



Council of the  
European Union

Brussels, 23 November 2015  
(OR. en)

14467/15

PECHE 444  
DELECT 154

#### COVER NOTE

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

date of receipt: 20 November 2015

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of  
the European Union

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No. Cion doc.: C(2015) 8047 final

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Subject: COMMISSION DELEGATED REGULATION (EU) .../... of 20.11.2015  
amending Delegated Regulation (EU) 2015/98 on the implementation of  
the Union's international obligations, as referred to in Article 15(2) of  
Regulation (EU) No 1380/2013, under the International Convention for the  
Conservation of Atlantic Tunas and the Convention on Future Multilateral  
Cooperation in the Northwest Atlantic Fisheries

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Delegations will find attached document C(2015) 8047 final.

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Encl.: C(2015) 8047 final



Brussels, 20.11.2015  
C(2015) 8047 final

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

**of 20.11.2015**

**amending Delegated Regulation (EU) 2015/98 on the implementation of the Union's international obligations, as referred to in Article 15(2) of Regulation (EU) No 1380/2013, under the International Convention for the Conservation of Atlantic Tunas and the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE DELEGATED ACT

On 18 November 2014 the Commission adopted Commission Delegated Regulation (EU) 2015/98 on the implementation of the Union's international obligations, as referred to in Article 15(2) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council, under the International Convention for the Conservation of Atlantic Tunas and the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (hereafter the "Regulation"). The Regulation clarified in which cases the landing obligation set out in Article 15(1) of Regulation (EU) No 1380/2013 (hereafter the "Basic Regulation") did not apply (in respect to certain RFMOs recommendations/rules).

Following the entry into force of this Regulation, some missing elements were discovered in its scope and it is therefore necessary to amend the delegated regulation to rectify these omissions.

### 2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The standard procedure for delegated acts adoption has been followed. Experts from the Member States were consulted in a meeting in Brussels on 2 July 2015. Furthermore, stakeholders were consulted in writing during the month of July 2015.

As the delegated act is based on the empowerment provided in Article 15(2) of the Basic Regulation and does not present a new policy initiative, there was no need to carry out an impact assessment.

### 3. LEGAL ELEMENTS OF THE DELEGATED ACT

Following the entry into force of Commission Delegated Regulation 2015/98, some missing elements were discovered in its scope. It is therefore necessary to amend the Delegated Regulation to rectify these omissions. In particular, (i) Article 3 of Delegated Commission Regulation (EU) 2015/98 should be amended to include yellowfin tuna in addition to bigeye tuna; (ii) Article 4(2) of Commission Delegated Regulation (EU) 2015/98 should be amended to include minimum sizes below 30 kg or 115 cm set out in Council Regulation 302/2009; and (iii) Article 5(1) of Commission Delegated Regulation (EU) 2015/98 should be amended to cover all Atlantic Ocean.

#### *Legal basis*

Article 15(2) of the Regulation (EU) 1380/2013.

#### *Subsidiarity principle*

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

#### *Proportionality principle*

The proposal will ensure that the Union law, with regard to discards, is in line with its international obligations and that the Union complies with the decisions taken by the RFMOs to which the Union is contracting party. This will be done without exceeding what is necessary to achieve the objective pursued.

***Choice of instrument***

Proposed instrument: Commission delegated regulation correcting Commission Delegated Regulation 2015/98.

**4. BUDGETARY IMPLICATIONS**

This measure does not involve any additional Union expenditure.

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

of 20.11.2015

## amending Delegated Regulation (EU) 2015/98 on the implementation of the Union's international obligations, as referred to in Article 15(2) of Regulation (EU) No 1380/2013, under the International Convention for the Conservation of Atlantic Tunas and the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries

THE EUROPEAN COMMISSION,

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

Having regard to 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<sup>1</sup>, and in particular Article 15(2) thereof,

Whereas:

- (1) Paragraph 4 of Recommendation 14-01 of the International Commission for the Conservation of Atlantic Tunas ('ICCAT') on a multi-annual conservation and management programme for tropical tunas states that fishing vessels 20 meters length overall or greater not entered into the ICCAT record of authorised tropical tuna vessels are deemed not to be authorised to fish, retain on board, tranship, transport, transfer, process or land bigeye and/or yellowfin tunas from the ICCAT Convention area. Article 3 of Commission Delegated Regulation (EU) No 2015/98<sup>2</sup> exempts this ICCAT rule from the application of the landing obligation set out in Article 15(1) of Regulation (EU) No 1380/2013 but only with regard to bigeye tuna. As in practise by-catch of yellowfin tuna is possible in other fisheries not targeting yellowfin tuna that are subject to the landing obligation, Article 3 of the Delegated Regulation (EU) 2015/98 should be amended to cover yellowfin tuna in addition to bigeye tuna.
- (2) Article 4(2) of Delegated Regulation (EU) No 2015/98 provides for a derogation from the landing obligation for bluefin tuna below the minimum size set out in Article 9(1) of Council Regulation (EC) No 302/2009<sup>3</sup>. The minimum size set out in Article 9(1)

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<sup>1</sup> OJ L 354, 28.12.2013, p. 22.

<sup>2</sup> Commission Delegated Regulation (EU) No 2015/98 of 18 November 2014 on the implementation of the Union's international obligations, as referred to in Article 15(2) of Regulation (EU) No 1380/2013 of the European parliament and of the Council, under the International Convention for the Conservation of Atlantic Tunas and the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (OJ L 16, 23.01.2015, p. 23).

<sup>3</sup> Council regulation (EC) No 302/2009 of 6 April 2009 concerning a multiannual recovery plan for bluefin tuna in the eastern Atlantic and Mediterranean, amending Regulation (EC) No 43/2009 and repealing Regulation (EC) No 1559/2007 (OJ L 96, 15.4.2009, p. 6).

of Regulation (EC) No 302/2009 is 30 kg or 115 cm. However, Article 9(2) and (8) of that Regulation provide for a different minimum size for bluefin tuna caught in (i) the eastern Atlantic by baitboats and trolling boats; (ii) the Adriatic for farming purposes; and (iii) the Mediterranean by the coastal artisanal fishery for fresh fish by baitboats, longliners and handliners. Article 4(2) of Delegated Regulation (EU) 2015/98 should be amended to include the minimum sizes below 30 kg or 115 cm set out in Article 9(2) and (8) of Regulation (EC) No 302/2009.

- (3) Article 5 of Delegated Regulation (EU) 2015/98 provides for derogations from the landing obligation as regards swordfish (*Xiphias gladius*) in the North Atlantic Ocean. As paragraph 9 of ICCAT Recommendation 13-02 for the conservation of North Atlantic swordfish applies to swordfish taken or landed in the entire Atlantic Ocean, that Article should be amended to cover all Atlantic Ocean.
- (4) Delegated Regulation (EU) No 2015/98 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

Delegated Regulation (EU) 2015/98 is amended as follows:

- (1) Article 3 is replaced by the following:

#### *Article 3*

Bigeye and yellowfin tuna:

1. This Article shall apply to bigeye tuna (*Thunnus obesus*) and yellowfin tuna (*Thunnus albacares*) in the Atlantic Ocean.
  2. By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, fishing vessels 20 meters length overall or greater not entered into the ICCAT record of authorised bigeye and yellowfin tunas vessels shall not target, retain on board, tranship, transport, transfer, process or land bigeye and yellowfin tunas in the Atlantic Ocean."
- (2) In Article 4, paragraph 2 is replaced by the following:
    - "2. By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, it shall be prohibited to target, retain on board, tranship, transfer, land, transport, store, sell, display or offer for sale bluefin tuna :
      - (a) below the minimum size set out in Article 9(1) of Regulation (EC) No 302/2009; or,
      - (b) in situations referred to in Article 9(2) and (8) of Regulation (EC) No 302/2009, below the minimum sizes set out in that Article 9(2) and (8)."
  - (3) In Article 5, paragraph 1 is replaced by the following:

"1. This Article shall apply to swordfish (*Xiphias gladius*) in the Atlantic Ocean."

*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, 20.11.2015

*For the Commission*  
*The President*  
*Jean-Claude JUNCKER*

