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PROPOSAL

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| From: | Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director |
| date of receipt: | 6 July 2016 |
| To: | Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union |
| No. Cion doc.: | COM(2016) 441 final |
| Subject: | Proposal for a COUNCIL REGULATION amending Regulations (EU) 2016/72 and (EU) 2015/2072 as regards certain fishing opportunities |

Delegations will find attached document COM(2016) 441 final.

Encl.: COM(2016) 441 final



EUROPEAN
COMMISSION

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COM(2016) 441 final

2016/0203 (NLE)

Proposal for a

COUNCIL REGULATION

amending Regulations (EU) 2016/72 and (EU) 2015/2072 as regards certain fishing opportunities

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

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

Council Regulation (EU) No 2016/72 fixes for 2016 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and, for Union vessels, in certain non-Union waters. These fishing opportunities are usually amended several times during the period in which they are in effect. Some changes should also be made in Council Regulation (EU) 2015/2072 to adjust the indications of stocks within safe biological limits.

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

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

- **Consistency with other Union policies**

The measures proposed are consistent with other Union policies, in particular with the policies in the field of environment.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

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

The Union's obligations for sustainable exploitation of living aquatic resources arise from obligations set out in Article 2 of the new basic regulation of the CFP.

- **Subsidiarity (for non-exclusive competence)**

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

- **Proportionality**

The proposal complies with the proportionality principle for the following reason: the CFP is a common policy. According to Article 43(3) of the Treaty it is incumbent upon the Council to adopt the measures on the fixing and allocation of fishing opportunities.

- **Choice of the instrument**

Proposed instrument: regulation.

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

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

Not applicable

- **Stakeholder consultations**

The Proposal takes into account the feedback from the stakeholders, Advisory Councils, the national administrations, fishermen organisations and non-governmental organisations.

- **Collection and use of expertise**

The Proposal is based on the scientific advice of the International Council for the Exploration of the Sea (ICES) and the Scientific, Technical and Economic Committee for Fisheries (STECF).

- **Impact assessment**

The scope of the fishing opportunities regulation is circumscribed by Article 43(3) of the Treaty.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

Not applicable.

4. BUDGETARY IMPLICATIONS

The proposed measures will have no budgetary implications.

5. OTHER ELEMENTS

- **Detailed explanation of the specific provisions of the proposal**

The proposed amendments seek to modify Regulation 2016/72 as described below.

Certain quota transfers from Contracting Parties of a regional fisheries management organisation (RFMO) are agreed in the beginning of the year, it is appropriate to ensure that legal provisions are in force to carry out such transfers and allocate them to the Member States concerned.

Scientific advice on the stocks of herring in total allowable catch (TAC) areas VIa(N) and VIa(S), VIIb,c allows for a TAC to be set in order to enable collection of fisheries dependent data in the two management areas. This would improve the future scientific advice on these stocks.

According to the scientific advice, catches of Northern prawn should be reduced. Following the consultations with Norway, it is appropriate to modify the catch limits for Northern prawn in ICES division IIIa and the Norwegian waters south of 62° N.

A proposal for a scientific survey has been made to address long term perceived deficiencies in the existing surveys covering sole in the Irish Sea (VIIa). The current TAC is at a very low level and is contested by the industry; a mismatch between assessment and actual abundance would result in a choke species effect on implementation of the landing obligation. Therefore, additional scientific information is needed to assess the status of the stock.

A Member State may allocate up to an additional 2% of their allocated quota to support scientific research, which may be offered for sale. Given the very low TAC for sole in the ICES division VIIa, this would not provide sufficient quota in addition to national quota to support the scale of survey required to provide necessary data for the scientific assessment.

Scientific evaluation of the proposal identifies that the effect of the additional allocation to support this project would still result in an increase in the spawning stock biomass, even if the increase is lower. In their conclusions the STECF noted that, in principal, a survey covering the entirety of the stock distribution would be beneficial to the assessment, if carried out over several years. Therefore, this additional quota should be granted, upon the agreement of the Member States having quota for sole in ICES division VIIa to one or more vessels participating in the scientific project and only for its duration.

Currently ICES provides scientific advice for *squalus acanthias* and the reporting code is also based on the Latin name of this species. However, the common name in Council Regulation (EU) No 2016/72 does not match the Latin name of the species, as it is referred to as spurdog/dogfish. Therefore, the common name should be corrected to picked dogfish, which corresponds to the Latin name.

Currently the fishing opportunities for picked dogfish (*squalus acanthias*) are set at 0 tonnes. Picked dogfish (*squalus acanthias*) are still caught in significant quantities in a number of fisheries and present a real choke species on full implementation of the landing obligation. In order to facilitate the implementation of the landing obligation, a project to introduce real time avoidance of picked dogfish (*squalus acanthias*) has been developed. In its evaluation, the STECF identified that the proposal could potentially contribute to rebuilding of the stock by promoting avoidance behaviour. The vessels participating in the project should be allowed to land limited quantities of picked dogfish (*squalus acanthias*) that are dead and would not survive if released immediately. There would be no increase in mortality and no negative impact on the recovery of stock. As a precautionary measure to ensure that there is no detriment to the long-term recovery of the stock, the landings should be subject to an overall annual limit of 270 tonnes, with a monthly limit of not more than 2 tonnes for any vessel participating in the project. The project would be open to all Member States willing to participate, who would exchange the information about the areas of picked dogfish (*squalus acanthias*) catches. A list of participating vessels should be notified by the Member States to the Commission. The allocation should be only for the duration of the project.

During the inter-sessional meeting of ICCAT in March 2016, it was agreed that the Union would be able to allocate part of its spare farming capacity for inputting of wild caught bluefin tuna for farming to Portugal. This would in the future allow Portugal to operate a bluefin tuna farm. The corresponding capacity limit should therefore be introduced.

The Commission Proposal also seeks to modify Council Regulation (EU) 2015/2072 fixing for 2016 the fishing opportunities in the Baltic Sea, in order to adjust the indications of stocks within safe biological limits. According to the most recent advice, the stock of sprat in the Gulf of Bothnia is within safe biological limits and the stock of herring in the Gulf of Riga is outside safe biological limits.

Proposal for a

COUNCIL REGULATION

amending Regulations (EU) 2016/72 and (EU) 2015/2072 as regards certain fishing opportunities

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) Council Regulation (EU) No 2016/72¹ fixes for 2016 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and, for Union vessels, in certain non-Union waters.
- (2) Certain quota transfers from Contracting Parties of a regional fisheries management organisation (RFMO) are agreed in the beginning of the year. It is appropriate to ensure that legal provisions are in force to carry out such transfers and allocate them to the Member States concerned.
- (3) Scientific advice on the stocks of herring in ICES zones VIa(N) and VIa(S), VIIb,c allows for Total Allowable Catches (TAC) to be set in order to enable collection of fisheries dependent data in the two management areas. This would improve the future scientific advice on those stocks.
- (4) According to the scientific advice by ICES, catches of Northern prawn should be reduced. Following the consultations with Norway, it is appropriate to modify the catch limits for Northern prawn in ICES division IIIa and Norwegian waters south of 62° N.

¹ Council Regulation (EU) 2016/72 of 22 January 2016 fixing for 2016 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2015/104 (OJ L 22, 28.1.2016, p. 1).

- (5) Scientific advice by the STECF supports a small additional commercial quota in order to incite the participation of fishing vessels in a scientific programme on sole in ICES division VIIa, which would be carried out under specific conditions. This additional quota should be granted only for the duration of the scientific programme and would be without prejudice to the relative stability.
- (6) Currently ICES provides scientific advice for *squalus acanthias* and the reporting code is also based on the Latin name of this species. However, the common name in Council Regulation (EU) No 2016/72 does not match the Latin name of the species, as it is referred to as spurdog/dogfish. Therefore, the common name should be corrected to picked dogfish, which corresponds to the Latin name.
- (7) Currently the fishing opportunities for picked dogfish (*squalus acanthias*) are set at 0 tonnes. A project to introduce real time avoidance of picked dogfish (*squalus acanthias*) has been evaluated by the STECF. In its evaluation, the STECF identified the potential for the project to promote avoidance of by-catches of picked dogfish (*squalus acanthias*). The vessels participating in the project should be allowed to land limited quantities of picked dogfish (*squalus acanthias*) that are dead and would not survive if released immediately. As a precautionary measure to ensure that there is no detriment to the long-term recovery of the stock, the landings should be subject to an overall annual limit of 270 tonnes, with a monthly limit of not more than 2 tonnes for any vessel participating in the project. A list of all participating vessels should be notified by the Member States to the Commission.
- (8) During the inter-sessional meeting of the International Commission for the Conservation of Atlantic Tunas (ICCAT), in March 2016, it was agreed that the Union would allocate part of its spare farming capacity for inputting of wild caught bluefin tuna for farming to Portugal. This would in the future allow Portugal to operate a bluefin tuna farm. It is therefore appropriate to establish the maximum input of wild caught bluefin tuna which Portugal may allocate to its farm.
- (9) Council Regulation (EU) 2015/2072² identifies the stocks which are within safe biological limits in the Baltic Sea. According to the most recent advice, the stock of sprat in the Gulf of Bothnia is within safe biological limits and the stock of herring in the Gulf of Riga is outside safe biological limits. As a consequence, it is appropriate to modify the identification of stocks within safe biological limits set out in that Regulation.

² Council Regulation (EU) 2015/2072 of 17 November 2015 fixing for 2016 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulations (EU) No 1221/2014 and (EU) 2015/104 (OJ L 302, 19.11.2015, p. 1-10).

(10) Regulation (EU) No 2016/72 and Regulation (EU) 2015/2072 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1
Amendments to Regulation (EU) 2016/72

1. Regulation (EU) 2016/72 is amended as follows:
 - (a) In paragraph 1 of Article 12, the word "spurdog" is replaced by "picked dogfish".
 - (b) In Article 21, the following paragraph 5 is added:

"5. This article shall apply until 31 January 2017 for quota transfers from a RFMO Contracting Party to the Union and their subsequent allocation to Member States".
 - (c) Annexes I, IA and IV are amended in accordance with Annex I to this Regulation.

Article 2
Amendments to Regulation (EU) 2015/2072

The Annex to Regulation (EU) 2015/2072 is amended in accordance with Annex II to this Regulation.

Article 3
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*.

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

Done at Brussels,

For the Council
The President