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Subject: Proposal for a Regulation of the European Parliament and of the Council on the
Common Fisheries Policy
- *General approach*

At its meeting on 12 June 2012, the "Agriculture and Fisheries" Council reached a general approach on the above proposal, as it appears in the Annex. Recitals and definitions will be further examined at a later stage, as well as text in brackets and the correct choice of the implementation procedure (delegated act/implementing act).

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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 Commission¹,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European and Social Committee²,

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

Whereas: [†]

- (1) Council Regulation (EC) No 2371/2002³ established a Community system for the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy.
- (2) The scope of the Common Fisheries Policy extends to conservation, management and exploitation of marine biological resources. In addition, the Common Fisheries Policy's scope extends in relation to market measures and financial measures in support of its objectives, to fresh water biological resources and aquaculture, as well as to the processing and marketing of fishery and aquaculture products, where such activities take place on the territory of Member States, or in Union waters, including by fishing vessels flying the flag of, and registered in, third countries, or by Union fishing vessels, or by nationals of Member States, without prejudice to the primary responsibility of the flag State, bearing in mind the provisions of Article 117 of the United Nations Convention on the Law of the Sea.

¹ OJ

² OJ

[†] *[Recitals will have to be adapted to the compromise on the enacting part]*

³ OJ L 358, 31.12.2002, p. 59

- (3) The Common Fisheries Policy should ensure that fishing and aquaculture activities contribute to long-term sustainable environmental, economic, and social conditions. It should contribute moreover to increased productivity, a fair standard of living for the fisheries sector ***including small scale fisheries***, stable markets, ensure the availability of resources and that supplies reach consumers at reasonable prices.
- (4) The Union is a Contracting Party to the United Nations Convention on the Law of the Sea of 10 December 1982 (UNCLOS)⁴ and it has ratified the United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 August 1995 (UN Fish Stocks Agreement)⁵. It has also accepted the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas of 24 November 1993 of the Food and Agriculture Organisation of the United Nations (FAO Compliance Agreement)⁶. These international instruments predominantly foresee conservation obligations, including among other things obligations to take conservation and management measures designed to maintain or restore marine resources at levels which can produce the maximum sustainable yield both within sea areas under national jurisdiction and on the high seas, and to cooperate with other States to this end, obligations to apply the precautionary approach widely to conservation, management and exploitation of fish stocks, obligations to ensure compatibility of conservation and management measures where marine resources occur in sea areas of different jurisdictional status and obligations to have due regard to other legitimate uses of the seas. The Common Fisheries Policy should contribute to the Union's proper discharge of its international obligations under these international instruments. Where Member States adopt conservation and management measures, for which they have been empowered in the framework of the Common Fisheries Policy, they should also act in a manner which is fully consistent with the international conservation and cooperation obligations under the said international instruments.

⁴ OJ L 179, 23.06.1998, p. 1

⁵ OJ L 189, 3.7.1998, p. 14

⁶ OJ L 177, 16.7.1996, p. 24

- (5) At the World Summit on Sustainable Development at Johannesburg in 2002, the Union and its Member States committed to act against the continued decline of many fish stocks. Therefore, the Union should improve its Common Fisheries Policy to ensure that as a matter of priority exploitation levels of marine biological resources stocks are restored and maintained at levels capable of producing maximum sustainable yields from the populations of harvested stocks by 2015. Where less scientific information is available, this may require applying proxies to maximum sustainable yield.
- (6) Fisheries targets were laid down in the Decision by the Conference of the Parties to the Convention on Biological Diversity on the Strategic Plan for Biodiversity 2011 – 2020⁷, the Common Fisheries Policy should ensure coherence with the biodiversity targets adopted by the European Council⁸, and the targets of Commission Communication "Our life insurance, our natural capital: an EU Biodiversity Strategy to 2020"⁹, in particular to achieve maximum sustainable yield by 2015.
- (7) Sustainable exploitation of marine biological resources should be based on the precautionary approach, which is to be derived from the precautionary principle referred to in the first subparagraph of Article 191(2) of the Treaty.
- (8) The Common Fisheries Policy should contribute to the protection of the marine environment and in particular to the achievement of good environmental status by 2020 the latest as set out in Article 1(1) of Directive 2008/56/EC of the European Parliament and the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive)¹⁰.
- (9) An ecosystem based approach to fisheries management needs to be implemented, environmental impacts of fishing activities should be limited and unwanted catches should be minimised and progressively eliminated.

⁷ COP Decision X/2

⁸ EU CO 7/10 of 26 March 2010.

⁹ COM(2011)244

¹⁰ OJ L 164, 25.6.2008, p. 19.

- (10) It is important that the management of the Common Fisheries Policy is guided by principles of good governance. Those principles include decision-making based on best available scientific advice, broad stakeholder involvement and a long-term perspective. The successful management of the Common Fisheries Policy also depends on a clear definition of responsibilities at Union, national, regional and local levels and on the mutual compatibility and consistency of the measures taken with other Union policies.
- (11) The Common Fisheries Policy should pay full regard, where relevant, to animal health, animal welfare, food and feed safety.
- (12) Implementation of the Common Fisheries Policy should take into account interactions with other maritime affairs as addressed by the Integrated Maritime Policy¹¹, recognizing that all matters related to Europe's oceans and seas are interlinked, including maritime spatial planning. Coherence and integration should be ensured in the management of different sectoral policies within the Baltic Sea, North Sea, Celtic Seas, Bay of Biscay and the Iberian Coast, Mediterranean and Black Sea sea basins.
- (13) Union fishing vessels should have equal access to Union waters and resources subject to the rules of the CFP.
- (14) Rules in place restricting access to resources within the 12 nautical mile zones of Member States have operated satisfactorily benefiting conservation by restricting fishing effort in the most sensitive part of Union waters. Those rules have also preserved traditional fishing activities on which the social and economic development of certain coastal communities is highly dependent. Those rules should therefore continue to apply.

¹¹ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on an Integrated Maritime Policy for the European Union, COM(2007)575final.

- (15) Marine biological resources around the Azores, Madeira and the Canary Islands should continue to be especially protected since they contribute to the preservation of the local economy of these islands, having regard to the structural, social and economic situation of those islands. The limitation of certain fishing activities in those waters to fishing vessels registered in the ports of the Azores, Madeira and the Canary Islands should therefore be maintained.
- (16) The objective of sustainable exploitation of marine biological resources is more effectively achieved through a multi-annual approach to fisheries management, establishing as a priority multi-annual plans reflecting the specificities of different fisheries.
- (17) Multi-annual plans should where possible cover multiple stocks where those stocks are jointly exploited. The multiannual plans should establish the basis for fixing fishing opportunities and quantifiable targets for the sustainable exploitation of stocks and marine ecosystems concerned, defining clear timeframes and safeguard mechanisms for unforeseen developments.
- (18) Measures are needed to reduce and eliminate the current high levels of unwanted catches and discards. Indeed, unwanted catches and discards constitute a substantial waste and affect negatively the sustainable exploitation of marine biological resources and marine ecosystems as well as the financial viability of fisheries. An obligation to land all catches of managed stocks caught during fishing activities in Union waters or by Union fishing vessels should be established and gradually implemented.
- (19) Landings of unwanted catches should not result in full economic advantages for the operator. For landings of catches of fish under the minimum conservation reference size, the destination of such catches should be limited and exclude sale for human consumption.
- (20) For the sake of conservation of stocks clear objectives should be applied with respect to certain technical measures.
- (21) For stocks for which no multi-annual plan has been established, exploitation rates delivering maximum sustainable yield should be ensured by setting catch and/or fishing effort limits.

- (22) In view of the precarious economic state of the fishing industry and the dependence of certain coastal communities on fishing activities, it is necessary to ensure the relative stability of fishing activities by allocating fishing opportunities among Member States, based on a predictable share of stocks for each Member State.
- (23) Such relative stability of fishing activities, given the temporary biological situation of stocks, should safeguard the particular needs of regions where local communities are especially dependent on fisheries and related activities as decided by the Council in its Resolution of 3 November 1976, on certain external aspects of the creation of a 200-mile fishing zone in the Community¹² with effect from 1 January 1977, and in particular Annex VII thereto. Therefore, it is in this sense that the concept of relative stability aimed at should be understood.
- (24) Member States should be in a position to present substantiated requests to the Commission to draw up measures under the Common Fisheries Policy for measures identified by Member States as necessary to comply with obligations as regards Special Protection Areas pursuant to Article 4 of Council Directive 2009/147/EC of 30 November 2009 on the conservation of wild birds¹³, Special Areas of Conservation pursuant to Article 6 of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora¹⁴ and marine protected areas pursuant to Article 13(4) of Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive)¹⁵.
- (25) The Commission should be able to adopt temporary measures in the event of a serious threat, requiring immediate action, to the conservation of marine biological resources or to the marine ecosystem resulting from fishing activities.

¹² OJ C 105, 7.5.1981, p.1.

¹³ OJ L 103, 25.04.1979, p. 1.

¹⁴ OJ L 206, 22.07.1992, p. 7.

¹⁵ OJ L 164, 25.06.2008, p. 19

- (26) Member States should be able to adopt conservation measures and technical measures for the implementation of the Common Fisheries Policy to allow for the policy to better address the realities and specificities of individual fisheries and to increase the adherence to the policy.
- (27) In their 12 nautical mile zone, Member States should be allowed to adopt conservation and management measures applicable to all Union fishing vessels, provided that, where such measures apply to Union fishing vessels from other Member States, the measures adopted are non-discriminatory, prior consultation of other interested Member States has taken place and that the Union has not adopted measures specifically addressing conservation and management within that 12 nautical mile zone.
- (28) Member States should be allowed to adopt conservation and management measures for stocks in Union waters applicable solely to Union fishing vessels flying their flag.
- (29) A system of transferable fishing concessions for the majority of managed stocks under the Common Fisheries Policy should be implemented no later than 31 December 2013 for all vessels of 12 meters' length or over and all other vessels fishing with towed gears. Member States may exclude vessels up to 12 meters' length other than vessels using towed gear from transferable fishing concessions. Such a system should contribute to industry-induced fleet reductions and improved economic performance while at the same time creating legally secure and exclusive transferable fishing concession of a Member State's annual fishing opportunities. Since marine biological resources are a common good, transferable fishing concessions should only establish user entitlements to a Member State's part of annual fishing opportunities which may be recalled according to established rules.
- (30) Fishing concessions should be transferable and leasable in order to decentralise management of fishing opportunities towards the fishing industry and ensuring that fishers leaving the industry will not need to rely on public financial assistance under the Common Fisheries Policy.

- (31) Specific characteristics and socio-economic vulnerability of some small-scale fleets justify the limitation of the mandatory system of transferable fishing concessions to large vessels. The system of transferable fishing concessions should apply to stocks for which fishing opportunities are allocated.
- (32) For Union fishing vessels not operating under a system of transferable fishing concessions, specific measures may be taken to align the number of Union fishing vessels with available resources. Such measures should set compulsory maximum fleet capacity ceilings and establish national entry/exit schemes in relation to decommissioning funding granted under the European Fisheries Fund.
- (33) Member States should record the minimum information on characteristics and activities of Union fishing vessels flying their flag. Those records should be made available to the Commission for the purpose of monitoring the size of Member States' fleets.
- (34) Fisheries management based on the best available scientific advice requires harmonised, reliable and accurate data sets. Therefore Member states should collect data on fleets and their fishing activities, in particular biological data on catches, including discards, survey information on fish stocks and on the potential environmental impact of fishing activities on the marine ecosystem.
- (35) Data collection should include data which facilitate the economic assessment of undertakings active in the fisheries sector, in aquaculture and in the processing of fisheries and aquaculture products and of employment trends in these industries.
- (36) Member States should manage and make available to end-users of scientific-data the collected data, on the basis of a multi-annual Union program. Member States should also cooperate with each other to coordinate data collection activities. Where relevant, Member States should also cooperate with third countries within the same sea basin regarding data collection.
- (37) Policy-oriented fisheries science should be reinforced by means of nationally-adopted fisheries scientific data collection, research and innovation programs in coordination with other Member States as well as by Union research and innovation framework tools.

- (38) The Union should promote the objectives of the Common Fisheries Policy internationally. To this end, the Union should strive to improve the performance of regional and international organisations in conservation and management of international fish stocks, by promoting decision-making based on science and improved compliance, increased transparency and stakeholder participation, and by combating illegal, unreported and unregulated (IUU) fishing activities.
- (39) Sustainable fisheries agreements concluded with third countries should ensure that Union fishing activities in third country waters are based on the best available scientific advice, ensuring a sustainable exploitation of the marine biological resources. Those agreements, which provide for access rights in exchange for a financial contribution from the Union, should contribute to the establishment of a high quality governance framework to ensure in particular efficient monitoring, control and surveillance measures.
- (40) The introduction of a human rights clause in sustainable fisheries agreements should be fully consistent with the overall Union development policy objectives.
- (41) Respect for democratic principles and human rights, as laid down in the Universal Declaration of Human Rights and other relevant international human rights instruments, and for the principle of the rule of law, should constitute an essential element of Sustainable Fisheries Agreements and be subject to a specific human rights clause.
- (42) Aquaculture should contribute to the preservation of the food production potential on a sustainable basis throughout the Union so as to guarantee long-term food security for European citizens and to contribute to the growing world aquatic food demand.
- (43) The Commission's Strategy for the Sustainable Development of European Aquaculture¹⁶ adopted in 2009, which was welcomed and endorsed by the Council and welcomed by the European Parliament, noted the need for the creation and promotion of a level-playing field for aquaculture as the basis for its sustainable development.

¹⁶ COM(2009)162final.

- (44) The Common Fisheries Policy should contribute to Europe 2020 Strategy for smart, sustainable and inclusive growth, and help achieve the objectives set out in that strategy¹⁷.
- (45) Aquaculture activities in the Union are influenced by different conditions across national borders, including as regards authorisations for the operators, Union strategic guidelines for national strategic plans should be developed to improve the competitiveness of the aquaculture industry, supporting its development and innovation, and encouraging economic activity, diversification and improving the quality of life in coastal and rural areas, as well as mechanisms to exchange among Member States information and best practices through an open method of coordination of national measures concerning business security, access to Union waters and space, and administrative simplification of licensing.
- (46) The specific nature of aquaculture requires an Advisory Council for stakeholder consultation on elements of Union policies which could affect aquaculture.
- (47) There is a need to strengthen the competitiveness of the Union fishery and aquaculture sector, and a call for simplification in support of better management of production and marketing activities of the sector; the Common Market Organisation for fishery and aquaculture products should ensure a level-playing field for all fishing and aquaculture products marketed in the Union, should enable consumers to make better informed choices and support responsible consumption, and should improve the economic knowledge and understanding of the Union markets along the supply chain.
- (48) The Common Market Organisation should be implemented in compliance with international commitments of the Union, in particular with regard to the provisions of the World Trade Organisation. The success of the common fisheries policy requires an effective system of control, inspection and enforcement, including the fight against IUU fishing activities. A Union system for control, inspection, and enforcement should be established so as to ensure compliance with the Common Fisheries Policy's rules.

¹⁷ COM(2010) 2020final

- (49) The use of modern technologies should be promoted in the framework of the Union system for control, inspection, and enforcement. Member States or the Commission should have the possibility to conduct pilot projects on new control technologies and data management systems.
- (50) To ensure the involvement of concerned operators in the Union system for control, inspection, and enforcement, Member States should be able to require the holders of a fishing licence of Union fishing vessels of 12 meters length over all or more flying their flag to contribute proportionally to the costs of that system.
- (51) The objectives of the Common Fisheries Policy cannot be sufficiently achieved by Member States given the problems encountered in the development of the fishing industry and its management, and the limits on the financial resources of the Member States. Therefore, multiannual Union financial assistance focused on the priorities of the Common Fisheries Policy should be granted to contribute to the achievement of those objectives.
- (52) Union financial assistance should be made conditional upon compliance by Member States and operators with the Common Fisheries Policy. Thus such financial assistance should be interrupted, suspended or corrected in cases of non-compliance with the rules of Common Fisheries Policy by Member States and serious infringements of those rules by operators.
- (53) Dialogue with stakeholders has proven essential for the achievement of the objectives of the Common Fisheries Policy. Taking into account the diverse conditions throughout Union waters and increased regionalisation of the Common Fisheries Policy, Advisory Councils should enable the Common Fisheries Policy to benefit from the knowledge and experience of all stakeholders.
- (54) It appears appropriate that the Commission be empowered by delegated acts to create a new Advisory Council and to modify areas of competence of existing ones, in particular considering the specificities of the Black Sea.

- (55) To achieve the objectives of the Common Fisheries Policy, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission for the purpose of specifying fishing related measures to alleviate the impact of fishing activities in special areas of conservation, adaptation of the obligation to land all catches for the purpose of complying with the Union's international obligations, default conservation measures in the framework of multiannual plans or technical measures, the recalculation of fleet capacity ceilings, definition of information on characteristics and activity for Union fishing vessels, rules for carrying out pilot projects on new control technologies and data management systems, amendments to Annex III in relation to the areas of competence for Advisory Councils and the compositioning and functioning of Advisory Councils.
- (56) It is of particular importance that the Commission carry out appropriate consultations during its preparatory work for the adoption of delegated acts, including at expert level.
- (57) The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.
- (58) In order to ensure uniform conditions for the implementation of technical operational requirements for the modalities for transmission of information related to fishing fleet registers and to data requirements for fisheries management, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers¹⁸.
- (59) To achieve the basic objective of the Common Fisheries Policy, namely to provide long-term sustainable environmental, economic and social conditions for the fishing and aquaculture sectors, and to contribute to the availability of food supplies, it is necessary and appropriate to lay down rules on the conservation and exploitation of marine biological resources.

¹⁸ OJ L 55, 28.2.2011, p. 13.

- (60) In accordance with the principle of proportionality as set out in Article 5 of the Treaty on European Union, this Regulation does not go beyond what is necessary to achieve that objective.
- (61) Council Decision No 2004/585/EC of 19 July 2004 establishing Regional Advisory Councils under the Common Fisheries Policy¹⁹ should be repealed upon entry in force of the corresponding rules pursuant to this Regulation.
- (62) Regulation (EC) 199/2008 of 25 February 2008 concerning the establishment of a Community framework for the collection, management and use of data in the fisheries sector and support scientific advice regarding the common fisheries policy²⁰ should be repealed, but should continue to apply to the national programmes adopted for the collection and management of data for the years 2011 – 2013.
- (63) By reason of the number and importance of the amendments to be made, Council Regulation (EC) No 2371/2002 should be repealed,

¹⁹ OJ L 256, 3.8.2004, p. 17.

²⁰ OJ L 60, 5.3.2008, p. 1.

HAVE ADOPTED THIS REGULATION:

PART I

GENERAL PROVISIONS

Article 1

Scope

1. The Common Fisheries Policy shall cover:
 - (a) conservation, management and exploitation of marine biological resources; and
 - (b) ***in relation to measures on markets and financial measures in support of the Common Fisheries Policy***: fresh water biological resources, aquaculture, and the processing and marketing of fisheries and aquaculture products.
2. The Common Fisheries Policy shall cover the activities referred to in paragraph 1 where they are carried out:
 - (a) on the territory of Member States ***to which the Treaty applies***; or
 - (b) in Union waters, including by fishing vessels flying the flag of, and registered in, third countries; or
 - (c) by Union fishing vessels outside Union waters; or
 - (d) by nationals of Member States, without prejudice to the primary responsibility of the flag State.

Article 2

Objectives

1. The Common Fisheries Policy shall ensure that fishing and aquaculture activities provide long-term sustainable environmental, economic and social conditions and contribute to the availability of food supplies.

2. The Common Fisheries Policy shall apply the precautionary approach to fisheries management, and shall aim to ensure that exploitation of living marine biological resources restores and maintains populations of harvested species ***at least at*** levels which can produce the maximum sustainable yield. ***This exploitation rate shall be achieved by 2015, where possible, and by 2020 for all stocks at the latest.***

2bis Where stocks of common interest are shared with third countries, the exploitation rates referred to in paragraph 2 shall be the basis for consultations with those third countries and, where possible agreement with them.

3. The Common Fisheries Policy shall implement the ecosystem-based approach to fisheries management to ensure that ***negative*** impacts of fishing activities on the marine ecosystem are ***minimised***.
4. ***The*** Common Fisheries Policy shall in particular:
- (a) ***gradually*** eliminate ***discards on a case-by-case basis and taking into account the best available scientific advice by reducing*** unwanted catches and gradually ***ensuring*** that catches are landed;
 - (b) provide conditions for ***making the fishing capture and processing industry more*** economically viable and competitive;
 - (c) promote the development of Union ***sustainable*** aquaculture activities to contribute to food ***supplies*** and employment;
 - (d) contribute to a fair standard of living for those who depend on fishing activities, ***bearing in mind coastal fisheries and socio-economic aspects***;
 - (e) ***ensure an efficient and transparent internal market for fisheries and aquaculture products, taking*** into account the interests of ***both producers and*** consumers;
 - (f) ***aim at equal conditions for competition in the processing and trade in fisheries and aquaculture products***;

- (g) *be coherent with the Union environmental legislation, in particular the objective of achieving a good environmental status by 2020, as well as with other Union policies.*

Article 4

Principles of good governance

The Common Fisheries Policy shall be guided by the following principles of good governance:

- (a) clear definition of responsibilities at the Union, *regional*, national and local levels;
- (b) *reliance on systematic and harmonised data collection and management, with a view to ensuring relevant and high-quality data, and* establishment of measures in accordance with the best available scientific advice;
- (c) a long-term perspective;
- (d) *taking into account regional specificities through a regionalized approach;*
- (e) broad involvement of stakeholders, *in particular of the Advisory Councils*, at all stages from conception to implementation of the measures;
- (f) the primary responsibility of the flag State;
- (g) consistency with other Union policies.

Article 5
Definitions[†]

For the purpose of this Regulation the following definitions shall apply:

- (1) 'Union waters' means the waters under the sovereignty or jurisdiction of the Member States with the exception of the waters adjacent to the territories listed in Annex II to the Treaty;
- (2) 'marine biological resources' means available and accessible living marine aquatic species, including anadromous and catadromous species *during their marine life*;
- (3) 'fresh water biological resources' means available and accessible living fresh water aquatic species;
- (4) 'fishing vessel' means any vessel equipped for commercial fishing of marine biological resources;
- (5) 'Union fishing vessel' means a fishing vessel flying the flag of a Member State and registered in the Union;
- (6) 'maximum sustainable yield' means the maximum catch that may be taken from a fish stock indefinitely;
- (7) 'precautionary approach to fisheries management' means an approach according to which the absence of adequate scientific information should not justify postponing or failing to take management measures to conserve target species, associated or dependent species and non-target species and their environment;
- (8) 'ecosystem-based approach to fisheries management' means an approach ensuring that benefits from living aquatic resources are high while the direct and indirect impacts of fishing operations on marine ecosystems are low and not detrimental to the future functioning, diversity and integrity of those ecosystems;

[†] *[Definitions are only rudimentarily covered by this compromise and will have to be adapted to final compromise on the main parts]*

- (9) 'fishing mortality rate' means the catches of a stock over a given period as a proportion of the average stock available to the fishery in that period;
- (10) 'stock' means a marine biological resource with distinctive characteristics that occurs in a given management area;
- (11) 'catch limit' means a quantitative limit on ***catches*** of a fish stock or group of fish stocks ***subject to an obligation to land***, over a given period, ***and a quantitative limit on landings of a fish stock or group of fish stocks over a given period for which an obligation to land does not apply***;
- (12) '***unwanted catches***' means ***catches of species below minimum conservation reference size or minimum landing size, or of prohibited species, or of species subject to catch limits for which a Member State and/or a fisherman does not or does no longer have a quota***;
- (13) 'conservation reference point' means values of fish stock population parameters (such as biomass or fishing mortality rate) used in fisheries management, for example with respect to an acceptable level of biological risk or a desired level of yield;
- (14) 'safeguard' means a precautionary measure designed to protect or prevent something undesirable occurring;
- (15) 'technical measures' means the measures that regulate the species composition, size composition of catches and impacts on components of the ecosystems resulting from fishing activities through conditioning the use and structure of fishing gear and restriction of access to fishing areas;
- (16) 'fishing opportunities' ***shall include*** a quantified legal entitlement to ***carry out specific fishing activities***, expressed in terms of catches and/or fishing effort ***or similar quantifications of the fishing activity***, and ***shall include*** conditions functionally linked thereto which are necessary to quantify them at a certain level ***or otherwise necessary for the fishing opportunities to be effective and workable***;

- (17) 'fishing effort' means the product of the capacity and the activity of a fishing vessel; for a group of fishing vessels it is the sum of the fishing effort of all vessels in the group;
- (18) 'transferable fishing concessions' means revocable user entitlements to a specific part of fishing opportunities allocated to a Member State or established in management plans adopted by a Member State in accordance with Article 19 of Regulation (EC) No 1967/2006²¹, which the holder may transfer to other eligible holders of such transferable fishing concessions;
- (19) 'individual fishing opportunities' means annual fishing opportunities allocated to holders of transferable fishing concessions in a Member State on the basis of the proportion of fishing opportunities pertaining to that Member State;
- (20) 'fishing capacity' means a vessel's tonnage in GT (Gross Tonnage) and its power in kW (Kilowatt) as defined in Articles 4 and 5 of Council Regulation (EEC) No 2930/86²²;
- (21) 'aquaculture' means the rearing or cultivation of aquatic organisms using techniques designed to increase the production of the organisms in question beyond the natural capacity of the environment, where the organisms remain the property of a natural or legal person throughout the rearing and culture stage, up to and including harvesting;
- (22) 'fishing licence' means a licence as referred to in Article 4(9) of Regulation (EC) No 1224/2009;
- (23) 'fishing authorisation' means an authorisation as referred to in Article 4(10) of Regulation (EC) No 1224/2009;
- (24) 'fishing' means the collection or capture of aquatic organisms living in their natural environment, or the intentional use of any means allowing such collection or capture;
- (25) 'fishery products' means the aquatic organisms resulting from any fishing activity;

²¹ OJ L 409, 30.12.2006, p. 11.

²² OJ L 274, 25.9.1986, p. 1.

- (26) 'operator' means the natural or legal person who operates or holds any enterprise carrying out any of the activities related to any stage of production, processing, marketing, distribution and retail chains of fisheries and aquaculture products;
- (27) 'serious infringement' means an infringement as defined in Article 42(1) of Council Regulation (EC) No 1005/2008 and in Article 90(1) of Council Regulation (EC) No 1224/2009;
- (28) 'end-user of scientific data' means a body with a research or management interest in the scientific analysis of data in the fisheries sector;
- (29) 'surplus of allowable catch' means that part of the allowable catch which a coastal State does not have the capacity to harvest;
- (30) 'aquaculture products' means the aquatic organisms at any stage of their life cycle resulting from any aquaculture activity;
- (31) 'spawning stock biomass' means an estimate of the mass of the fish of a particular resource that reproduces at a defined time, including both males and females and including fish that reproduce viviparously;
- (32) 'mixed fisheries' means fisheries where more than one species are present in the area being fished and are vulnerable to being caught in the fishing gear;
- (33) 'fisheries *partnership* agreements' mean international agreements concluded with another state for the purpose of obtaining access to *waters and resources* in exchange for financial compensation from the Union;
- (34) '*direct management interest*' means an interest qualified by either fishing opportunities or a fishery taking place in the exclusive economic zone of the Member State concerned;

(35) For the purposes of this Regulation, the following geographical definitions of geographical areas shall apply:

- (a) ‘North Sea’ means ICES zones IV and IIIa;**
- (b) ‘Baltic Sea’ means ICES zones IIIb, IIIc and IIId;**
- (c) ‘North Western waters’ means ICES zones V (excluding Va and only Union waters of Vb), VI and VII;**
- (d) ‘South Western waters’ means ICES zones VIII, IX and X (waters around Azores), and CECAF zones 34.1.1, 34.1.2 and 34.2.0 (waters around Madeira and the Canary Islands);**
- (e) ‘Mediterranean Sea’ means Maritime Waters of the Mediterranean of the East of line 5°36’ West;**
- (f) ‘Black Sea’ means the GFCM geographical sub-area as defined in resolution GFCM/33/2009/2.**

PART II

ACCESS TO WATERS

Article 6

General rules on access to waters

1. Union fishing vessels shall have equal access to waters and resources in all Union waters other than those referred to in paragraphs 2 and 3, subject to the measures adopted under Part III.
2. In the waters up to 12 nautical miles from baselines under their sovereignty or jurisdiction, Member States shall be authorised from 1 January 2013 to 31 December 2022 to restrict fishing to fishing vessels that traditionally fish in those waters from ports on the adjacent coast, without prejudice to the arrangements for Union fishing vessels flying the flag of other Member States under existing neighbourhood relations between Member States and the arrangements contained in Annex I, fixing for each Member State the geographical zones within the coastal bands of other Member States where fishing activities are pursued and the species concerned. Member States shall inform the Commission of the restrictions put in place under this paragraph.
3. In the waters up to 100 nautical miles from the baselines of *the EU outermost regions referred to in Article 349(1) of the Treaty*, the Member States concerned may from 1 January 2013 to 31 December 2022 restrict fishing to vessels registered in the ports of those islands. Such restrictions shall not apply to Union vessels that traditionally fish in those waters, in so far as those vessels do not exceed the fishing effort traditionally exerted. Member States shall inform the Commission of the restrictions put in place under this paragraph.
4. The provisions which will follow arrangements set out in paragraphs 2 and 3 shall be adopted by 31 December 2022.

PART III

MEASURES FOR THE CONSERVATION OF MARINE BIOLOGICAL RESOURCES

TITLE I

CONSERVATION MEASURES

Article 6a

Adoption of conservation measures

- 1. The Union shall adopt conservation measures as set out in Article 7. Such conservation measures shall be adopted, in particular, in the form of multiannual plans in accordance with Articles 9 and 11 of this Regulation.*
- 2. Measures on the fixing and allocation of fishing opportunities are adopted by the Council in accordance with Article 43(3) of the Treaty, including where such measures are adopted in relation to multiannual plans.*
- 3. Conservation measures shall be adopted taking into account available scientific, technical and economic advice. This may include reports drawn up by the Scientific, Technical and Economic Committee for Fisheries (STECF). Advice received from Advisory Councils and joint recommendations submitted by the Member States in accordance with Article 17 shall also be taken into account.*
- 4. Member States may cooperate with one another for the purpose of adopting implementing measures of Union acts in accordance with Article 12 and Title III.*
- 5. Member States shall coordinate with one another before adopting national measures in accordance with Article 26(2).*

6. *Member States in the Mediterranean shall adopt conservation measures through national management plans in accordance with Article 19 of Council Regulation (EC) No 1967/2006.*

Article 7

Types of conservation measures

1. Measures for the conservation of marine biological resources may include the following:
- (a) establishing targets for the sustainable exploitation of stocks;
 - (b) adapting the *fishing capacity* to available fishing opportunities;
 - (c) establishing incentives, including those of an economic nature, to *reduce unwanted catches, in particular by promoting* more selective fishing *techniques and to improve or restore the ecosystem, for instance through* low impact fishing;
 - (c1) *gradually eliminating discards on a case-by-case basis and taking into account the best available scientific advice;*
 - (d) *adopting measures on the fixing and allocation of* fishing opportunities;
 - (e) adopting measures concerning the obligation to land catches, *as specified in Article 15;*
 - (f) *fixing of minimum conservation reference sizes;*
 - (g) conducting pilot projects on alternative types of fishing management techniques;
 - (h) adopting technical measures as referred to in *paragraph 2.*

2. Technical measures may include the following:

- (a) mesh sizes and rules concerning the use of fishing gears;
- (b) *specifications* on the construction of fishing gear, including:
 - i) modifications or additional devices to improve selectivity or to reduce impact on the *ecosystem*;
 - ii) modifications or additional devices to reduce the incidental capture of endangered, threatened and protected species;
- (c) *limitations on* the use of certain fishing gears, *and on fishing activities*, in certain areas or *periods*;
- (d) requirements for fishing vessels to cease operating in an area for a defined minimum period in order to protect a temporary aggregation of a vulnerable marine resource;
- (e) specific measures to *minimise* the *negative* impacts of fishing activities on marine ecosystems.

TITLE II

SPECIFIC MEASURES

Article 9

Principles and objectives of multiannual plans

1. *Multiannual plans shall cover either:*

- (a) *single species; or*
- (b) *in the case of mixed fisheries or where the dynamics of stocks relate to one another, fisheries exploiting several stocks in a relevant geographical area.*

Account shall be taken of the degree of scientific knowledge on interactions between different fish stocks and between fish stocks, fisheries and marine ecosystems.

2. Multiannual plans ***shall contain*** conservation measures to maintain or restore fish stocks ***at least at*** levels capable of producing maximum sustainable yield.
3. ***Where a multi-annual plan covers fisheries for a mixture of stocks, it shall ensure the achievement of the maximum sustainable yield for all significant stocks covered by the plan. Where necessary, the plan shall include specific alternative conservation measures for the other stocks covered by the plan, based on the ecosystem approach.***
4. ***Where targets for attaining the maximum sustainable yield cannot be determined owing to insufficient data or inconclusive scientific advice, the multiannual plans shall provide for measures based on the precautionary approach, ensuring a comparable degree of conservation of the relevant stocks.***

Article 11

Content of multiannual plans

- 1.*** A multiannual plan shall include:
 - (a) the scope, in terms of stocks, fishery and the ***area*** to which the multiannual plan shall be applied;
 - (b) objectives consistent with the objectives set out in Articles 2 and ***9***;
 - (c) quantifiable targets ***such as*** fishing mortality rates and/or spawning stock biomass;
 - (d) clear time frames to reach the quantifiable targets;
 - (e) ***safeguards to ensure that quantifiable targets are met, and/or remedial action.***

2. *A multiannual plan may also include:*

- (a) *other conservation measures, except measures on the fixing and allocation of fishing opportunities, in particular measures to gradually eliminate discards on a case-by-case basis and taking into account the best available scientific advice and reduce unwanted catches or to minimise the negative impact of fishing on the ecosystem, to be detailed, where appropriate, in accordance with Title III;***
- (b) *quantifiable indicators for periodic monitoring and assessment of the progress related to achieving the targets of the multiannual plan.***

3. *A multiannual plan shall provide for its revision after an initial ex-post evaluation, in particular to take account of changes in the scientific advice.*

Article 12

Compliance with *Member State* obligations under Union environmental legislation

- [1. Member States are authorised, subject to paragraph 2, to adopt conservation measures not affecting fishing vessels of other Member States that are applicable to waters under their sovereignty and jurisdiction and that are necessary for the purpose of complying with their obligations under:

- (a) *Article 13(4) of the MSF Directive;***
- (b) *Article 4 of the Birds Directive;***
- (c) *Article 6 of the Habitat Directive; and/or***
- (d) *[to be further considered].***

2. *The measure envisaged shall be*

- (a) *compatible with the objectives set out in Article 2;***
- (b) *meet the objective of the relevant Union legislation that it intends to implement; and***
- (c) *not be less stringent than measures existing in Union legislation.***

3. *Where a Member State considers that Union measures defined in paragraph 1 need to be adopted and other Member States have a direct management interest in the fishery to be affected by such measures, the Member State concerned may request that the Commission adopts such measures. For this purpose, Article 17(1) - (6) shall apply.*

The Member State concerned shall provide the Commission and the other Member States having a direct management interest with relevant information on the measures required, including rationale, scientific evidence and detail on practical implementation and enforcement. The Commission shall adopt the measures taking into account any available scientific advice within three months from receipt of a complete request. In the absence of a joint recommendation as specified in Article 17(1), the Commission may propose the measures in the ordinary legislative procedure.

4. *The Commission shall facilitate the cooperation between the Member State concerned and the other Member States having a direct management interest in the fishery concerned in the process of implementation and enforcement of the measures concerned.]*

Article 13

Commission measures in case of a serious threat to marine biological resources

1. On the basis of evidence of a serious threat to the conservation of marine biological resources or to the marine eco-system *relating to fishing activities that requires* immediate action, the Commission, upon a reasoned request of a Member State or on its own initiative, may **adopt emergency measures to alleviate the threat. Such measures shall be adopted by means of immediately applicable implementing acts for a maximum period of 6 months, in accordance with the procedure referred to in Article 56(2).**

2. The Member State shall communicate the request referred to in paragraph 1 simultaneously to the Commission, other Member States and the Advisory Councils concerned. ***The other Member States and the Advisory Councils may submit their written comments within 7 working days of the receipt of the notification. The Commission shall take a decision within 15 working days of the receipt of the request referred to in paragraph 1.***
3. ***Before expiry of the initial period of application of an emergency measure adopted under paragraph 1, the Commission may, where the conditions under paragraph 1 are complied with, extend the application of such emergency measure by means of an immediately applicable implementing act for a maximum period of 6 months, adopted in accordance with the procedure referred to in Article 56(2).***

Article 15

Obligation to land all catches^{*}

1. All catches ***subject to catch limits, and in the Mediterranean also catches subject to minimum landing sizes as defined in the Annex to Regulation (EC) No. 1967/2006***, caught during fishing activities in Union waters or by Union fishing vessels outside Union waters in waters not subject to third countries' ***sovereignty or*** jurisdiction, in the fisheries and ***geographical areas*** listed below shall be brought and retained on board the fishing vessels, recorded, landed, ***and counted against the quotas where applicable***, except when used as live bait, in accordance with the following timeframe:
 - (a) At the latest from 1 January [2014]:
 - ***small pelagic fisheries i.e. fisheries for*** mackerel, herring, horse mackerel, blue whiting, boarfish, anchovy, argentine, ***sardine, sprat***;

^{*}

[The following recital is added: "Subject to scientific advice and without jeopardising the objectives of MSY and without increasing fishing mortality, when a landing obligation including documentation of catches is in operation, an increase of related fishing opportunities is foreseen, since discards will no longer take place. It should also be considered whether such a change in the management system may lead to the abolition of certain control measures and technical measures.]

- *large pelagic fisheries i.e. fisheries for* bluefin tuna, swordfish, albacore tuna, bigeye tuna, other billfish;
- *fisheries for industrial purposes i.a. fisheries for* capelin, *sandeel and Norway pout*;
- *salmon in the Baltic Sea.*

(b) *At the latest from 1 January [2015] for species defining the fisheries and not later than [2018] for all other species in:*

- *the following fisheries in Union waters of the Northern Atlantic:*
 - *The North Sea*
 - *[fisheries for cod, haddock, whiting, saithe;*
 - *fisheries for Norway lobster;*
 - *fisheries for common sole and plaice;*
 - *fisheries for hake;*
 - *fisheries for Northern prawn;*
 - *other fisheries to be further analyzed;]*
 - *fisheries in the Baltic Sea other than for salmon;*
 - *North Western waters*
 - *[fisheries for cod, haddock, whiting, saithe;*
 - *fisheries for Norway lobster;*
 - *fisheries for common sole and plaice;*
 - *fisheries for hake;*
 - *other fisheries to be further analyzed]*

- *South Western waters*
 - *[fisheries for cod, haddock, whiting, saithe;*
 - *fisheries for Norway lobster;*
 - *fisheries for common sole and plaice;*
 - *fisheries for hake;*
 - *other fisheries to be further analyzed];*

(c) *At the latest from 1 January [2016] for species defining the fisheries and not later than [2019] for all other species in:*

- *fisheries not covered by paragraph 1(a) in the Mediterranean, in the Black Sea and in all other Union waters and in non-Union waters not subject to third countries' sovereignty or jurisdiction.*

Ibis Paragraph 1 shall be without prejudice to international obligations.

2. The following shall be exempted from the landing obligation laid down in paragraph 1:

- (a) *Species in respect of which fishing is prohibited and that are identified as such in a Union act adopted in the area of the Common Fisheries Policy;*
- (b) *Species for which scientific evidence demonstrates high survival rates, taking into account the characteristics of the gear, of the fishing practices and of the ecosystem;*
- (c) *Catches falling under de minimis exemptions.*

3. *Details of the implementation of the obligation to land catches from fisheries in paragraph 1 shall be specified in multiannual plans referred to in Articles 9 to 11 and where relevant specified in accordance with Title III, including:*
- (a) specific provisions regarding fisheries or species covered by the obligation to land all catches of regulated species as set out in paragraph 1 of this Article;*
 - (b) specification of exemptions to the landing obligation for species mentioned in paragraph 2 point (b) of this Article;*
 - (c) provisions for de minimis exemptions of up to a total of [5]% of the total annual catches of species from the obligation set out in paragraph 1 in situations such as*
 - i) where scientific evidence indicates that increases in selectivity are very difficult to achieve; or*
 - ii) to avoid disproportionate costs of handling unwanted catches, for those fishing gears where unwanted catches per fishing gear do not represent more than a certain percentage, to be established in the plan, of total annual catch of that gear;*
 - (d) provisions on documentation of catches;*
 - (e) fixing of minimum conservation reference sizes, where appropriate, in accordance with paragraph 5.*

Where no multiannual plan for the fishery in question is adopted, Member States may cooperate in accordance with Article 17 with a view to the Commission adopting a specific plan on the landing obligation and specifications in (a)-(e), in accordance with the procedure in Article 56 [or in the ordinary legislative procedure], on a provisional basis, pending a multiannual plan to be adopted.

4. *As a derogation from the obligation to count catches against the relevant quotas in accordance with paragraph 1, unwanted catches subject to an obligation to land in excess of quotas of the stocks in question may be deducted from the quota of the target species not exceeding [10 %] of the quota of the target species.[†]*
- 4a. *For stocks subject to a landing obligation, Member States may use a year-to-year flexibility of up to 10% of their permitted landings.*

[The above mentioned rules shall be complemented by one of the following options:]

[either:]

[Unwanted catches subject to an obligation to land in excess of quotas for the stocks in question may, during a transitional period of [3] years from the date of the obligation to land, be used according to paragraph 6. Member States may before the end of the transitional period agree on permanent exchanges of quota shares with other Member States to adapt fishing opportunities to actual fishing patterns. A balance in exchanges of quota shares shall be calculated in cod equivalents. The Commission shall facilitate the exchanges of quota shares.]

[or alternatively:]

[†] *[A new recital is added as follows: "Within the management of the landing obligation, Member States must do their utmost to reduce unwanted catches. To this end, improvements of selective fishing techniques to avoid unwanted catches must have a high priority. It is important that Member States distribute quotas between vessels in a mix reflecting as much as possible the expected composition of species in the fisheries. Mismatch between available quotas and actual fishing pattern could be adjusted through quota swaps with other Member States. Vessel owners could also consider pooling individual quotas for example in producer organisations or in groups of vessel owners. Furthermore, Member States can make use of year-to-year flexibility. To this end, year-to-year flexibility should be applicable to all stocks subject to the landing obligation. After using all these possibilities, ultimate options should consist in counting by-catch species against the quota of the target species and [either:][undertaking permanent quota exchanges] [or alternatively:] [reserving specific by-catch fishing opportunities] [or] [other solutions to be examined]."]*

[Unwanted catches subject to an obligation to land in excess of quotas for the stocks in question may be deducted from a specific by-catch quota within a maximum to be fixed by the Council, on a stock-by-stock basis, based on information provided by the relevant Member States, including information on all initiatives to reduce unwanted catches in excess of the relevant quotas.]

[other solutions to be examined.]

5. *With the aim to ensure the protection of juveniles of marine organisms, minimum conservation reference sizes **may** be established.*
6. *For the species subject to an obligation to land as specified in paragraph 1, the use of catches of **species** below the minimum conservation reference size *[or of catches in excess of catch limits in the transitional period in accordance with paragraph 4]* shall be restricted to purposes other than direct human consumption, including fish meal, fish oil, pet food, food additives, pharmaceuticals and cosmetics.*
7. *For the species not subject to an obligation to land as mentioned in paragraph 1, the catches of species below the minimum conservation reference size shall not be retained on board, but shall be returned immediately to the sea.*
8. Member States shall ensure *adequate capacity and means for the purpose of monitoring compliance with the obligation to land all catches, inter alia such means as observers, CCTV and other.*
9. The Commission shall be empowered to adopt delegated acts in accordance with Article 55 to specify the measures set out in paragraph 1 for the purpose of complying with the Union's international obligations.[†]

[†] *[The need for delegated act will be discussed at a later stage]*

Article 16

Fishing opportunities

1. Fishing opportunities allocated to Member States *in accordance with Art. 43(3) of the Treaty* shall ensure each Member State relative stability of fishing activities for each fish stock or fishery. The interests of each Member State shall be taken into account when new fishing opportunities are allocated.
2. */By-catch fishing opportunities may be reserved under the total fishing opportunities./*
3. Fishing opportunities shall comply with quantifiable targets, time frames and margins established in accordance with Article 9(2) and *points (b) and (c) of Article 11(1)*.
4. *Measures on the fixing and allocation of fishing opportunities available to third countries in EU waters shall be established and allocated in accordance with Art. 43(3) of the Treaty.*
5. Member States may, after notifying the Commission, exchange all or part of the fishing opportunities allocated to them.

TITLE III

REGIONALISATION

Article 17

Regional cooperation on conservation measures including multiannual plans, measures in accordance with Article 12 and specific plans for the obligation to land catches

1. ***Where, in respect of a conservation measure applying to a relevant geographical area, including in a multiannual plan established pursuant to Articles 9 and 11, measures in accordance with Article 12 and specific plans for the obligation to land catches, the Commission is granted powers to adopt measures by means of delegated or implementing acts, Member States having a direct management interest affected by these measures (“Member States concerned”) may, within a deadline to be stipulated in the relevant conservation measure and/or multiannual plan, agree to submit joint recommendations aiming at achieving the objectives of the relevant Union conservation measures and/or multiannual plans and/or specific plans for the obligation to land catches to be adopted in accordance with Article 15. The Commission shall not adopt any such delegated or implementing acts before the expiry of the deadline for submission of joint recommendations by the Member States.***²³
2. ***For the purpose of paragraph 1, Member States concerned shall cooperate with one another in formulating joint recommendations. They shall also consult the relevant Advisory Council(s). The Commission shall facilitate the cooperation between Member States, including, where necessary, ensuring that a scientific contribution can be obtained from relevant scientific bodies.***

²³ ***[The need for delegated act will be discussed at a later stage.]***

3. *Where joint recommendations on measures are submitted under paragraph 1, the Commission shall be empowered to adopt these measures by means of delegated or implementing acts, provided that such recommendations are compatible with the relevant conservation measure and/or multiannual plan. As a supplementary or alternative method of regional co-operation a Member State may adopt national measures which have been agreed with the Member States concerned and provided they are compatible with the relevant conservation measure and/or multiannual plan.*^{† 24}
4. *Where the conservation measure applies to a specific fish stock shared with third countries and managed by multilateral fisheries organisations or under bilateral and multilateral agreements, the Union shall endeavour to agree with the relevant partners the necessary measures to achieve the objectives set out in Article 2.*
5. Member States shall ensure that *joint recommendations on* conservation measures *to be* adopted pursuant to paragraph 1 *are based on the best available scientific advice and:*
- (a) are compatible with the objectives set out in Article 2;
 - (b) are compatible with the scope and objectives of the *Union conservation measure*;
 - (c) *are compatible with the scope and* meet the objectives and quantifiable targets set out in a *relevant* multiannual plan effectively; and
 - (d) are no less stringent than those existing in Union legislation.

[†] *[A new recital is added as follows: "The Commission should only adopt conservation measures through implementing acts or delegated acts in accordance with Article 17 where all Member States concerned in a region agree on a joint recommendation. In the absence of an agreement, the Commission should put forward a proposal for the relevant measures in the ordinary legislative procedure."]*

²⁴ *[The need for delegated act will be discussed at a later stage.]*

6. *If not all Member States succeed in agreeing on joint recommendations to be submitted to the Commission according to paragraph 1 within the deadline set or if the joint recommendations on conservation measures are deemed not to be compatible with the objectives and quantifiable targets of the conservation measures in question, the Commission may submit a proposal under the ordinary legislative procedure, or, where relevant, in accordance with the procedure under Article 43(3) of the Treaty.*
7. *In addition to cases referred to in paragraph 1, Member States having a direct management interest in fish stocks in a geographically defined area may also prepare common joint recommendations on measures to be adopted under the ordinary legislative procedure by the European Parliament and the Council, or, where relevant, in accordance with the procedure under Article 43(3) of the Treaty or in accordance with the procedures in Articles 55 and 56.*
8. *Where, in respect of a conservation measure applicable to a relevant geographical area, including in a multiannual plan established pursuant to Articles 9 and 11, Member States are authorised to adopt measures further specifying that conservation measure, the Member States concerned shall closely cooperate in the adoption of such measures. Paragraphs 2, 4 and 5 shall apply mutatis mutandis. The Commission shall be associated and its comments shall be taken into account. The Member State concerned may only adopt their respective national measures if an agreement on the content of the measures was reached by all the Member States concerned. Where the Commission considers a Member State measure does not comply with the conditions set out in the relevant conservation measure, it may, subject to providing relevant reasons, request that the Member State(s) concerned amend or repeal the relevant measure.*

TITLE IV

NATIONAL MEASURES

Article 25

Member States' measures applicable to fishing vessels flying their flag *or to persons established in their territory*

A Member State may adopt measures for the conservation of fish stocks in Union waters provided that those measures:

- (a) apply solely to fishing vessels flying the flag of that Member State or, in the case of fishing activities which are not conducted by a fishing vessel, to persons established in the territory *to which the Treaty applies*;
- (b) are compatible with the objectives set out in Articles 2; and
- (c) are no less stringent than those in existing Union legislation.

Article 26

Member State measures within the 12 nautical mile zone

1. A Member State may take non-discriminatory measures for the conservation and management of fish stocks and to minimise the effect of fishing on the conservation of marine eco-systems within 12 nautical miles of its baselines provided that the Union has not adopted measures addressing conservation and management specifically for that area. The Member State measures shall be compatible with the objectives set out in Articles 2 and no less stringent than those in existing Union legislation.

2. Where conservation and management measures to be adopted by a Member State are liable to affect fishing vessels of other Member States, such measures shall be adopted only after consulting the Commission, the relevant Member States and relevant Advisory Councils on a draft of the measures accompanied by an explanatory memorandum. *For the purpose of such consultation, the consulting Member State may set a reasonable deadline, which shall, however, not be shorter than 1 month.*
3. *Where the Commission considers that a measure adopted under this Article does not comply with the conditions set out in paragraph 1, it may, subject to providing relevant reasons, request that the Member State concerned amends or repeals the relevant measure.*

PART IV

ADVISORY COUNCILS

Article 26a

Advisory Councils

1. Advisory Councils are established for each of the areas of competence set out in Annex III, to promote a balanced representation of all stakeholders and to contribute to the achievement of the objectives set out in Article 2.
2. The Commission shall be empowered to adopt delegated acts in accordance with Article 55 concerning amendments to that Annex to *rearrange* the areas of competence *if required for the comprehensive fulfilment of their tasks.*[†]
3. Each Advisory Council shall establish its rules of procedure.

[†] *[The need for delegated act will be discussed at a later stage.]*

Article 26b

Tasks of Advisory Councils

Advisory Councils may:

- (a) submit recommendations and suggestions on matters relating to fisheries management and aquaculture to the Commission or to the Member State concerned.

In particular, Advisory Councils may submit recommendations on how to simplify rules on fisheries management.

- (b) inform the Commission and Member States of problems relating to fisheries management and aquaculture in their area of competence, ***and submit recommendations and suggestions addressing such problems;***
- (c) contribute, in close cooperation with scientists, to the collection, supply and analysis of data necessary for the development of conservation measures.

If an issue is of common interest to two or more Advisory Councils, they shall coordinate their positions with a view to adopting joint recommendations on that issue.

1. ***Advisory Councils shall be consulted in accordance with Articles 6a(3) and 17(2). Their advice shall be taken into account as primary stakeholder interest. They may also be consulted by the Commission and by the Member States in respect of other measures. These consultations shall be without prejudice to the consultation of the STECF or other scientific bodies.***
2. The Commission and, where relevant, the Member State concerned, shall reply within ***two months*** to any recommendation, suggestion or information received pursuant to paragraph 2.

Article 26c

Composition, functioning and funding of Advisory Councils

1. Advisory Councils shall be composed of *fishermen and other representatives of the production sector, of representatives of the processing and marketing sectors and of trade unions, and of other representatives of interests affected by the Common Fisheries Policy, in particular representatives of environmental and consumer interests.*
2. Each Advisory Council shall consist of a general assembly and an executive committee and shall adopt the measures necessary for its organisation, *including, as appropriate, a secretariat and working groups to deal with issues of regional cooperation referred to in Title III.*
3. Advisory Councils shall function and receive finances in accordance with Annex III.
4. The Commission shall be empowered to adopt delegated acts in accordance with Article 55 concerning *details of* the functioning of Advisory Councils.[†]

PART V

MANAGEMENT OF FISHING CAPACITY

Article 27²⁵

Establishment of systems of transferable fishing concessions

With a view to adapting the fishing capacity to available fishing opportunities, each Member State may establish a system of transferable fishing concessions. Member States having such a system shall establish and maintain a register of transferable fishing concessions.

[†] *[The need for delegated acts will be discussed at a later stage]*

²⁵ *[With a view to facilitating the creation of transferable fishing concessions by Member States, the EMFF should envisage particular support for their introduction.]*

Article 28

Allocation of fishing opportunities

1. Each Member State shall decide how fishing opportunities assigned to it in accordance with Article 16, and which are not subject to a system of transferable fishing concessions, may be allocated to vessels flying its flag, ***for example by creating individual fishing opportunities***. It shall inform the Commission of the allocation method.
2. For the allocation of ***fishing opportunities*** pertaining to mixed fisheries, Member States shall take account of the likely catch composition of vessels participating in such fisheries.

Article 34

Adjustment and management of fishing capacity

1. Member States shall put in place measures to adjust the fishing capacity of their fleets ***to*** their ***prospective*** fishing opportunities.
2. No exit from the fleet supported by public aid shall be permitted unless preceded by the withdrawal of the fishing licence and the fishing authorisations.
3. The fishing capacity corresponding to the fishing vessels withdrawn with public aid shall not be replaced.
4. Member States shall ensure that from the entry into force of this Regulation the fishing capacity of their fleet does not exceed at any time the fishing capacity ceilings set out in Annex II established in accordance with Article 35.
5. Member States may request the Commission to exclude fishing vessels subject to a system of transferable fishing concessions according to Article 27, paragraph 1 from the fishing capacity ceilings set out in Annex II. In that case the fishing capacity ceilings shall be re-calculated to take into account the fishing vessels which are not subject to a system of transferable fishing concessions.

6. The Commission shall be empowered to adopt delegated acts in accordance with Article 55 concerning the re-calculation of the fishing capacity ceilings as referred to in paragraph 5.[†]

Article 34a

Entry/Exit scheme

1. ***Member States shall manage entries into the fleet and exits from the fleet in such a way that the entry of new capacity into the fleet without public aid is compensated by the previous withdrawal without public aid of at least the same amount of capacity.***
2. ***Implementing rules for the application of this Article may be adopted in accordance with the procedure laid down in Article 56.[†]***
3. ***After five year following the entry into force of this Regulation, the Commission shall evaluate the Entry/Exit scheme in light of the evolving relationship between fleet capacity and prospected fishing opportunities, and propose, where appropriate, an amendment to this scheme.***

Article 35

Obligation to report on and adjust fishing capacity

1. ***Member States shall send to the Commission by 30 May of each year a report to document whether the fishing capacity of its fleets has been effectively balanced with its fishing opportunities in the previous year. The report shall be structured according to the various fleet segments and shall indicate whether there is structural overcapacity present in any of those segments. The first report must be sent to the Commission by 30 May 2013.***

[†] ***[The choice of implementation instrument will be discussed at a later stage]***
[†] ***[The choice of implementation instrument will be discussed at a later stage]***

2. *When the fishing capacity is not effectively balanced with fishing opportunities in all fleet segments of a Member State, the report shall include an action plan for each of the fleet segments where overcapacity occurs. Each action plan shall include an overview of which tools the Member State in question will use to effectively achieve the balance and a clear time frame for the implementation of the plan.*
3. *The report referred to in paragraph 1 and the implementation of the action plan as referred to in paragraph 2 shall be subject to ex-ante conditionality in accordance with the European Maritime and Fisheries Fund.*

Article 36

Fishing fleet registers

1. Member States shall record the information on characteristics and activity for Union fishing vessels flying their flag that is necessary for the management of measures established under this Regulation.
2. Member States shall make available to the Commission the information referred to in paragraph 1.
3. The Commission shall set up a Union fishing fleet register containing the information that it receives pursuant paragraph 2.
4. The Commission shall establish technical operational requirements for *the calculation method, format and transmission modalities* of the information referred to in paragraphs 1 to 3. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56.

PART VI

SCIENCE BASE FOR FISHERIES MANAGEMENT

Article 37

Data requirements for fisheries management

1. Member States shall collect biological, ***environmental***, technical, and socio-economic data necessary for fisheries management, manage them and make them available to end users of scientific data, including bodies designated by the Commission. Those data shall in particular enable the assessment of:
 - (a) the state of exploited marine biological resources,
 - (b) the level of fishing and the impact that fishing activities have on the marine biological resources and on the marine eco-systems, and
 - (c) the socio-economic performance of the fisheries, aquaculture and processing sectors within and outside Union waters.
2. Member States shall:
 - (a) ensure that the collected data are accurate and reliable;
 - (b) avoid duplication of data collection for different purposes, ***in close cooperation with the Commission***;
 - (c) ensure safe storage of collected data and where applicable appropriate protection and confidentiality of collected data;
 - (d) ensure that the Commission, or bodies designated by it, have access to the national databases and systems used for processing the collected data for the purpose of verification of the existence and quality of the data.

3. Member States shall ensure the national coordination of the collection and management of scientific data for fisheries management. To this end, they shall designate a national correspondent and organize an annual national coordination meeting. The Commission shall be informed of the national coordination activities and be invited to the coordination meetings.
4. Member States, *in close cooperation with the Commission where appropriate*, shall coordinate their data collection activities with other Member States in the same region, and make every effort to coordinate their actions with third countries having sovereignty or jurisdiction over waters in the same region.
5. The *Commission shall adopt, in accordance with the procedure referred to in Article 56, a multi-annual programme as of 2014 for the collection, management and use of data as the basis for adoption by Member States of their national annual work plans*. Such a multi-annual programme shall include targets for the precision of the data to be collected, aggregation levels for the collection, management and use of such data. *The multi-annual programme shall include the collection, management and use of data mentioned in paragraph 1 concerning:*
 - (a) *biological, environmental, technical and socio-economic data related to commercial fisheries carried out by Union fishing vessels;*
 - (b) *recreational fisheries carried out within Union waters, where appropriate;*
 - (c) *research surveys at sea;*
 - (d) *economic data on aquaculture activities related to marine species, carried out within the Member States and the Union waters;*
 - (e) *economic data on fish processing industries.*

6. *The collection, management and use of data must be based on cost-effectiveness, taking into account resources available, including financial support from The European Maritime and Fisheries Fund.*
7. The Commission shall be empowered to adopt delegated acts established by the Commission in accordance with Article 55, *taking into account the advice from STECF and advice resulting from the regional coordination process referred to in paragraph 4* to specify the targets for the precision of the data to be collected and to define the aggregation levels for the collection, management and use of such data, for the multi-annual programme referred to in paragraph 5.[†]
8. The Commission shall establish technical operational requirements for the modalities of transmission of the data collected. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 56.[†]

Article 38

Research and Scientific Advice

1. Member States shall *carry out* fisheries *and aquaculture* research and innovation *activities*. They shall coordinate, *in close cooperation with the Commission*, their fisheries research, innovation *and scientific advice* activities with other Member States and Union research and innovation frameworks.
2. Member States shall *coordinate to* ensure availability of relevant competences and human resources to be involved in the scientific advisory process, *relying inter alia on Union financial resources*.

[†] *[The choice of legal instrument for implementation will be dealt with at a later stage]*

Article 38a

Scientific, Technical and Economic Committee for Fisheries

A Scientific, Technical and Economic Committee for Fisheries (STECF) is established. The STECF shall be consulted at regular intervals on matters pertaining to the conservation and management of living marine resources, including biological, economic, environmental, social and technical considerations.

PART VII

EXTERNAL POLICY

Article 38b

Objectives

1. To ensure sustainable *exploitation*, management and conservation of *marine biological resources* and the marine environment, the Union shall conduct its external fisheries relations in accordance with international obligations and policy objectives, the *objectives and principles* set out in Articles 2 and 4.
2. *In particular the Union shall:*
 - (a) *actively support and contribute to the development of scientific knowledge and advice;*
 - (b) *improve policy coherence of Union initiatives, with particular regard to environmental, trade and development activities and strengthen consistency of actions taken in the context of development cooperation and scientific, technical and economic cooperation;*
 - (c) *contribute to sustainable fishing activities that are economically viable and promote employment within the Union.*

(d) *ensure that Union fishing activities outside Union waters are based on the same principles and standards as applicable Union legislation in the area of the Common Fisheries Policy while promoting a level playing field for EU operators vis-à-vis other third-country operators.*

3. *The provisions of this Part are without prejudice to specific provisions adopted under Article 218 TFEU, in particular its provisions 3, 4, 5 and 9.*

TITLE I

INTERNATIONAL FISHERIES ORGANISATIONS

Article 39

Union activities in international fisheries organisations

1. The Union shall actively support and contribute to the activities of international organisations dealing with fisheries, including regional fisheries management organisations (RFMOs).
2. The positions of the Union in international organisations dealing with fisheries and RFMOs shall be based on the best available scientific advice to ensure that fishery resources are *managed consistent with the objectives of Article 2, in particular with its paragraphs (2) and 4(b). The Union should seek to lead the process of strengthening the performance of RFMOs to better enable them to conserve and manage marine living resources under their purview.*

Article 40

Compliance with international provisions

The Union shall cooperate with third countries and international organisations dealing with fisheries, including RFMOs, to *ensure that measures adopted by such international organisations are strictly adhered to.*

TITLE II

FISHERIES *PARTNERSHIP* AGREEMENTS

Article 41

Principles and objectives of Fisheries *Partnership* Agreements

1. Fisheries *Partnership* Agreements with third countries shall establish a legal, *environmental*, economic and *social* governance framework for fishing activities carried out by Union fishing vessels in third country waters.
2. *With the overall aim of ensuring the sustainable exploitation of surpluses of marine biological resources, the Union shall endeavour that the Fisheries Partnership Agreements with third countries are of mutual benefit to the Union and the partner country concerned, including its local population and fishing industry and that they contribute to continuing the activity of European fleets and aim at obtaining an appropriate share of the available surplus, commensurate with the European fleets' interest.*
3. Union fishing vessels shall only catch surplus of the allowable catch as referred to in Article 62(2) *and (3)* of the United Nations Convention on the Law of the Sea, and identified on the basis of the best available scientific advice and relevant information exchanged between the Union and the third country about the total fishing effort on the affected stocks. * *Concerning straddling or highly migratory fish stocks, the determination of the resources available for access should take due account of scientific assessments conducted at the regional level as well as conservation and management measures adopted by relevant RFMOs.*
4. *Union fishing vessels may not operate in the waters of the third country with which an Fisheries Partnership Agreement is in force unless they are in possession of a fishing authorisation which has been issued in accordance with a procedure agreed in the agreement.*

* *[Add to the relevant recital: “The purpose of such exchange of information is to ensure transparency as regards the determination of the surplus and, consequently, a management of the resources that is consistent with the objectives of the CFP.”]*

5. *The Union shall ensure that a Fisheries Partnership Agreement includes a clause concerning the respect for democratic principles and human rights, and that such clause constitutes an essential element of it.*
6. *The Commission shall carry out ex-ante and ex-post evaluations of these agreements and make them available to the European Parliament and the Council in good time before the latter considers a mandate to renew such agreements.*

Article 42

Financial assistance

1. The Union shall provide financial assistance to third countries through Fisheries **Partnership** Agreements in order to:
 - (a) support part of the cost of access to the fisheries resources in third country waters; *the part of the cost of access to the fisheries resources to be paid by Union shipowners must be appraised for each Fisheries Partnership Agreement or a Protocol to it and shall be fair, non-discriminatory and commensurate to the benefits provided through the access conditions;*
 - (b) establish the governance framework, including the development and maintenance of the necessary scientific and research institutions, *promote consultation processes with interest groups, and* monitoring, control and surveillance capability and other capacity building items pertaining to the development of a sustainable fisheries policy driven by the third country.
2. Under each Fisheries Partnership Agreement, the financial assistance for sectoral support shall be decoupled from payments for access to fisheries resources. The Union shall require specific results as a condition for payments under the financial assistance, and closely monitor progress.

TITLE III

AGREEMENTS ON EXCHANGE AND JOINT MANAGEMENT

Article 42a

Principles and objectives of agreements on exchange and joint management

In order to ensure a sustainable exploitation of stocks shared with third countries and to guarantee stability of the fishing operations of its fleets, the Union shall, in compliance with UNCLOS, endeavour to conclude bilateral or multilateral agreements with third countries aiming at a joint management of stocks/resources, including the establishment where appropriate of access to waters and resources and conditions for such access, harmonisation of conservation measures and exchange of fishing opportunities.

PART VIII

AQUACULTURE

Article 43

Promoting sustainable aquaculture

1. With a view to promoting sustainability and contributing to food ***supplies***, growth and employment, non-binding Union strategic guidelines on common priorities and targets for the development of ***sustainable*** aquaculture activities shall be established by the Commission by 2013. Such strategic guidelines shall take account of the relative starting positions and different circumstances throughout the Union, shall form the basis for multiannual national strategic plans and shall aim at:
 - (a) improving the competitiveness of the aquaculture industry and supporting its development and innovation;
 - (b) encouraging economic activity;

- (c) diversification and improvement of the quality of life in coastal and *inland* areas;
 - (d) a level-playing field for aquaculture operators in relation to access to waters and space.
2. Member States shall establish a multiannual national strategic plan for the development of aquaculture activities on their territory by **31 December 2013**.
 3. The multiannual national strategic plan shall include the Member State's objectives and the measures to achieve them.
 4. Multiannual national strategic plans shall aim in particular at the following:
 - (a) administrative simplification, in particular regarding *evaluations and impact studies and* licenses;
 - (b) certainty for aquaculture operators in relation to access to waters and space;
 - (c) indicators for environmental, economic and social sustainability;
 - (d) assessment of other possible cross-bordering effects on neighbouring Member States.
 5. Member States shall exchange information and best practices through an open method of coordination of the national measures contained in multiannual *national* strategic plans.
 6. ***The Commission shall encourage the exchange of information and best practices among Member States and facilitate a coordination of national measures foreseen in the multiannual national strategic plan.***

Article 44

Consultation of Advisory Councils

An Advisory Council on aquaculture shall be established in accordance with Article **26a**.

PART IX

COMMON MARKET ORGANISATION

Article 45

Objectives

A common organisation of the markets in fishery and aquaculture products shall be established to:

- (a) contribute to the *objectives laid down in Article 2, and in particular to the sustainable exploitation of living marine biological resources*;
- (b) enable the fishery and aquaculture industry to apply the Common Fisheries Policy;
- (c) strengthen the competitiveness of the Union fishery and aquaculture industry, in particular producers;
- (d) improve the transparency of the markets, in particular as regards economic knowledge and understanding of the Union markets for fishery and aquaculture products along the supply chain and consumer awareness;
- (e) contribute to ensuring a level playing field for all products marketed in the Union by promoting sustainable exploitation of fisheries resources.

PART X

CONTROL AND ENFORCEMENT

Article 46

Objectives

1. Compliance with the rules of the Common Fisheries Policy shall be ensured through an effective Union fisheries control system, including the fight against illegal, unreported and unregulated (IUU) fishing.
2. The Union fisheries control system shall in particular be based on:
 - (a) a global and integrated approach;
 - (b) cooperation and coordination between Member States, the Commission and the European Fisheries Control Agency;
 - (c) ***cost-efficiency and proportionality***;
 - (d) the use of ***efficient*** control technologies for the availability and quality of data on fisheries;
 - (e) a risk-based strategy focused on systematic and automated cross-checks of all available relevant data;
 - (f) the development of a culture of compliance among operators;
 - (g) the establishment of effective, proportionate and dissuasive sanctions.

Article 48

Contribution to control, inspection and enforcement costs

Member States may require *their operators* to contribute proportionally to the *operational* costs of implementing the Union fisheries control system.

PART XI
FINANCIAL INSTRUMENTS

Article 49

Objectives

Union financial assistance may be granted to contribute to the achievement of the objectives set out in Article 2.

Article 50

Conditions for financial assistance towards Member States

1. *Subject to specific rules to be adopted, the entitlement of the Member States to receive Union financial assistance may be made conditional on their compliance with specific obligations under the Common Fisheries Policy where such obligations are designed to ensure that the financial assistance is used for the purpose for which it is intended. Such obligations shall be identified with sufficient precision and shall constitute a necessary prerequisite for, and have a direct and genuine link to, and direct impact on, the effective achievement of the specific objectives for which the Union financial assistance is to be granted.*

2. *Subject to specific rules to be adopted*, non compliance by Member States with *their obligations referred to in paragraph 1* may result in the interruption or suspension of payments or in the application of a financial correction to Union financial assistance under the Common Fisheries Policy. *Any* measures *interrupting or suspending a payment* shall be proportionate to the nature, *gravity*, duration and repetition of the non compliance.

Article 51

Conditions for financial assistance towards operators

1. *Subject to specific rules to be adopted, the entitlement of operators to receive* Union financial assistance *may* be *made* conditional on *their* compliance with *specific obligations under* the Common Fisheries Policy.
2. *Subject to specific rules to be adopted*, serious infringements by operators of the rules of the Common Fisheries Policy *may* result in temporary or permanent bans on access to the Union financial assistance and/or the application of financial reductions. Such measures shall be proportionate to the nature, *gravity*, duration and repetition of serious infringements.

PART XIII

PROCEDURAL PROVISIONS

Article 55

Exercise of delegation*

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

* *[The choice of legal instrument for implementation and pertaining rules will be dealt with at a later stage]*

2. The delegation of power referred to in Articles 15(9), **26a(2), 26c(4)** 37(7), 47(2) shall be conferred for an indeterminate period of time from 1 January 2013.
3. The delegation of power referred to in Articles 15(9), **26a(2), 26c(4)** 37(7), 47(2) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Articles 15(9), **26a(2), 26c(4)** 37(7), 47(2) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.

Article 56

Implementation

In the implementation of the rules of the Common Fisheries Policy, the Commission shall be assisted by a Committee for fisheries and aquaculture. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

1. ***Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.***

Part XIV

FINAL PROVISIONS

Article 57

Repeals and amendments

1. Regulation (EC) No 2371/2002 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation.

2. Decision (EC) No 2004/585 is hereby repealed with effect from the entry into force of the rules adopted under Article **26c(4)**.
3. Article 5 of Regulation (EC) No 1954/2003 shall be deleted.
4. Regulation (EC) No 199/2008 is repealed.
5. Regulation (EC) No 639/2004 is repealed.

6. *A new paragraph 3a is added to Article 105 of Regulation 1224/2009 as follows:*

"By way of derogation from paragraph 2 and 3, no multiplying factor is applied to catches which are subject to a landing obligation in accordance with Article 15 of the Regulation of the European Parliament and of the Council on the Common Fisheries Policy²⁶, provided that the extent of overfishing relative to the permitted landings does not exceed 10%."

Article 58

Transitional measures

Notwithstanding Article 57(4), Regulation (EC) No 199/2008 shall continue to apply to the national programmes adopted for the collection and management of data for the years 2011 - 2013.

²⁶ [OJ: insert reference to this Regulation]

Article 59

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 2013./

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

Done at Brussels,

For the European Parliament

For the Council

The President

The President

ANNEX I

ACCESS TO COASTAL WATERS WITHIN THE MEANING OF ARTICLE 6(2)

1. COASTAL WATERS OF THE UNITED KINGDOM

A. ACCESS FOR FRANCE

| Geographical area | Species | Importance or particular characteristics |
|---|----------------------------------|---|
| United Kingdom coast (6 to 12 nautical miles) | | |
| 1. Berwick-upon-Tweed east Coquet Island east | Herring | Unlimited |
| 2. Flamborough Head east Spurn Head east | Herring | Unlimited |
| 3. Lowestoft east Lyme Regis south | All species | Unlimited |
| 4. Lyme Regis south Eddystone south | Demersal | Unlimited |
| 5. Eddystone south Longships south-west | Demersal | Unlimited |
| | Scallops | Unlimited |
| | Lobster | Unlimited |
| | Crawfish | Unlimited |
| 6. Longships south-west Hartland Point north-west | Demersal | Unlimited |
| | Crawfish | Unlimited |
| | Lobster | Unlimited |
| 7. Hartland Point to a line from the north of Lundy Island | Demersal | Unlimited |
| 8. From a line due west Lundy Island to Cardigan Harbour | All species | Unlimited |
| 9. Point Lynas North Morecambe Light Vessel east | All species | Unlimited |
| 10. County Down | Demersal | Unlimited |
| 11. New Island north-east Sanda Island south-west | All species | Unlimited |
| 12. Port Stewart north Barra Head west | All species | Unlimited |
| 13. Latitude 57°40'N Butt of Lewis west | All species, except shellfish | Unlimited |
| 14. St Kilda, Flannan Islands | All species | Unlimited |
| 15. West of the line joining Butt of Lewis lighthouse to the point 59°30'N-5°45'W | All species | Unlimited |

B. ACCESS FOR IRELAND

| Geographical area | Species | Importance or particular characteristics |
|--|----------|--|
| United Kingdom coast (6 to 12 nautical miles) | | |
| 1. Point Lynas north | Demersal | Unlimited |
| Mull of Galloway south | Nephrops | Unlimited |
| 2. Mull of Oa west | Demersal | Unlimited |
| Barra Head west | Nephrops | Unlimited |

C. ACCESS FOR GERMANY

| Geographical area | Species | Importance or particular characteristics |
|--|----------|--|
| United Kingdom coast (6 to 12 nautical miles) | | |
| 1. East of Shetlands and Fair Isle between lines drawn due south-east from Sumbrugh Head lighthouse due north-east from Skroo lighthouse and due south-west from Skadan lighthouse | Herring | Unlimited |
| 2. Berwick-upon-Tweed east, Whitby High lighthouse east | Herring | Unlimited |
| 3. North Foreland lighthouse east, Dungeness new lighthouse south | Herring | Unlimited |
| 4. Zone around St Kilda | Herring | Unlimited |
| | Mackerel | Unlimited |
| 5. Butt of Lewis lighthouse west to the line joining Butt of Lewis lighthouse and the point 59°30'N-5°45'W | Herring | Unlimited |
| 6. Zone around North Rona and Sulisker (Sulasgeir) | Herring | Unlimited |

D. ACCESS FOR THE NETHERLANDS

| Geographical area | Species | Importance or particular characteristics |
|--|----------|--|
| United Kingdom coast (6 to nautical 12 miles) | | |
| 1. East of Shetlands and Fair Isle between lines drawn due south-east from Sumburgh Head lighthouse due north-east from Skroo lighthouse and due south-west from Skadan lighthouse | Herrings | Unlimited |
| 2. Berwick upon Tweed east, Flamborough Head east | Herrings | Unlimited |
| 3. North Foreland east, Dungeness new lighthouse south | Herrings | Unlimited |

E. ACCESS FOR BELGIUM

| Geographical area | Species | Importance or particular characteristics |
|--|---------------------|--|
| United Kingdom coast (6 to nautical 12 miles) | | |
| 1. Berwick upon Tweed east Coquer Island east | Herrings | Unlimited |
| 2. Cromer north North Foreland east | Demersal | Unlimited |
| 3. North Foreland east Dungeness new lighthouse south | Demersal Herring | Unlimited Unlimited |
| 4. Dungeness new lighthouse south, Selsey Bill south | Demersal | Unlimited |
| 5. Straight Point south-east, South Bishop north-west | Demersal | Unlimited |

2. COASTAL WATERS OF IRELAND

A. ACCESS FOR FRANCE

| Geographical area | Species | Importance or particular characteristics |
|---|-------------------------------|--|
| Irish coast (6 to 12 nautical miles) | | |
| 1. Erris Head north-west Sybil Point west | Demersal | Unlimited |
| | Nephrops | Unlimited |
| 2. Mizen Head south Stags south | Demersal | Unlimited |
| | Nephrops | Unlimited |
| | Mackerel | Unlimited |
| 3. Stags south Cork south | Demersal | Unlimited |
| | Nephrops | Unlimited |
| | Mackerel | Unlimited |
| | Herring | Unlimited |
| 4. Cork south, Carnsore Point south | All species | Unlimited |
| 5. Carnsore Point south, Haulbowline south-east | All species, except shellfish | Unlimited |

B. ACCESS FOR THE UNITED KINGDOM

| Geographical area | Species | Importance or particular characteristics |
|------------------------------------|----------|--|
| Irish coast (6 to 12 miles) | | |
| 1. Mine Head south Hook Point | Demersal | Unlimited |
| | Herring | Unlimited |
| | Mackerel | Unlimited |
| 2. Hook Point Carlingford Lough | Demersal | Unlimited |
| | Herring | Unlimited |
| | Mackerel | Unlimited |
| | Nephrops | Unlimited |
| | Scallops | Unlimited |

C. ACCESS FOR THE NETHERLANDS

| Geographical area | Species | Importance or particular characteristics |
|------------------------------------|----------|--|
| Irish coast (6 to 12 miles) | | |
| 1. Stags south | Herrings | Unlimited |
| Carnsore Point south | Mackerel | Unlimited |

D. ACCESS FOR GERMANY

| Geographical area | Species | Importance or particular characteristics |
|--|----------|--|
| Irish coast (6 to 12 nautical miles) | | |
| 1. Old Head of Kinsale south Carnsore Point south | Herring | Unlimited |
| 2. Cork south Carnsore Point south | Mackerel | Unlimited |

E. ACCESS FOR BELGIUM

| Geographical area | Species | Importance or particular characteristics |
|--|----------|--|
| Irish coast (6 to 12 nautical miles) | | |
| 1. Cork south Carnsore Point south | Demersal | Unlimited |
| 2. Wicklow Head east Carlingford Lough south-east | Demersal | Unlimited |

3. COASTAL WATERS OF BELGIUM

| Geographical area | Member State | Species | Importance or particular characteristics |
|------------------------|--------------|-------------|--|
| 3 to 12 nautical miles | Netherlands | All species | Unlimited |
| | France | Herring | Unlimited |

4. COASTAL WATERS OF DENMARK

| Geographical area | Member State | Species | Importance or particular characteristics |
|---|----------------|----------------------------------|--|
| North Sea coast (Danish/German frontier to Hanstholm) (6 to 12 nautical miles) | | | |
| | | | |
| Danish/German frontier to Blåvands Huk | Germany | <i>Flatfish</i> | <i>Unlimited</i> |
| | | <i>Shrimps and prawns</i> | <i>Unlimited</i> |
| | Netherlands | Flatfish | Unlimited |
| | | Roundfish | Unlimited |
| Blåvands Huk to Bovbjerg | Belgium | Cod | Unlimited only during June and July |
| | | Haddock | Unlimited only during June and July |
| | Germany | Flatfish | Unlimited |
| | Netherlands | Plaice | Unlimited |
| | | Sole | Unlimited |
| | | | |
| Thyborøn to Hanstholm | Belgium | Whiting | Unlimited only during June and July |
| | | Plaice | Unlimited only during June and July |
| | Germany | Flatfish | Unlimited |
| | | Sprat | Unlimited |
| | | Cod | Unlimited |
| | | Saithe | Unlimited |
| | | Haddock | Unlimited |
| | | Mackerel | Unlimited |
| | | Herring | Unlimited |
| | | Whiting | Unlimited |
| | Netherlands | Cod | Unlimited |
| | | Plaice | Unlimited |
| | | Sole | Unlimited |

| Geographical area | Member State | Species | Importance or particular characteristics |
|---|--------------|-------------|--|
| Skagerrak (Hanstholm to Skagen) (4 to 12 nautical miles) | Belgium | Plaice | Unlimited only during June and July |
| | Germany | Flatfish | Unlimited |
| | | Sprat | Unlimited |
| | | Cod | Unlimited |
| | | Saithe | Unlimited |
| | | Haddock | Unlimited |
| | | Mackerel | Unlimited |
| | | Herring | Unlimited |
| | | Whiting | Unlimited |
| | Netherlands | Cod | Unlimited |
| | | Plaice | Unlimited |
| | | Sole | Unlimited |
| Kattegat (3 to 12 miles) | Germany | Cod | Unlimited |
| | | Flatfish | Unlimited |
| | | Nephrops | Unlimited |
| | | Herring | Unlimited |
| North of Zealand to the parallel of the latitude passing through Forsnæs lighthouse | Germany | Sprat | Unlimited |
| Baltic Sea (including Belts, Sound, Bornholm) (3 to 12 nautical miles) | Germany | Flatfish | Unlimited |
| | | Cod | Unlimited |
| | | Herring | Unlimited |
| | | Sprat | Unlimited |
| | | Eel | Unlimited |
| | | Salmon | Unlimited |
| | | Whiting | Unlimited |
| | | Mackerel | Unlimited |
| Skagerrak (4 to 12 miles) | Sweden | All species | Unlimited |
| Kattegat (3 (*) to 12 miles) | Sweden | All species | Unlimited |
| Baltic Sea (3 to 12 miles) | Sweden | All species | Unlimited |
| (*) Measured from the coast line. | | | |

5. COASTAL WATERS OF GERMANY

| Geographical area | Member State | Species | Importance or particular characteristics |
|--|----------------|--------------------|--|
| North Sea coast (3 to 12 nautical miles) all coasts | Denmark | Demersal | Unlimited |
| | | Sprat | Unlimited |
| | | Sandeel | Unlimited |
| | Netherlands | Demersal | Unlimited |
| | | Shrimps and prawns | Unlimited |
| Danish/German frontier to the northern tip of Amrum at 54°43'N | Denmark | Shrimps and prawns | Unlimited |
| Zone around Helgoland | United Kingdom | Cod | Unlimited |
| | | Plaice | Unlimited |
| Baltic coast (3 to 12 miles) | Denmark | Cod | Unlimited |
| | | Plaice | Unlimited |
| | | Herring | Unlimited |
| | | Sprat | Unlimited |
| | | Eel | Unlimited |
| | | Whiting | Unlimited |
| | | Mackerel | Unlimited |

6. COASTAL WATERS OF FRANCE AND THE OVERSEAS DEPARTMENTS

| Geographical area | Member State | Species | Importance or particular characteristics |
|---|----------------|-------------|--|
| North-east Atlantic coast (6 to 12 nautical miles) | | | |
| Belgian/French frontier to east of Departement Manche (Vire-Grandcamp les Bains estuary 49° 23' 30" N-1° 2 'WNNE) | Belgium | Demersal | Unlimited |
| | | Scallops | Unlimited |
| | Netherlands | All Species | Unlimited |
| Dunkerque (2° 20' E) to Cap d'Antifer (0° 10' E) | Germany | Herring | Unlimited only during October to December |
| Belgian/French frontier to Cap d'Alprech west (50° 42 30" N — 1° 33' 30" E) | United Kingdom | Herring | Unlimited |
| Atlantic Coast (6 to 12 nautical miles) | | | |
| Spanish/French frontier to 46° 08' N | Spain | Anchovies | Directed fishing, unlimited only from 1 March to 30 June |
| | | | Fishing for live bait from 1 July to 31 October only. |
| | | Sardines | Unlimited only from 1 January to 28 February and from 1 July to 31 December, |
| | | | In addition, activities relating to the abovementioned species must be pursued in accordance with and within the limits of the activities pursued during 1 984 |
| Mediterranean coast (6 to 12 nautical miles) | | | |
| Spanish frontier Cap Leucate | Spain | All species | Unlimited |

7. COASTAL WATERS OF SPAIN

| Geographical area | Member State | Species | Importance or particular characteristics |
|--|--------------|-------------|--|
| Atlantic coast (6 to 12 nautical miles) | | | |
| French/Spanish frontier to Cap Mayor lighthouse (3° 47' W) | France | Pelagic | Unlimited in accordance with and within the limits of the activities pursued during 1984 |
| Mediterranean coast (6 to 12 nautical miles) | | | |
| French frontier/Cap Creus | France | All species | Unlimited |

8. COASTAL WATERS OF THE NETHERLANDS

| Geographical area | Member State | Species | Importance or particular characteristics |
|--|----------------|--------------------|--|
| (3 to 12 nautical miles) whole coast | Belgium | All species | Unlimited |
| | Denmark | Demersal | Unlimited |
| | | Sprat | Unlimited |
| | | Sandeel | Unlimited |
| | | Horse-mackerel | Unlimited |
| | Germany | Cod | Unlimited |
| | | Shrimps and prawns | Unlimited |
| (6 to 12 nautical miles) whole coast | France | All species | Unlimited |
| Texel south point, west to the Netherlands/German frontier | United Kingdom | Demersal | Unlimited |

9. COASTAL WATERS OF FINLAND

| Geographical area | Member State | Species | Importance or particular characteristics |
|---|--------------|-------------|--|
| Baltic Sea (4 to 12 miles) (*) | Sweden | All species | Unlimited |
| (*) 3 to 12 miles around Bogskär Isles. | | | |

10. COASTAL WATERS OF SWEDEN

| Geographical area | Member State | Species | Importance or particular characteristics |
|------------------------------------|--------------|-------------|--|
| Skagerrak (4 to 12 nautical miles) | Denmark | All species | Unlimited |
| Kattegat (3 (*) to 12 miles) | Denmark | All species | Unlimited |
| Baltic Sea (4 to 12 miles) | Denmark | All species | Unlimited |
| | Finland | All species | Unlimited |
| (*) Measured from the coastline | | | |

ANNEX II
FISHING CAPACITY CEILINGS*

| Capacity ceilings (based on the situation on 31 December 2010) | | |
|---|---------|-----------|
| Member State | GT | kW |
| Belgium | 18.911 | 51.585 |
| Bulgaria | 8.448 | 67.607 |
| Denmark | 88.528 | 313.341 |
| Germany | 71.114 | 167.089 |
| Estonia | 22.057 | 53.770 |
| Ireland | 77.254 | 210.083 |
| Greece | 91.245 | 514.198 |
| Spain (including outermost regions) | 446.309 | 1.021.154 |
| France (including outermost regions) | 219.215 | 1.194.360 |
| Italy | 192.963 | 1.158.837 |
| Cyprus | 11.193 | 48.508 |
| Latvia | 49.067 | 65.196 |
| Lithuania | 73.489 | 73.516 |
| Malta | 15.055 | 96.912 |
| Netherlands | 166.384 | 350.736 |
| Poland | 38.376 | 92.745 |
| Portugal (including outermost regions) | 115.305 | 388.054 |
| Romania | 1.885 | 6.716 |
| Slovenia | 1.057 | 10.974 |
| Finland | 18.187 | 182.385 |
| Sweden | 42.612 | 210.744 |
| United Kingdom | 235.570 | 924.739 |
| | | |
| Outermost regions of the EU | GT | kW |

* *[Figures to be updated at a later stage]*

| Capacity ceilings (based on the situation on 31 December 2010) | | |
|--|--------|---------|
| Spain | | |
| Canary Islands: L < 12 m. EU waters | 2.649 | 21.219 |
| Canary Islands: L > 12 m. EU waters | 3.059 | 10.364 |
| Canary Islands: L > 12 m. International and third country waters | 28.823 | 45.593 |
| France | | |
| Reunion Island: Demersal and pelagic species. L < 12 m | 1.050 | 19.320 |
| Reunion Island: Pelagic species. L > 12 m | 10.002 | 31.465 |
| French Guyana: Demersal and pelagic species. Length < 12 m | 903 | 11.644 |
| French Guyana: Shrimp vessels | 7.560 | 19.726 |
| French Guyana: Pelagic species. Offshore vessels. | 3.500 | 5.000 |
| Martinique: Demersal and pelagic species. L < 12 m | 5.409 | 142.116 |
| Martinique: Pelagic species. L > 12 m | 1.046 | 3.294 |
| Guadeloupe: Demersal and pelagic species. L < 12 m | 6.188 | 162.590 |
| Guadeloupe: Pelagic species. L > 12 m | 500 | 1.750 |
| Portugal | | |
| Madeira: Demersal species. L < 12 m | 617 | 4.134 |
| Madeira: Demersal and pelagic species. L > 12 m | 4.114 | 12.734 |
| Madeira: Pelagic species. Seine. L > 12 m | 181 | 777 |
| Azores: Demersal species. L < 12 m | 2.626 | 29.895 |
| Azores: Demersal and pelagic species. L > 12 m | 12.979 | 25.721 |

L means length overall

ANNEX III

ADVISORY COUNCILS

1. Name and area of competence

| Name of the Advisory Council | Area of competence |
|---|--|
| Baltic Sea | ICES ²⁷ zones IIIb, IIIc and IIId |
| <i>Black Sea</i> | <i>GFCM geographical sub-area as defined in Resolution GFCM/33/2009/2</i> |
| Mediterranean Sea | Maritime Waters of the Mediterranean of the East of line 5°36' West |
| North Sea | ICES zones IV and IIIa |
| North Western waters | ICES zones V (excluding Va and only Union waters of Vb), VI and VII |
| South Western waters | ICES zones VIII, IX and X (waters around Azores), and CECAF ²⁸ zones 34.1.1, 34.1.2 and 34.2.0 (waters around Madeira and the Canary Islands) |
| <i>Outermost regions</i> | <i>Outermost regions as referred to in Article 349 paragraph 1 of the Treaty</i> |
| Pelagic stocks (blue whiting, mackerel, horse mackerel, herring, <i>boarfish</i>) | All <i>geographical</i> areas excluding the Baltic Sea and the Mediterranean Sea |
| High seas/long distance fleet | All non Union-waters |
| Aquaculture | Aquaculture, as defined in Article 5 |

²⁷ ICES (International Council for the Exploration of the Sea) zones are as defined in Regulation (EC) No 218/2009.

²⁸ CECAF (Eastern Central Atlantic or FAO major fishing zone 34) zones are as defined in Regulation (EC) No 216/2009.

2. Functioning and funding

- a) In the general assembly and executive committee, two thirds of the seats shall be allotted to representatives of the fishermen, where relevant, and representatives of the production, processing and marketing sectors {and trade unions}, and one third to representatives of the other interest groups affected by the Common Fisheries Policy.*
- b) Except for the Advisory Council for Aquaculture, at least one representative of the catching subsector from each Member State concerned shall be member of the executive committee.*
- c) The members of the executive committee shall, where possible, adopt recommendations by consensus. If no consensus can be reached, dissenting opinions expressed by members shall be recorded in the recommendations adopted by the majority of the members present and voting.*
- d) Each Advisory Council shall designate a chairperson by consensus. The chairperson shall act impartially.*
- e) Each Advisory Council shall adopt the measures necessary to ensure transparency and the respect of all opinions expressed. Recommendations adopted by the executive committee shall be made available immediately to the general assembly, the Commission, Member States concerned and, upon request, to any member of the public.*
- f) The meetings of the general assembly shall be open to the public. The meetings of the executive committee shall be open to the public unless, in exceptional cases, decided otherwise by a majority of the executive committee.*
- g) European and national organisations representing the fisheries sector and other interest groups may propose members to the Member States concerned. These Member States shall agree on the members of the general assembly.*
- h) Scientists from institutes of the Member States concerned or international bodies may be invited to participate as experts in the work of the Advisory Councils. Any other qualified scientist may also be invited.*
- i) The Commission and national and regional administrations of the Member States concerned shall have the right to participate in any meeting of an Advisory Council as active observers.*
- j) Representatives of the fisheries sector and other interest groups from third countries, including representatives from RFMOs, that have a fishing interest in the area or fisheries covered by an Advisory Council, may be invited to participate in the Advisory Council as active observers when issues which affect them are discussed.*
- k) Advisory Councils may apply for Union financial assistance as bodies pursuing an aim of general European interest.*

- l) The Commission shall sign a grant agreement with each Advisory Council to contribute to its operational costs, including translation and interpretation costs.*
 - m) The Commission may carry out all verifications it considers necessary to ensure compliance with the tasks assigned to the Advisory Councils.*
 - n) Each Advisory Council shall transmit annually its budget and a report of its activities to the Commission and to the Member States concerned.*
 - o) The Commission or the Court of Auditors may, at any time, arrange for an audit to be carried out either by an outside body of its choice or by the Commission or the Court of Auditors departments themselves.*
 - p) Each Advisory Council shall appoint a certified auditor for the period during which it benefits from Community funds.*
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