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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:	16 August 2017
To:	Mr Jeppe TRANSHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2017) 424 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) No 1380/2013 on the Common Fisheries Policy

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Delegations will find attached document COM(2017) 424 final.

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Encl.: COM(2017) 424 final



Brussels, 11.8.2017  
COM(2017) 424 final

2017/0190 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Regulation (EU) No 1380/2013 on the Common Fisheries Policy**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

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

Regulation (EU) No 1380/2013<sup>1</sup> introduced the so-called landing obligation, i.e. the progressive obligation to land all catches for stocks under catch limits or under minimum conservation reference size. In principle, the details of the implementation of the landing obligation are to be defined in regional multi-annual management plans adopted through co-decision. However, since it was expected that the adoption of multi-annual plans would require some time, as a temporary solution, Regulation 1380/2013 provided for the adoption of Commission delegated acts establishing discard plans shaped through joint recommendation of the Member States concerned for a period of no more than three years. Discard plans may contain provisions on fisheries or species already covered by the landing obligation, or sometimes introducing it before the deadline envisaged by the Regulation (EU) No 1380/2013, providing for among others de minimis and high survivability exemptions, provisions on the documentation on catches and, where appropriate, the fixing of minimum conservation reference sizes.

The first Commission delegated regulations establishing discard plans entered into force on the 1 January 2015 and are expiring at the end of 2017. After the expiration of the initial three years period, Regulation 1380/2013 empowers the Commission to adopt delegated acts containing exclusively de minimis exemptions, since, in principle, the multi-annual plans should be used to achieve the objective of sustainable exploitation of marine biological resources reflecting the specificities of different fisheries and contain the necessary empowerments for the adoption of delegated acts including the other flexibilities required for the smooth implementation of the landing obligation.

To date, only the Baltic multiannual plan is in place<sup>2</sup>, whereas two Commission proposals for a multiannual plan for demersals in the North Sea and for small pelagics in the Adriatic are currently under negotiation between the co-legislators<sup>3</sup>. Against this background, it is necessary to set the empowerment of the Commission to adopt discard plans for a further total period of up to three years to facilitate the implementation of the landing obligation.

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<sup>1</sup> Regulation (EU) 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.

<sup>2</sup> Regulation (EU) 2016/1139 of the European Parliament and of the Council of 6 July 2016 establishing a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea and the fisheries exploiting those stocks, amending Council Regulation (EC) No 2187/2005 and repealing Council Regulation (EC) No 1098/2007, OJ L 191, 15.7.2016, p. 1.

<sup>3</sup> COM/2016/0493 final - 2016/0238 (COD) and COM/2017/097 final - 2017/043 (COD).

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

This proposal is linked to a fundamental provision of the reformed Common Fisheries Policy, the landing obligation. It is intended to facilitate its smooth implementation, by empowering the Commission to adopt through delegated act the necessary flexibilities, for as long as regional multi-annual plans adopted through co-decision are not in place.

- **Consistency with other Union policies**

By contributing to the smooth implementation of the landing obligation, which is intended to increase selectivity and reduce unwanted catches, the proposal contributes to environmental, social and economic sustainability, which are key objectives of several Union policies.

## 2. **LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

The legal basis of the proposal is article 43(2) of the Treaty on the Functioning of the European Union, according to which the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, may adopt provisions necessary for the pursuit of the objectives of the common fisheries policy.

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

Not applicable, as this proposal falls under exclusive EU competence.

- **Proportionality**

The proposal is merely intended to extend the empowerment of the Commission to adopt delegated acts establishing discard plans for an additional period of three years, because of the delay in the adoption of multi-annual plans. This extension is necessary and appropriate for the smooth implementation of the landing obligation. Given its strict timeframe, it does not raise any issues of proportionality.

- **Choice of the instrument**

Only a Regulation adopted by the European Parliament and by the Council may amend a regulation adopted by the European Parliament and by the Council through the ordinary legislative procedure in line with article 43(2) of the Treaty on the functioning of the European Union.

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

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

Not applicable

This is a simple temporary extension of Commission empowerment to adopt discard plans through delegated acts until multiannual plans covering also the implementation of the landing obligation at sea basin level and species in accordance with art 10(1)a of Regulation 1380/2013 are in place. An evaluation of the entire reformed Common Fisheries Policy is therefore not necessary.

- **Stakeholder consultations**

Although no formal consultation has been carried out because of the urgency of the issue, the Commission has received several letters both from national authorities and from stakeholders expressing their concerns about the current lack of empowerment to renew the discard plans that expire at the end of the year.

The landing obligation is an important paradigm shift and, as such, its implementation is very challenging for the sector. Against this background, it is necessary to ensure the possibility to put in place the necessary flexibilities to facilitate the phasing-in of the landing obligation.

An extensive public and expert consultation took place before the adoption of the Commission proposal for the reformed Common Fisheries Policy Regulation, including on the provisions related to the landing obligation.

- **Collection and use of expertise**

N/A

This is merely a temporary extension of Commission empowerment to adopt discard plans through delegated acts until multiannual plans covering also the implementation of the landing obligation at sea basin level are in place. An extensive public and expert consultation took place before the adoption of Commission proposal for the reformed Common Fisheries Policy Regulation, including on the provisions related to the landing obligation.

- **Impact assessment**

N/A

This is merely a temporary extension of Commission empowerment to adopt discard plans through delegated acts until multiannual plans covering also the implementation of the landing obligation at sea basin level are in place. Since the economic, environmental or social impact of the proposal is not significant, a new impact assessment is not required.

A full impact assessment was carried out before the adoption of Commission proposal for the reformed Common Fisheries Policy Regulation, including on the provisions related to the landing obligation.

- **Regulatory fitness and simplification**

N/A

- **Fundamental rights**

N/A

This is merely a temporary extension of Commission empowerment to adopt discard plans through delegated acts. It has no consequences for the protection of fundamental rights.

#### **4. BUDGETARY IMPLICATIONS**

N/A

This is merely a temporary extension of Commission empowerment to adopt discard plans through delegated acts. It has no budgetary implications.

#### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

In line with article 46 of Regulation 1380/2013, Commission must report regularly on the exercise of its delegated powers. Furthermore, the European Parliament and the Council may at any time revoke the empowerment.

- **Explanatory documents (for directives)**

N/A

This is a proposal for a regulation.

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

The proposal contain only one substantive provision, amending article 15(6) of Regulation 1380/2013 with a view to extending Commission empowerment to adopt discard plans through delegated acts for an additional period of three years, provided that there are no multi-annual plans in place for the sea basins concerned.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**amending Regulation (EU) No 1380/2013 on the Common Fisheries Policy**

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 Committee<sup>1</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Article 15(1) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council<sup>2</sup> establishes the obligation to land all catches of species which are subject to catch limits and, in the Mediterranean, also catches of species which are subject to minimum sizes ('landing obligation').
- (2) Multiannual plans referred to in Article 9 of Regulation (EU) No 1380/2013 and management plans referred to in Article 18 of Regulation (EC) No 1967/2006<sup>3</sup> are to lay down detailed provisions intended to facilitate the implementation of the landing obligation ('discard plans').
- (3) Article 15(6) of Regulation (EU) No 1380/2013 provides that, in the absence of multiannual plans or management plans, the Commission may adopt discard plans on a temporary basis and for a period of no more than three years.

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<sup>1</sup> OJ C , , p. .

<sup>2</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>3</sup> Council Regulation (EC) No 1967/2006 of 21 December 2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 1626/94 (OJ L 409, 30.12.2006, p. 11.)

- (4) Experience has demonstrated that the preparation and adoption of multiannual or management plans that include discard plans takes longer than was envisaged at the time of the adoption of Regulation (EU) No 1380/2013.
- (5) It is therefore appropriate to set the period for which the Commission may adopt discard plans in the absence of multiannual or management plans.
- (6) Regulation (EU) No 1380/2013 should be amended accordingly,

HAVE ADOPTED THIS REGULATION:

#### *Article 1*

In article 15 of Regulation (EU) No 1380/2013, paragraph 6 is replaced by the following:

"6. Where no multiannual plan, or no management plan in accordance with Article 18 of Regulation (EC) No 1967/2006, is adopted for the fishery in question, the Commission shall be empowered to adopt, in accordance with Article 18 of this Regulation, delegated acts in accordance with Article 46 of this Regulation, laying down on a temporary basis specific discard plans containing the specifications referred to in points (a) to (e) of paragraph 5 of this Article for an initial period of no more than three years that may be renewed for a further total period of three years. Member States may cooperate, in accordance with Article 18 of this Regulation, in the drawing up of such a plan with a view to the Commission adopting such acts or submitting a proposal in accordance with the ordinary legislative procedure".

#### *Article 2*

This Regulation shall enter into force on the third 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 European Parliament*  
*The President*

*For the Council*  
*The President*