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COM(2014) 719 final

2014/0341 (NLE)

Proposal for a

COUNCIL REGULATION

**fixing for 2015 the fishing opportunities for certain fish stocks and groups of fish stocks
in the Black Sea**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

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

Regulation (EC) No 1380/2013 of the European Parliament and the Council 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 seeks to ensure that living aquatic resources are exploited under sustainable economic, environmental and social conditions. One important tool in this respect is the annual fixing of fisheries opportunities in the form of total allowable catches (TACs), quotas and fishing effort limits.

The objective of this proposal is to fix, for the commercially most important fish stocks in the Black Sea, the fishing opportunities for Member States for 2015.

- **General context**

The Communication from the Commission on the consultation on fishing opportunities for 2015 (COM(2014) 388 final), outlines the background to the proposal.

The scientific advice on fishing opportunities in the Black Sea in 2015 was delivered by the Scientific, Technical and Economic Committee for Fisheries (STECF) on 31 October 2014.

The proposal contains one section of importance for the management of the Black Sea fisheries in 2015 which fixes the TACs and quotas.

- **Existing provisions in the area of the proposal**

Fishing opportunities and the way they are allocated to Member States are regulated annually. The latest such legal act is Council Regulation (EU) No 24/2014¹ of 10 January 2014 fixing for 2014 the fishing opportunities for certain fish stocks applicable in the Black Sea.

In addition to the annual fishing opportunities, the following measures relevant to the Black Sea fisheries covered by this proposal should be mentioned:

- Minimum conservation sizes and minimum mesh sizes regarding the turbot fishery in the Black Sea are established by Regulation (EU) No 227/2013 of the Council and the European Parliament of 13 March 2013² amending Council Regulation (EC) No 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms and Council Regulation (EC) No 1434/98 specifying conditions under which herring may be landed for industrial purposes other than direct human consumption.
- Recommendation GFCM/37/2013/2 establishing a set of minimum standards for bottom-set gillnet fisheries for turbot and conservation of cetaceans in the Black Sea

¹ OJ L 9, 14.01.2014, p.1.

² OJ L 78, 20.3.2013, p.1

adopted by the General Fisheries Commission for the Mediterranean (GFCM) in its 37th Session (Split, May 2013).

- **Consistency with other policies and objectives of the EU**

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

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

- **Collection and use of expertise**

Main organisations/experts consulted

The scientific organisation consulted is the Scientific, Technical and Economic Committee for Fisheries (STECF).

The Union asks STECF each year for scientific advice on the state of important fish stocks. The advice, delivered in October 2014, covers all Black Sea stocks for which TACs are proposed.

- **Consultation of interested parties**

Interested parties were consulted via the Communication from the Commission on the Consultation on fishing opportunities for 2015. The scientific basis for the proposal was provided by STECF.

- **Impact assessment**

Based on the scientific advice, the proposed measures will result in a change in fishing opportunities in terms of catch volumes for Union fishing vessels in the Black Sea.

The proposal reflects not only short-term concerns but is also part of a longer term approach whereby the level of fishing is gradually adapted to long-term sustainable levels.

The approach taken in the proposal might therefore, in the medium to long term, result in reduced fishing effort but stable or increasing quotas in the long term. The long-term consequences of the approach are expected to be a reduced impact on the environment as a consequence of the adaptation in fishing effort and unchanged or increased landings. The sustainability of fishing activities will increase in the long term.

3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The proposal establishes the catch limitations applicable in the Black Sea to Union fisheries, in order to achieve the objective of the Common Fisheries Policy of ensuring fisheries at levels that are biologically, economically and socially sustainable.

- **Legal basis**

Article 43(3) of the Treaty on the Functioning of the European Union.

- **Subsidiarity principle**

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

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason.

The Common Fisheries Policy is a common policy. According to Article 43(3) TFEU it is incumbent upon the Council to adopt the measures on the fixing and allocation of fishing opportunities.

The proposed Council Regulation allocates fishing opportunities to Member States. Having regard to Article 16(6) and (7) and Article 17 of Regulation 1380/2013, Member States are free to allocate such opportunities among vessels flying its flag as they see fit. Therefore, Member States have ample room for manoeuvre on decisions related to the social/economic model of their choice to exploit their allocated fishing opportunities.

The proposal has no new financial implications for Member States. This Regulation is adopted by Council every year, and the public and private means to implement it are already in place.

- **Choice of instruments**

Proposed instruments: Regulation.

This is a proposal for fisheries management on the basis of Article 43(3) TFEU and in accordance with Article 16 of Regulation (EU) No 1380/2013 .

4. BUDGETARY IMPLICATION

The proposal has no implications for the Union budget.

5. OPTIONAL ELEMENTS

- **Simplification**

The proposal continues to provide for simplification of administrative procedures for public authorities (EU or national), as it contains provisions similar to those of the 2014 Regulation on the fishing opportunities in the Black Sea.

- **Review/revision/sunset clause**

The proposal concerns an annual Regulation for the year 2015 and therefore does not include a revision clause.

- **Detailed Explanation**

The proposal fixes for 2015 the fishing opportunities for certain stocks or groups of stocks for Member States fishing in the Black Sea.

The landing obligation for stocks caught in certain fisheries starts to become applicable from 1 January 2015. In the Black Sea these fisheries cover small pelagic fisheries, namely, the fishery for sprat, which is one of the stocks under TACs and quotas in this Regulation.

With introduction of the landing obligation, in accordance with Article 16(2) of Regulation (EU) No 1380/2013, the fishing opportunities proposed shall reflect the change from amount landed to amount caught. This is done on the basis of the received scientific advice for the fish stocks in fisheries as referred to in Article 15(1) of Regulation (EU) No 1380/2013. The fishing opportunities should also be fixed in accordance with Articles 16(1) (referring to the principle of relative stability) and 16(4) (referring to the objectives of the Common Fisheries Policy and the rules provided for in multiannual plans). The proposed figures reflect the scientific advice and the framework for setting the TACs and quotas outlined in the Communication from the Commission on the Consultation on fishing opportunities for 2015.

Given the Commission's intention to ensure the sustainable use of fishery resources, in line with the Union's policy and international commitments while maintaining stable fishing opportunities, annual variations in TACs are limited as far as practicable taking account of the status of a given stock.

The TACs and quotas allocated to Member States are given in the Annex to the proposed Regulation.

In accordance with Article 2 of Council Regulation (EC) No 847/96³, it is proposed that Articles 3 and 4 do not apply to the stocks covered by this Regulation. However, in accordance with Article 15(9) of Regulation (EU) No 1380/2013 year-to-year flexibility envisaged therein applies to stocks covered by the landing obligation

³ Council Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of TACs and quotas (OJ L 115, 9.5.1996, p. 3).

Proposal for a

COUNCIL REGULATION

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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) Article 43(3) of the Treaty provides that the Council, on a proposal from the Commission, is to adopt measures on the fixing and allocation of fishing opportunities.
- (2) Regulation (EU) No 1380/2013 of the European Parliament and of the Council¹ requires that conservation measures be adopted taking into account available scientific, technical and economic advice, including, where relevant, reports drawn up by the Scientific, Technical and Economic Committee for Fisheries (STECF).
- (3) It is incumbent upon the Council to adopt measures on the fixing and allocation of fishing opportunities by fishery or group of fisheries in the Black Sea including certain conditions functionally linked thereto, as appropriate. In accordance with Article 16(1) and (4) of Regulation (EU) No 1380/2013 fishing opportunities should be distributed among Member States in such a way as to ensure relative stability of each Member State's fishing activities for each stock or fishery and in accordance the objectives of the Common Fisheries Policy established in Article 2(2) of that.
- (4) The total allowable catches (TACs) should be established on the basis of the available scientific advice, taking into account biological and socioeconomic aspects whilst ensuring fair treatment between fishing sectors, as well as in the light of the opinions expressed during the consultation of stakeholders.
- (5) For sprat fisheries the landing obligation referred to in Article 15(1) of Regulation (EU) No 1380/2013 applies from 1 January 2015. Article 16(2) of that Regulation provides that, when the landing obligation is introduced in respect of a fish stock, fishing opportunities are to be fixed taking into account the change from fixing fishing opportunities that reflect landings to fixing fishing opportunities that reflect catches.

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).

- (6) The use of fishing opportunities set out in this Regulation is subject to Council Regulation (EC) No 1224/2009² and in particular to Articles 33 and 34 thereof concerning the recording of catches and the notification of data on the exhaustion of fishing opportunities. It is therefore necessary to specify the codes to be used by the Member States when sending data to the Commission relating to landings of stocks subject to this Regulation.
- (7) In accordance with Article 2 of Council Regulation (EC) No 847/96³, the stocks that are subject to the various measures referred to therein must be identified.
- (8) In order to avoid interruption of fishing activities and to ensure the livelihood of Union fishermen, it is important to open the fisheries concerned in the Black Sea on 1 January 2015. For reasons of urgency, this Regulation should enter into force immediately after its publication,

HAS ADOPTED THIS REGULATION:

CHAPTER I

Scope and definitions

Article 1 **Subject matter**

This Regulation fixes the fishing opportunities for 2015 for certain fish stocks in the Black Sea.

Article 2 **Scope**

This Regulation shall apply to Union fishing vessels operating in the Black Sea.

Article 3 **Definitions**

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

- (a) “GFCM” means General Fisheries Commission for the Mediterranean;

² Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p.1).

³ Council Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of TACs and quotas (OJ L 115, 9.5.1996, p. 3).

- (b) “Black Sea” means the geographical sub-area 29 as defined in Annex I to Regulation (EU) No 1343/2011 of the European Parliament and the Council⁴;
- (c) 'fishing vessel' means any vessel equipped for commercial exploitation of marine biological resources;
- (d) “Union fishing vessel” means a fishing vessel flying the flag of a Member State and registered in the Union;
- (e) "stock" means a marine biological resource that occurs in a given management area;
- (f) “total allowable catch (TAC)” means the quantity of each stock that can be;
 - (i) caught over the period of a year, in the case of fisheries subject to a landing obligation pursuant to Article 15 of Regulation (EU) No 1380/2013; or
 - (ii) landed over the period of a year, in the case of fisheries not subject to a landing obligation pursuant to Article 15 of Regulation (EU) No 1380/2013;
- (g) “quota” means a proportion of the TAC allocated to the Union, a Member State or a third country.

CHAPTER II

Fishing opportunities

Article 4

TACs and allocation

The TACs for Union fishing vessels, the allocation of such TACs among Member States, and the conditions functionally linked thereto, where appropriate, are set out in the Annex.

Article 5

Special provisions on allocations

The allocation of fishing opportunities among Member States as set out in this Regulation shall be without prejudice to:

- (a) exchanges made pursuant to Article 16(8) of Regulation (EU) No 1380/2013;
- (b) deductions and reallocations made pursuant to Article 37 of Regulation (EC) No 1224/2009;
- (c) additional landings allowed under Article 15(9) of Regulation (EU) No 1380/2013;

⁴ 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).

- (d) quantities transferred in accordance with Article 15(9) of Regulation (EU) No 1380/2013;*[aligned with the Baltic proposal]*
- (e) deductions made pursuant to Articles 105 and 107 of Regulation (EC) No 1224/2009.

Article 6

Conditions for landing catches and by-catches not subject to the landing obligation

Catches and by-catches taken in the turbot fishery shall be retained on board or landed only if they have been taken by Union fishing vessels flying the flag of a Member State having a quota and that quota is not exhausted.

CHAPTER III

Final provisions

Article 7

Data transmission

When, pursuant to Articles 33 and 34 of Regulation (EC) No 1224/2009, Member States send the Commission data relating to landings of quantities of stocks caught, they shall use the stock codes set out in the Annex to this Regulation.

Article 8

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*.

It shall apply from 1 January 2015.

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

Done at Brussels,

For the Council
The President