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From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 20 October 2014

To: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European
Union

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Subject: COMMISSION DELEGATED REGULATION (EU) No .../.. of 20.10.2014
establishing a discard plan for certain small pelagic fisheries in the
Mediterranean Sea

Delegations will find attached document C(2014) 7550 final.

Encl.: C(2014) 7550 final



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COMMISSION DELEGATED REGULATION (EU) No .../..

of 20.10.2014

establishing a discard plan for certain small pelagic fisheries in the Mediterranean Sea

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

A central theme of the recently reformed Common Fisheries Policy (CFP)¹ is the progressive elimination of discards in all EU fisheries. This is designed to make better use of the available resources, and responds to public pressure to end the practice of throwing marketable fish back into the sea. The reformed policy also foresees increased regionalisation, which is intended both to move away from micromanagement at Union level, and also to ensure that rules are adapted to the specific characteristics of each fishery and sea area.

The landing obligation for some fisheries in the Mediterranean Sea is to apply as of 1 January 2015 at the latest, and so before multiannual plans under the new framework of the CFP are adopted (other fisheries will be covered as of 2017 or 2019 by virtue of art. 15(1)(d)). Moreover, no management plans in accordance with Article 18 of Regulation (EC) No 1967/2006² (the Mediterranean Regulation) have been adopted so far in the Mediterranean. However, Regulation (EU) No 1380/2013 on the CFP³ foresees the possibility to adopt on a temporary basis for a period no more than 3 years a specific discard plan to support the implementation of a landing obligation in the fisheries of the Mediterranean Sea. This proposal specifies the details for the implementation of the landing obligation in the Mediterranean Sea as circumscribed in Art 15(6) of Regulation (EU) No 1380/2013 (the Basic Regulation), by laying down specific provisions on certain species and fisheries subject to landing obligation and providing for de minimis exemptions.

In accordance with Art 18 of the Basic Regulation, the proposed delegated act is based on the joint recommendations (JR) developed and submitted to the Commission by the Member States concerned, namely Italy, France, Spain, Slovenia, Croatia, Greece and Malta. Cyprus, although having a direct fisheries management interest in the Mediterranean Sea, currently has no active fishery which would fall under the provisions of the landing obligation as from 1 January 2015. It is therefore not directly concerned by this proposal.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The fisheries administrations of the concerned Mediterranean Member States formally requested the Mediterranean Advisory Council (MEDAC) to contribute to the elaboration of a discard plan for the region. In order to facilitate this task, the MEDAC organised several working groups attended by the focal points of each Member State as well as by the relevant stakeholders representing the social, economic and environmental interests at stake. On the basis of this process, MEDAC produced an "Advice for a joint recommendation on discards management plan". The MEDAC advice was then circulated to the European Commission and to the relevant Member States on 9 June 2014 and on this basis Member States finalised their joint recommendations for discard plans transmitted to the Commission during the months of June and July 2014.

Elements related to the implementation of the landing obligation and specific provisions included in the joint recommendations for the Mediterranean Sea discard plan have been

¹ http://ec.europa.eu/fisheries/reform/index_en.htm

² OJ L 409, 30.12.2006, p.11.

³ OJ L 354, 28.01.2013, p.22.

discussed and reviewed by the Scientific Technical and Economic Committee for Fisheries (STECF).

Consultations with the stakeholders and scientific bodies are summarised in the table below:

STECF WG meetings on landing obligation in EU fisheries where the issue of the landing obligation in the Mediterranean was discussed	10-14 February 2014
MEDAC working group meeting (Barcelona, Spain)	4-5 March 2014
MEDAC ad hoc meeting (Rovinj, Croatia)	8 April 2014
MEDAC working group meeting (Portoroz, Slovenia)	7-9 May 2014
Informal meeting of concerned Member States (Luxembourg)	17 June 2014
STECF July plenary	7 - 11 July 2014

On the basis of the evaluation by STECF and by the Commission, the Commission considers that the JR submitted is in line with Art. 15(6) of Regulation (EU) No 1380/2013 as outlined above.

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 fisheries to which specific measures would apply and it fixes the level of de minimis exemptions applicable to avoid disproportionate costs of handling unwanted catches. In line with the joint recommendations received by Member States, this discard plan would apply to catches of all the species subject to minimum size in accordance with Annex III of Regulation (EC) No 1967/2006 caught in small pelagic fisheries using pelagic trawl and/or purse seines from 1 January 2015 (i.e. fisheries for anchovy, sardine, mackerel and horse mackerel).

- Legal basis

Articles 15(6) and 18(1) and (3) of Regulation (EU) No 1380/2013.

- 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

The proposed instrument is a 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. Member States having a direct management interest submitted their joint recommendations. Measures provided in the joint recommendations and included in this proposal are based on the best available scientific advice and fulfil all the relevant requirements set out in Article 18(5) of Regulation (EU) No 1380/2013.

COMMISSION DELEGATED REGULATION (EU) No .../..

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establishing a discard plan for certain small pelagic fisheries in the Mediterranean 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/EC¹, and in particular Articles 15(6) and 18(1) and (3) thereof,

Whereas:

- (1) Regulation (EU) No 1380/2013 aims to progressively eliminate discards in all Union fisheries through the introduction of a landing obligation for catches of species subject to catch limits.
- (2) Article 15(6) of Regulation (EU) No 1380/2013 empowers the Commission to adopt discard plans by means of a delegated act 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) Greece, Spain, France, Croatia, Italy, Malta and Slovenia have a direct fisheries management interest in the Mediterranean Sea. Those Member States have submitted joint recommendations² to the Commission after consultation of the Mediterranean Sea Advisory Council. 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 recommendations which comply with Article 15(6) of that Regulation should be included in this Regulation.
- (4) As regards the Mediterranean Sea, Article 15 of Regulation (EU) No 1380/2013 establishes a landing obligation for all catches of species which are subject to catch

¹ OJ L 354, 28.02.2013, p. 22

² "Discard management plan for Western Mediterranean Sea (GSAs 1-12 except for GSAs 3 and 4): joint recommendation agreed by fisheries directors of France, Spain and Italy", transmitted on 2 July 2014; "Discard management plan in North Adriatic Sea (GSA 17): joint recommendation by Croatia, Italy and Slovenia", transmitted on 25 June 2014; "Greek discard plan for pelagic fisheries in Aegean Sea and Crete island (GSAs 22 and 23)", transmitted on 30 June 2014; "Joint recommendation to the European Commission for a specific discard plan for pelagic fisheries in Southern Adriatic Sea, Western and Eastern Ionian Seas (GSAs 18-19-20)", transmitted by Greece and Italy on 25 June 2014; "Discard management plan for Malta and the South of Sicily (GSAs 15-16): joint recommendation agreed by Italy and Malta", transmitted on 19 June 2014.

limits and also for catches of species which are subject to minimum sizes as defined in Annex III to Council Regulation (EC) No 1967/2006³. According to Article 15(1)(a) of Regulation (EU) No 1380/2013, the landing obligation should apply in small pelagic fisheries, large pelagic fisheries and fisheries for industrial purposes at the latest from 1 January 2015.

- (5) In accordance with the joint recommendation, the discard plan should cover all catches of species which are subject to minimum sizes as defined in Annex III to Regulation (EC) No 1967/2006 caught in small pelagic fisheries using pelagic mid-water trawl and/or purse seines in the Mediterranean Sea (i.e. fisheries for anchovy, sardine, mackerel and horse mackerel) from 1 January 2015.
- (6) To avoid disproportionate costs of handling unwanted catches and in accordance with Article 15(5)(c)(ii) of Regulation (EU) No 1380/2013, it is appropriate to establish a de minimis exemption from the landing obligation in terms of percentage of the total annual catches of species subject to the landing obligation in small pelagic fisheries. The joint recommendations submitted by the concerned Member States support the case for the de minimis exemption, due to the increased costs entailed in the management of unwanted catches, both on board (sorting and boxing, storage and conservation) and on land (transport and storage, conservation, marketing and processing or destruction as special waste), compared to the limited and sometimes inexistent economic profit that could be derived from those unwanted catches. The evidence provided by the Member States was reviewed by the Scientific, Technical and Economic Committee for Fisheries (STECF) which concluded that the joint recommendations contained reasoned arguments related to the increase of costs in handling unwanted catches, supported in some cases with a qualitative assessment of the costs⁴. In light of the above and in the absence of differing scientific information, it is appropriate to establish the de minimis exemption in accordance with the percentage levels proposed in the joint recommendations and at levels not exceeding those allowed under Article 15(1)(c) of Regulation (EU) No 1380/2013
- (7) In accordance with the joint recommendations 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 2015. In accordance with Article 15(6) of that Regulation, it should apply for no more than 3 years,

HAS ADOPTED THIS REGULATION:

Article 1
Subject matter

³ 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 46th Plenary meeting report of the Scientific, Technical and Economic Committee for Fisheries (PLEN-14-02), 7-11 July 2014, Copenhagen, Edited by Norman Graham, John Casey & Hendrik Doerner, 2014.

This Regulation specifies the details for implementing the landing obligation, as provided for in Article 15(1) of Regulation (EU) No 1380/2013, from 1 January 2015 in the Mediterranean Sea, , to all catches of species which are subject to minimum sizes in the small pelagic fisheries set out in the Annex.

Article 2 **Definitions**

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

- (a) 'minimum size' means the minimum size of marine organisms as established in Annex III to Regulation (EC) No 1967/2006.

'Mediterranean Sea' means Maritime Waters of the Mediterranean to the East of line 5°36' West;
- (b) 'GFCM Geographical Sub-Area' means General Fisheries Commission for the Mediterranean (GFCM) Geographical Sub-Area as defined in Annex I to Regulation (EU) No 1343/2011 of the European Parliament and of the Council⁵
- (c) 'Western Mediterranean Sea' means GFCM Geographical Sub-Areas 1, 2, 5, 6, 7, 8, 9, 10, 11.1, 11.2, 12,
- (d) 'Northern Adriatic Sea' means GFCM Geographical Sub-Area 17
- (e) 'Southern Adriatic and Ionian Sea' means GFCM Geographical Sub-Areas 18, 19 and 20
- (f) 'Malta Island and South of Sicily' means GFCM Geographical Sub-Areas 15 and 16
- (g) 'Aegean Sea and Crete Island' means GFCM Geographical Sub-Area 22 and 23

Article 3

De minimis exemption

By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, the following quantities may be discarded:

- (a) in the Western Mediterranean Sea, up to 5% of the total annual catches of species subject to minimum sizes in the small pelagic mid-water trawl and purse seines fisheries set out in point 1 of the Annex;

⁵ 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).

- (b) in the Northern Adriatic Sea, up to 5% of the total annual catches of species subject to minimum sizes in the small pelagic mid-water trawl and purse seines fisheries set out in point 2 of the Annex;
- (c) in Southern Adriatic and Ionian Sea:
 - (i) up to 3% of the total annual catches of species subject to minimum sizes in the small pelagic purse seines fisheries and
 - (ii) up to 7% in 2015 and 2016 and up to 6% in 2017 of the total annual catches of species subject to minimum sizes in the small pelagic mid-water trawl fisheries, set out in point 3 of the Annex;
- (d) in the Malta Island and South of Sicily:
 - (i) up to 3% of the total annual catches of species subject to minimum sizes in the small pelagic purse seines fisheries; and
 - (ii) up to 7% in 2015 and 2016 and up to 6% in 2017 of the total annual catches of species subject to minimum sizes in the small pelagic mid-water trawl fisheries, set out in point 4 of the Annex;
- (e) in the Aegean Sea and Crete Island, up to 3% of the total annual catches of species subject to minimum sizes in the small pelagic purse seines fisheries set out in point 5 of the Annex.

Article 4

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2015 until 31 December 2017.

This Regulation shall be binding in its entirety and directly applicable in all Member States in accordance with the Treaties.

Done at Brussels, 20.10.2014

For the Commission
The President
José Manuel BARROSO