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COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	C(2016) 6618 final
Subject:	COMMISSION DELEGATED REGULATION (EU) .../... of 20.10.2016 establishing a discard plan for turbot fisheries in the Black Sea

Delegations will find attached document C(2016) 6618 final.

Encl.: C(2016) 6618 final



Brussels, 20.10.2016
C(2016) 6618 final

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

of 20.10.2016

establishing a discard plan for turbot fisheries in the Black Sea

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

A key objective of the Common Fisheries Policy (CFP), as set out in Regulation (EU) 1380/2013¹ is to reduce high levels of unwanted catches and to gradually eliminate discards in all EU fisheries. Discarding constitutes a substantial waste of resources and negatively impacts on the sustainable exploitation of resources as well as the economic viability of fisheries. The CFP also provides for increased regionalisation, which avoids/minimises micromanagement at Union level and ensure that rules are adapted to the specific characteristics of each fishery and sea area.

The CFP provides for a series of provisions to facilitate the implementation of the landing obligation. There are generic flexibility provisions which can be applied by Member States in the context of quota management. In addition, the CFP provides for specific flexibility mechanisms that need to be implemented through multiannual plans, or in the absence of multiannual plans, in the so-called discard plans. Those discard plans are envisaged as a temporary measure with a maximum duration of three years. They are developed by means of joint recommendations agreed by groups of Member States from the same region or sea basin having a shared interest in the biological resources in these areas.

As of 1 January 2017 the landing obligation in the Black Sea will be compulsory for the species subject to catch limits that define the fisheries. The fisheries targeting turbot are subject to this provision. In accordance with Article 15(5) of Regulation (EU) No 1380/2013, a discard plan may contain the following elements:

- Specific provisions regarding fisheries or species covered by the landing obligation;
- Specification of exemptions to the landing obligation if fisheries or species meet certain criteria related to high survivability;
- Provisions for *de minimis* exemptions as specified in Article 15(5)(c) of Regulation (EU) No 1380/2013;
- Provisions on documentation of catches;
- The fixing of minimum conservation reference sizes (MCRS).

In light of this, Bulgaria and Romania submitted to the European Commission a proposal of a three-year discard plan for the fisheries targeting turbot in the Black Sea (GFCM Geographical Sub-Area 29).

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. 22–61.](#)

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Joint Recommendation Discard Plan for turbot fisheries in the Black Sea (GFCM Geographical Sub-Area 29).

For the purpose of implementing the landing obligation at regional level in the Black Sea waters, Bulgaria and Romania submitted to the European Commission services on 30 June 2016 a Joint Recommendation as the basis of a discard plan.

In accordance with article 18 of Regulation (EU) No 1380/2013, the proposed Commission delegated act is based on this Joint Recommendation developed and submitted by the Member States who have a direct management interest in the fisheries of turbot in the Black Sea waters.

The Joint Recommendation contains the following elements:

- The fisheries covered by the discard plan;
- A high survivability exemption to the landing obligation for the fisheries targeting turbot (*Psetta maxima*) with bottom set gillnets;
- An exemption for catches of fish that were damaged by predators;
- Monitoring measures relative to the recording of all catches (landings and discards) of turbot.

The elements of this Joint Recommendation submitted by Bulgaria and Romania on the application of the landing obligation to turbot fisheries in the Black Sea were evaluated by the Scientific, Technical and Economic Committee for Fisheries (the STECF) during the plenary meeting of 4 – 8 July 2016².

According to the conclusions of the STECF, the joint recommendation contained reasoned arguments related to high survivability of the species discarded. In light of the above, it is appropriate to establish the survivability exemption. Nevertheless, further studies need to be conducted by Member States having a direct management interest in the area.

As regards the survivability exemption for turbot caught with bottom set gillnets, Member States should collect further scientific arguments on this specific exemption. The provided information will be evaluated by STECF after one year in order to confirm the application of the exemption. Specifically for the survivability exemption for turbot caught with bottom set gillnets, the Regulation specifies that the exemption would be valid for 2017 only.

² Reports of the Scientific, Technical and Economic Committee for Fisheries (STECF) – Evaluation of the landing obligation joint recommendations (STECF-16-10). 2016. Publications Office of the European Union, Luxembourg, EUR XXXX EN, JRC XXXX, XXX pp. Available [here](#).

On the basis of these elements, the discard plan for turbot in the Black Sea waters can be considered as a first step towards the progressive elimination of discards in all Union fisheries through the introduction of a landing obligation for catches of species subject to catch limits.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Summary of the proposed action

The main legal action is to adopt measures that would facilitate the implementation of the landing obligation.

The Regulation specifies the species and fishery to which specific measures would apply, such as the exemption on high survival rate.

Legal basis

Articles 15(1)(d) and 15(6) and Articles 18(1) and (3) of Regulation (EU) No 1380/2013 and Article 15a and 29a of Regulation No 1967/2006.

Subsidiarity principle

The proposal falls under the exclusive competence of the European Union.

Proportionality principle

The proposal is within the scope of the delegated powers provided to the Commission by Article 15(6) of Regulation (EU) No 1380/2013 and does not go beyond what is necessary to achieve the purpose of that provision.

Choice of instrument

Proposed instrument: Commission Delegated Regulation.

Other means would not be adequate for the following reason: The Commission has been granted powers to adopt a discard plan by means of delegated acts. The Member States having a direct management interest submitted their joint recommendation. Measures provided in the joint recommendation and included in this proposal are based on the best available scientific advice and fulfil all the relevant requirements set out in Art 18(5) of Regulation (EU) No 1380/2013.

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

of 20.10.2016

establishing a discard plan for turbot fisheries in the Black Sea

THE EUROPEAN COMMISSION,

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

Having regard to the 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/EC³, and in particular Article 15(6) thereof,

Whereas:

- (1) Regulation (EU) No 1380/2013 aims to progressively eliminate discards in all Union fisheries through the introduction of a landing obligation.
- (2) Article 15(6) of Regulation (EU) No 1380/2013 empowers the Commission to adopt discard plans by means of delegated acts for a period of no more than three years on the basis of joint recommendations developed by Member States in consultation with the relevant Advisory Councils.
- (3) Bulgaria and Romania have a direct fisheries management interest in the exploitation of turbot in the Black Sea. On 30 June 2016 those Member States have submitted a joint recommendation to the Commission concerning a discard plan for turbot fisheries in the Black Sea, taking into account the opinion of the sector. Scientific contribution was obtained from relevant scientific bodies. In line with Article 18(3) of Regulation (EU) No 1380/2013, only those measures in the joint recommendation which comply with Article 15(6) of that Regulation should be included in this Regulation.
- (4) As regards the Black Sea, Article 15 of Regulation (EU) No 1380/2013 establishes a landing obligation for all catches of species which are subject to catch limits. According to Article 15(1)(d) of Regulation (EU) No 1380/2013, the landing obligation is to apply to species which define the fisheries at the latest from 1 January 2017. Turbot is one of those species.
- (5) The joint recommendation suggested that an exemption from the landing obligation be applied to turbot in the Black Sea, as scientific evidences suggest high survival rates. Based on the scientific evidence provided in the joint recommendation and reviewed

³ OJ L 354, 28.12.2013, p. 22.

by the Scientific, Technical and Economic Committee for Fisheries (STECF)⁴, the survivability exemption allowed under Article 15(4)(b) of Regulation (EU) No 1380/2013 should be included in this Regulation for one year. The Member States concerned should submit relevant data to the Commission to allow STECF to fully assess the justifications for the exemption for turbot caught with the bottom set gillnets concerned and the Commission to review that exemption.

- (6) In order to ensure appropriate control, specific requirements for the Member States to establish a list of vessels covered by this Regulation should be laid down.
- (7) Since the measures provided for in this Regulation have a direct impact on the economic activities linked to and the planning of the fishing season of Union vessels, this Regulation should enter into force immediately after its publication. In accordance with the joint recommendation and taking into account the time-frame set out in Article 15(1) of Regulation (EU) No 1380/2013, this Regulation should apply from 1 January 2017,

HAS ADOPTED THIS REGULATION:

Article 1

Implementation of the landing obligation

The landing obligation provided for in Article 15(1) of Regulation (EU) No 1380/2013 shall apply in the Black Sea to the fisheries of turbot (*Psetta maxima*) caught with bottom-set gillnets (gear code⁵ GNS).

Article 2

Definition

For the purposes of this Regulation, 'Black Sea' means maritime waters in the General Fisheries Commission for the Mediterranean (GFCM) Geographical Sub-Area 29 as defined in Annex I to Regulation (EU) No 1343/2011 of the European Parliament and of the Council⁶.

⁴ Reports of the Scientific, Technical and Economic Committee for Fisheries (STECF) – Evaluation of the landing obligation joint recommendations (STECF-16-10). 2016. Publications Office of the European Union, Luxembourg, EUR XXXX EN, JRC XXXX, XXX pp. Available [here](#).

⁵ Gear codes used in this Regulation refer to those codes in Annex XI to Commission Implementing Regulation (EU) No 404/2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common fisheries policy. For the vessels whose LOA is less than 10 metres, gear codes used in this regulation refer to the codes from the FAO gear classification.

⁶ 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](#)).

Article 3
Survivability exemption

1. The exemption from the landing obligation pursuant to Article 15(4)(b) of Regulation (EU) No 1380/2013 for species for which scientific evidence demonstrates high survival rates shall apply in 2017 to turbot (*Psetta maxima*) caught with bottom-set gillnets (GNS) in the Black Sea.
2. Turbot (*Psetta maxima*) caught in the circumstances referred to in paragraph 1 shall be released immediately in the area where it has been caught.
3. By 1 May 2017, Member States having a direct management interest in the turbot fisheries in the Black Sea shall submit to the Commission additional discard data to those provided for in the Joint Recommendation of 4 July 2016 and any other relevant scientific information supporting the exemption laid down in paragraph 1. The Scientific, Technical and Economic Committee for Fisheries (STECF) shall assess those data referred in paragraph 3 by July 2017 at the latest.

Article 4
List of vessels

1. The Member States concerned shall determine the vessels subject to the landing obligation for the fisheries of turbot (*Psetta maxima*) caught with bottom-set gillnets (GNS).
2. By 31 December 2016, the Member States concerned shall submit to the Commission and to the other Member States, using the secure Union control website, the list of all vessels targeting turbot. They shall keep the list updated.

Article 5
Entry into force and application

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 2017 to 31 December 2019.

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

Done at Brussels, 20.10.2016

For the Commission
The President
Jean-Claude JUNCKER