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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Delegations will find attached document COM(2015) 579 final.

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2015/0264 (NLE)

Proposal for a

COUNCIL REGULATION

fixing for 2016 the fishing opportunities for certain fish stocks in the Black Sea

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

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

Regulation (EU) No 1380/2013 of the European Parliament and the Council 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 seeks to ensure that living aquatic resources are exploited under sustainable economic, environmental and social conditions. One important tool in this respect is the annual fixing of fisheries opportunities in the form of total allowable catches (TACs), quotas and fishing effort limits.

The objective of this proposal is to fix, for the commercially most important fish stocks in the Black Sea, the fishing opportunities for Member States for 2016.

- **General context**

Black Sea stocks exploited by Bulgaria and Romania are shared with non-EU countries, e.g. Turkey, Ukraine, Georgia and Russian Federation. There are however no Total Allowable Catches (TAC) decided at regional level between EU and non-EU countries. Every year since 2008 the European Union (EU) has been fixing autonomous TACs for turbot and sprat stocks in order to help ensure that the Common Fisheries Policy (CFP) rules are applied.

At international level, and since the share of EU countries in the Black Sea turbot catch represents only 6%, the need to establish an international recovery programme for turbot in the whole Black Sea has been one of the Commission priority in the recent years. Progress has been made in that respect at the last General Fisheries Commission for the Mediterranean (GFCM) annual session where the EU proposal for measures to prevent, deter and eliminate IUU fishing in turbot fisheries in the Black Sea was endorsed¹.

According to scientific assessment delivered by the Scientific, Technical and Economic Committee for Fisheries (STECF) and GFCM, the stock of dogfish in the Black Sea in 2014 was classified as being exploited unsustainably and at the risk of collapse. Piked dogfish are long-lived, late maturing species, and have low fecundity, which means that the stock has very limited capability to rebound quickly once it becomes depleted. The landings of piked dogfish in the whole Black Sea have dropped steadily and dramatically since the start of the reported landings series, from more than 6,000 tonnes in 1989 to only 80 tonnes in 2013. The first step to recover the piked dogfish population was adoption of the GFCM Recommendation on management measures for piked dogfish in the Black Sea². In view of the worrying situation of this stock, which could be on the verge of collapse, fishing opportunities are proposed in the form of catch limit.

¹ Recommendation GFCM/39/2015/3 establishing a set of measures to prevent, deter and eliminate illegal, unreported and unregulated fishing in turbot fisheries in the Black Sea adopted by the General Fisheries Commission for the Mediterranean (GFCM) in its 39th Session (Milan, May 2015).

² Recommendation GFCM/39/2015/4 establishing management measures for piked dogfish in the Black Sea adopted by the General Fisheries Commission for the Mediterranean (GFCM) in its 39th Session (Milan, May 2015).

The Communication from the Commission on the consultation on the fishing opportunities for 2016 under the Common Fisheries Policy (COM(2015) 239 final), outlines the background to the proposal.

Fishing opportunities in this proposal are marked as "pm" (pro memoria). This is due to the fact that the advice on Black Sea stocks will not be available by the time the proposal is scheduled for adoption. The scientific advice on fishing opportunities in the Black Sea in 2016 will be delivered by the STECF at the session taking place from 28 September to 02 October 2015. The proposal will need to be updated as the related advice and information becomes available.

- **Existing provisions in the area of the proposal**

Fishing opportunities and the way they are allocated to Member States are regulated annually. The latest such legal act is Council Regulation (EU) 2015/106³ of 19 January 2015 fixing for 2015 the fishing opportunities for certain fish stocks applicable in the Black Sea.

In addition to the annual fishing opportunities, the following measures relevant to the Black Sea fisheries covered by this proposal should be mentioned:

- Minimum conservation sizes and minimum mesh sizes regarding the turbot fishery in the Black Sea are established by Regulation (EU) No 227/2013 of the Council and the European Parliament of 13 March 2013⁴ amending Council Regulation (EC) No 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms and Council Regulation (EC) No 1434/98 specifying conditions under which herring may be landed for industrial purposes other than direct human consumption.
- Recommendation GFCM/37/2013/2 establishing a set of minimum standards for bottom-set gillnet fisheries for turbot and conservation of cetaceans in the Black Sea adopted by the General Fisheries Commission for the Mediterranean (GFCM) in its 37th Session (Split, May 2013).
- Recommendation GFCM/39/2015/3 establishing a set of measures to prevent, deter and eliminate illegal, unreported and unregulated fishing in turbot fisheries in the Black Sea adopted by the General Fisheries Commission for the Mediterranean (GFCM) in its 39th Session (Milan, May 2015).
- Recommendation GFCM/39/2015/4 establishing management measures for piked dogfish in the Black Sea adopted by the General Fisheries Commission for the Mediterranean (GFCM) in its 39th Session (Milan, May 2015).

- **Consistency with other policies and objectives of the EU**

The proposed measures are in accordance with the objectives and rules of the Common Fisheries Policy and are consistent with the Union's policy on sustainable development.

³ OJ L 19, 19.01.2015, p.1.

⁴ OJ L 78, 20.3.2013, p.1

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

- **Collection and use of expertise**

Main organisations/experts consulted

The scientific organisation consulted is the Scientific, Technical and Economic Committee for Fisheries (STECF).

The Union asks STECF each year for scientific advice on the state of important fish stocks. The STECF gives its advice following terms of reference that it receives from the Commission. The advice, that will be delivered in October 2015 will cover all Black Sea stocks for which TACs are proposed.

The ultimate objective is to bring and maintain the stocks to levels that can deliver Maximum Sustainable Yield (MSY). This objective has been incorporated expressly in the Regulation (EU) 1380/2013 (known as the new basic CFP Regulation). Article 2(2) of that Regulation states that this objective “shall be achieved by 2015 where possible, and [...] by 2020 for all stocks”. This reflects the commitment taken by the Union regarding the conclusions of the 2002 World Summit on Sustainable Development in Johannesburg and its related Plan of Implementation.

- **Consultation of interested parties**

Interested parties were consulted via the Communication from the Commission on the Consultation on fishing opportunities for 2016. The scientific basis for the proposal will be provided by STECF. All STECF reports are available on the DG MARE website.

- **Impact assessment**

Based on the scientific advice, the proposed measures will result in a change in fishing opportunities in terms of catch volumes for Union fishing vessels in the Black Sea.

The proposal reflects not only short-term concerns but is also part of a longer term approach whereby the level of fishing is gradually adapted to long-term sustainable levels.

The approach taken in the proposal might therefore, in the medium to long term, result in reduced fishing effort but stable or increasing quotas in the long term. The long-term consequences of the approach are expected to be a reduced impact on the environment as a consequence of the adaptation in fishing effort and unchanged or increased landings. The sustainability of fishing activities will increase in the long term.

3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The proposal establishes the catch limitations applicable in the Black Sea to Union fisheries, in order to achieve the objective of the CFP of ensuring fisheries at levels that are biologically, economically and socially sustainable.

- **Legal basis**

The legal basis for this proposal is Article 43(3) of the Treaty on the Functioning of the European Union (TFEU).

The Union's obligations for sustainable exploitation of living aquatic resources arise from obligations set out in Article 2 of Regulation (EU) 1380/2013.

- **Subsidiarity principle**

The proposal falls under the Union exclusive competence as referred to in Article 3(1)(d) TFEU. The subsidiarity principle therefore does not apply.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason.

The Common Fisheries Policy is a common policy. According to Article 43(3) TFEU it is incumbent upon the Council to adopt the measures on the fixing and allocation of fishing opportunities.

The proposed Council Regulation allocates fishing opportunities to Member States. Having regard to Article 16(6) and (7) and Article 17 of Regulation 1380/2013, Member States are free to allocate such opportunities among vessels flying its flag as they see fit. Therefore, Member States have ample room for manoeuvre on decisions related to the social/economic model of their choice to exploit their allocated fishing opportunities.

The proposal has no new financial implications for Member States. This Regulation is adopted by Council every year, and the public and private means to implement it are already in place.

- **Choice of instruments**

Proposed instruments: Regulation.

This is a proposal for fisheries management on the basis of Article 43(3) TFEU and in accordance with Article 16 of Regulation (EU) No 1380/2013 .

4. BUDGETARY IMPLICATION

The proposal has no implications for the Union budget.

5. OPTIONAL ELEMENTS

• Simplification

The proposal continues to provide for simplification of administrative procedures for public authorities (EU or national), as it contains provisions similar to those of the Council Regulation (EU) No 2015/106⁵.

• Review/revision/sunset clause

The proposal concerns an annual Regulation for the year 2016 and therefore does not include a revision clause.

• Detailed Explanation

The proposal fixes for 2016 the fishing opportunities for certain stocks or groups of stocks for Member States fishing in the Black Sea.

The landing obligation for stocks caught in certain fisheries applied from 1 January 2015. In the Black Sea these fisheries cover small pelagic fisheries, namely, the fishery for sprat, which is one of the stocks under TACs and quotas in this Regulation.

With introduction of the landing obligation, in accordance with Article 16(2) of Regulation (EU) No 1380/2013, the fishing opportunities proposed reflect the change from amount landed to amount caught. This is based on the received scientific advice for the fish stocks in fisheries as referred to in Article 15(1) of Regulation (EU) No 1380/2013. The fishing opportunities should also be fixed in accordance with Articles 16(1) (referring to the principle of relative stability) and 16(4) (referring to the objectives of the CFP and the rules provided for in multiannual plans) of that Regulation. The proposed figures reflect the scientific advice and the framework for setting the TACs and quotas outlined in the Communication from the Commission on the Consultation on the fishing opportunities for 2016.

Given the Commission's intention to ensure the sustainable use of fishery resources, in line with the Union's policy and international commitments while maintaining stable fishing opportunities, annual variations in TACs are limited as far as practicable taking account of the status of a given stock.

The TACs and quotas allocated to Member States are given in the Annex to the proposed Regulation.

In accordance with Article 2 of Council Regulation (EC) No 847/96⁶, it is proposed that Articles 3 and 4 do not apply to the stocks covered by this Regulation. However, in

⁵ Council Regulation (EU) 2015/106 of 19 January 2015 fixing for 2015 the fishing opportunities for certain fish stocks and groups of fish stocks in the Black sea

accordance with Article 15(9) of Regulation (EU) No 1380/2013 year-to-year flexibility envisaged therein applies to stocks covered by the landing obligation.

⁶ Council Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of TACs and quotas (OJ L 115, 9.5.1996, p. 3).

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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) Article 43(3) of the Treaty provides that the Council, on a proposal from the Commission, is to adopt measures on the fixing and allocation of fishing opportunities.
- (2) Regulation (EU) No 1380/2013 of the European Parliament and of the Council¹ requires that conservation measures be adopted taking into account available scientific, technical and economic advice, including, where relevant, reports drawn up by the Scientific, Technical and Economic Committee for Fisheries (STECF).
- (3) It is incumbent upon the Council to adopt measures on the fixing and allocation of fishing opportunities by fishery or group of fisheries in the Black Sea including certain conditions functionally linked thereto, as appropriate. In accordance with Article 16(1) and (4) of Regulation (EU) No 1380/2013 fishing opportunities should be distributed among Member States in such a way as to ensure relative stability of each Member State's fishing activities for each stock or fishery and in accordance the objectives of the Common Fisheries Policy established in Article 2(2) of that Regulation.
- (4) The total allowable catches (TACs) should be established on the basis of the available scientific advice, taking into account biological and socio-economic aspects whilst ensuring fair treatment between fishing sectors, as well as in the light of the opinions expressed during the consultation of stakeholders.
- (5) For sprat fisheries the landing obligation referred to in Article 15(1) of Regulation (EU) No 1380/2013 applies from 1 January 2015. Article 16(2) of that Regulation provides that, when the landing obligation is introduced in respect of a fish stock, fishing opportunities are to be fixed taking into account the change from fixing fishing opportunities that reflect landings to fixing fishing opportunities that reflect catches.

¹ 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).

- (6) At its annual meeting in 2015, General Fisheries Commission for the Mediterranean adopted Recommendation GFCM/39/2015/4 establishing management measures for piked dogfish in the Black Sea. In view of the worrying situation of this stock, which could be on the verge of collapse, and before General Fisheries Commission for the Mediterranean management measures become fully effective, it is necessary to include fishing opportunities for piked dogfish in this Regulation.
- (7) The use of fishing opportunities set out in this Regulation is subject to Council Regulation (EC) No 1224/2009² and in particular to Articles 33 and 34 thereof concerning the recording of catches and the notification of data on the exhaustion of fishing opportunities. It is therefore necessary to specify the codes to be used by the Member States when sending data to the Commission relating to landings of stocks subject to this Regulation.
- (8) In accordance with Article 2 of Council Regulation (EC) No 847/96³, when fixing the TACs, the Council is to decide to which stocks Articles 3 and 4 do not apply, in particular on the basis of the biological status of the stocks.
- (9) In order to avoid interruption of fishing activities and to ensure the livelihood of Union fishermen, it is important to open the fisheries concerned in the Black Sea on 1 January 2016. For reasons of urgency, this Regulation should enter into force immediately after its publication.

HAS ADOPTED THIS REGULATION:

CHAPTER I

Subject matter, scope and definitions

Article 1 ***Subject matter***

This Regulation fixes the fishing opportunities for 2016 for fish stocks of the following species in the Black Sea:

- (a) Turbot (*Psetta maxima*),
- (b) Sprat (*Sprattus sprattus*),
- (c) Piked dogfish (*Squalus acanthias*).

² Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p.1).

³ Council Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of TACs and quotas (OJ L 115, 9.5.1996, p. 3).

Article 2

Scope

This Regulation shall apply to Union fishing vessels operating in the Black Sea.

Article 3

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (a) 'GFCM' means General Fisheries Commission for the Mediterranean;
- (b) 'Black Sea' means the geographical sub-area 29 as defined in Annex I to Regulation (EU) No 1343/2011 of the European Parliament and the Council⁴;
- (c) 'fishing vessel' means any vessel equipped for commercial exploitation of marine biological resources;
- (d) 'Union fishing vessel' means a fishing vessel flying the flag of a Member State and registered in the Union;
- (e) 'stock' means a marine biological resource that occurs in a given management area;
- (f) 'total allowable catch' (TAC) means:
 - (i) in fisheries subject to the landing obligation referred to in Article 15 of Regulation (EU) No 1380/2013, the quantity that can be caught from each stock each year;
 - (ii) in all other fisheries, the quantity that can be landed from each stock each year;
- (g) "quota" means a proportion of the TAC allocated to the Union, a Member State or a third country.

⁴ Regulation (EU) No 1343/2011 of the European Parliament and of the Council of 13 December 2011 on certain provisions for fishing in the GFCM (General Fisheries Commission for the Mediterranean) Agreement area and amending Council Regulation (EC) No 1967/2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea (OJ L 347, 30.12.2011, p. 44).

CHAPTER II

Fishing opportunities

Article 4

TACs and allocation

The TACs for Union fishing vessels, the allocation of such TACs among Member States, and the conditions functionally linked thereto, where appropriate, are set out in the Annex.

Article 5

Special provisions on allocations

The allocation of fishing opportunities among Member States as set out in this Regulation shall be without prejudice to:

- (a) exchanges made pursuant to Article 16(8) of Regulation (EU) No 1380/2013;
- (b) deductions and reallocations made pursuant to Article 37 of Regulation (EC) No 1224/2009;
- (c) additional landings allowed under Article 15(9) of Regulation (EU) No 1380/2013;
- (d) quantities transferred in accordance with Article 15(9) of Regulation (EU) No 1380/2013;
- (e) deductions made pursuant to Articles 105 and 107 of Regulation (EC) No 1224/2009.

Article 6

Conditions for landing catches and by-catches not subject to the landing obligation

Catches and by-catches taken in the turbot fishery shall be retained on board or landed only if they have been taken by Union fishing vessels flying the flag of a Member State having a quota and that quota is not exhausted.

CHAPTER III

Final provisions

Article 7

Data transmission

When, pursuant to Articles 33 and 34 of Regulation (EC) No 1224/2009, Member States send the Commission data relating to landings of quantities of stocks caught, they shall use the stock codes set out in the Annex to this Regulation.

Article 8
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 January 2016.

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

Done at Brussels,

For the Council
The President