the European Union, Luxembourg, 2019, ISBN 978-92-76-11227-3, doi: 10.2760/422631, JRC117963.

### **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

#### **Summary of the proposed action**

The main legal action is to modify Delegated Regulation (EU) 2017/118 in order to correct an error regarding the date on which a particular measure shall take effect and some technical errors detected in the Annex so that new geographical coordinates display the correct areas where those measures apply.

#### **Legal basis**

Article 11(2) of Regulation (EU) No 1380/2013.

# **COMMISSION DELEGATED REGULATION (EU) .../...**

**of 1.6.2023**

## **correcting Delegated Regulation (EU) 2017/118 establishing fisheries conservation measures for the protection of the marine environment in the North Sea**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC<sup>1</sup> and in particular Article 11(2) thereof,

Whereas:

- (1) Commission Delegated Regulation (EU) 2017/118<sup>2</sup> establishes conservation measures for the protection of the marine environment in certain areas of the North Sea. This Regulation was last amended by Commission Delegated Regulation (EU) 2023/340<sup>3</sup>.
- (2) On 22 February 2023, Germany informed the Commission of an error in Delegated Regulation (EU) 2023/340. It concerns a sentence contained in the joint recommendation that was not transposed into Delegated Regulation (EU) 2023/340, namely the fact that fisheries conservation measures in the central and eastern areas of the Sylter Aussenriff [areas 1(10)] are to take effect on 1 May 2023.
- (3) On 28 February 2023, Germany informed the Commission of additional technical errors in the Annex to the Delegated Regulation (EU) 2023/340, as regards the designation of the Dutch Exclusive Economic Zone and the geographical coordinates of the seaward separation line between the German and Dutch Exclusive Economic Zones.

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<sup>1</sup> Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC. (OJ L 354, 28.12.2013, p. 22).

<sup>2</sup> Commission Delegated Regulation (EU) 2017/118 of 5 September 2016 establishing fisheries conservation measures for the protection of the marine environment in the North Sea (OJ L 19, 25.1.2017, p. 10).

<sup>3</sup> Commission Delegated Regulation (EU) 2023/340 of 8 December 2022 amending Delegated Regulation (EU) 2017/118 as regards conservation measures in Sylter Aussenriff, Borkum-Riffgrund, Doggerbank and Östliche Deutsche Bucht, and in Klaverbank, Friese Front and Centrale Oestergronden (OJ L 48, 16.2.2023, p. 18).

- (4) Therefore, Article 3(1) and Annexes I and VI of Delegated Regulation (EU) 2017/118, should be corrected accordingly.
- (5) As the corrections provided in this act have a direct impact on the fishing activities in the areas subject to fisheries conservation measures, this Regulation should enter into force immediately upon publication,

HAS ADOPTED THIS REGULATION:

*Article 1*

**Delegated Regulation (EU) 2017/118 is corrected as follows:**

1. In Article 3.1, letter d is added:  
“(d) in areas 1(10), fisheries conservation measures shall take effect on 1 May 2023.”
2. Annexes I and VI are corrected as set out in the Annex to this Regulation.

*Article 2*

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, 1.6.2023

*For the Commission*  
*The President*  
*Ursula VON DER LEYEN*