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Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND
OF THE COUNCIL on the sustainable management of external fishing
fleets, repealing Council Regulation (EC) No 1006/2008
- General Approach

Delegations find attached the general approach agreed by the "Agriculture and Fisheries" Council
on 28 June 2016.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the sustainable management of external fishing fleets, repealing Council Regulation (EC)

No 1006/2008

[...]

TITLE I
GENERAL PROVISIONS

Article 1

Subject matter

This Regulation sets out rules for issuing and managing fishing authorisations for:

- (a) Union fishing vessels [...] **conducting fishing activities** in waters under the sovereignty or jurisdiction of a third country, under the auspices of a regional fisheries management organisation [...], or on the high seas; and
- (b) third country fishing vessels [...] **conducting fishing activities** in Union waters.

Article 2
Relationship to international and Union law

This Regulation shall apply without prejudice to the provisions:

- (a) in sustainable fisheries partnership agreements and [...] **other** fisheries agreements concluded between the Union and third countries;
- (b) adopted by regional fisheries management organisations [...] to which the Union is a contracting party [...];
- (c) in Union legislation implementing [...] provisions referred to in points (a) and (b).

Article 3
Definitions

- 1.** For the purpose of this Regulation, the definitions **set out** in Article 4 of Regulation (EU) No 1380/2013 **and in points 1 to 4, 15, 16 and 22 of Article 2 of Regulation (EU) No 1005/2008** shall apply, **save as otherwise provided for in this Regulation.**
- 2.** [...] **For the purpose of this Regulation** the following definitions shall also apply:
 - (a) ‘support vessel’ means a vessel **other than a craft carried on board** that is not equipped with operational fishing gear **and** that facilitates, assists or prepares fishing activities;
 - (b) ‘fishing authorisation’ means:
 - **an authorisation referred to in Article 4 (10) of Regulation (EC) No 1224/2009,**

- **an authorisation issued by a third country entitling a Union fishing vessel to carry out specific fishing activities in the waters under the sovereignty or jurisdiction of this third country, during a specified period, in a given area or for a given fishery under specific conditions, and**
 - [...] **in respect of a** third country fishing vessel, **an authorisation** entitling it to carry out **in Union waters** specific fishing activities during a specified period, in a given area or for a given fishery under specific conditions;
- (c) [...]
- (d) ‘direct authorisation’ means a fishing authorisation issued by a third country competent authority to a Union fishing vessel outside the framework of a sustainable fisheries partnership agreement **or of an agreement on exchange of fishing opportunities and joint management of species of common interest;**
- (e) ‘third country waters’ means waters under the sovereignty or jurisdiction of a third country. **The waters of a Member State that are not Union waters are considered as third country waters for the purpose of this Regulation;**
- (f) ‘observer program’ means a scheme under the auspices of a regional fisheries management organisation **or a scheme referred to in a sustainable fisheries partnership agreement** that provides observers onboard fishing vessels[...]; **and**
- (g) **‘fishing activities’ means all activities in connection with searching for fish, the shooting, towing and hauling of active gears, setting, soaking, removing or resetting of passive gears and the removal of any catch from the gear, keep nets, or from a transport cage to fattening and farming cages.**

TITLE II
FISHING ACTIVITIES BY UNION FISHING VESSELS OUTSIDE
UNION WATERS

Chapter I
Common provisions

Article 4

General principle

Without prejudice to the requirement to obtain an authorisation from the competent organisation or third country, a Union fishing vessel may not carry out fishing activities outside Union waters unless it has been **authorised by its flag Member State and the fishing activities are indicated in a valid** [...] fishing authorisation [...] **issued in accordance with chapters II to V, as appropriate.**

Article 5

Eligibility criteria

[...] A flag Member State may only issue a fishing authorisation for fishing activities outside Union waters if:

- (a) [...]
- (b) the fishing vessel has a valid fishing **license** under Article 6 of Regulation (EC) No 1224/2009;

- (c) the fishing vessel and any associated support vessel **apply the relevant International Maritime Organisation ship identification number scheme insofar as is required under Union law** [...];
 - (d) [...]
 - (e) the fishing vessel is not included in an IUU vessel list adopted by a regional fisheries management organisation and/or by the Union pursuant to Council Regulation (EC) 1005/2008;
 - (f) where applicable, fishing opportunities are available to the flag Member State under the fisheries agreement concerned or the relevant provisions of the regional fisheries management organisation; and
 - (g) where applicable, the fishing vessel complies with the requirements set out in Article 6.
2. [...]

Article 6

Reflagging operations

1. This article applies to vessels that within five years **preceding** [...] the date of the application for a fishing authorisation have:
 - (a) left the Union fishing fleet register and been reflagged in a third country; and
 - (b) subsequently returned to the Union fishing fleet register within 24 months from the date of leaving it.

2. A flag Member State may only issue a fishing authorisation if it **has established** [...] that, during the period that the vessel referred to in paragraph 1 operated under a third country flag:
 - (a) it did not engage in IUU fishing activities; and that
 - (b) it did not operate in waters of a non-cooperating third country pursuant to Article [...] 33 of Council Regulation (EC) No 1005/2008.
3. To this end, an operator shall provide any information related to the relevant period required by a flag Member State, including at least each of the following:
 - (a) a declaration of catches and fishing efforts during the relevant period **as required by the third country flag State**;
 - (b) [...];
 - (c) a copy of [...] fishing authorisations_s permitting fishing operations [...] during the relevant period;
 - (d) an official statement by the third country where the vessel was reflagged listing the sanctions the vessel or the operator had been subject to during the relevant period.
4. A flag Member State shall not issue a fishing authorisation to a vessel that has been reflagged:
 - (a) in a third country which became [...] listed as a non-cooperating country in combatting IUU fishing pursuant to Article [...] 33 of Council Regulation (EC) No 1005/2008; or

(b) in a third country which became identified as a country allowing non-sustainable fishing pursuant to Article 4 paragraph 1(a) of Regulation (EU) No 1026/2012¹.

5. Paragraph 4 shall not apply if the flag Member State is satisfied that, **when** [...] the country was [...] **listed** as an IUU non-cooperating country or as allowing non-sustainable fishing, the operator:

(a) ceased fishing operations; and

(b) **immediately** started the relevant administrative procedures to remove the vessel from the third country's fishing fleet register.

Article 7

[...] ***Management of fishing authorisations***

1. When applying for a fishing authorisation, an operator shall provide the flag Member State with complete and accurate data.
2. An operator shall immediately inform the flag Member State of any change to the related data.
3. A flag Member State shall monitor whether the conditions on the basis of which a fishing authorisation has been issued continue to be met during the period of validity of that authorisation.
4. If a condition on the basis of which a fishing authorisation has been issued is no longer met, a flag Member State shall **take appropriate action, including to** amend or withdraw the authorisation, and notify the operator and the Commission accordingly.

¹ Regulation (EU) No 1026/2012 of the European Parliament and of the Council of 25 October 2012 on certain measures for the purpose of the conservation of fish stocks in relation to countries allowing non-sustainable fishing (OJ L 316, 14.11.2012, p. 34).

5. Upon a **reasoned** request from the Commission, a flag Member State shall refuse, suspend or withdraw the authorisation in cases of **a serious threat** [...] to the sustainable exploitation, management and conservation of marine biological resources or [...] **where it is essential in order to** prevent [...] or suppress [...] illegal, unreported or unregulated fishing, or in cases where the Union has decided to suspend or sever relations with the third country concerned.
6. [...]

Chapter II

Fishing activities by Union fishing vessels in third country waters

SECTION 1

FISHING ACTIVITIES UNDER SUSTAINABLE FISHERIES PARTNERSHIP AGREEMENTS

*Article **8** [...]*

Scope

This Section shall apply to fishing activities carried out by Union fishing vessels in third country waters under a sustainable fisheries partnership agreement.

Article 9 [...]
RFMO Membership

A Union fishing vessel may only carry out fishing activities in waters of a third country on stocks managed by an RFMO if this country is a contracting party [...] to that RFMO. **In case of sustainable fisheries partnership agreements concluded before the entry into force of this Regulation, this provision shall only apply from ...***

[Note: recital to be added: "In view of the need for an inclusive and compulsory management of stocks occurring in the waters of a third country which fall under the competence of an RFMO, it is appropriate to provide that fishing activities can be conducted in the waters of a third country on these stocks only where the third country is a member of the relevant RFMO. It is desirable that the financial contribution reserved for sectoral support under the SFPA is used to support the membership of this third country to the relevant RFMO."]

*** Footnote: JO: please insert date two years after the entry into force.**

Article 10

[...]

Article 11

Conditions for fishing authorisations by the flag Member State

A flag Member State may only issue a fishing authorisation for fishing activities carried out in third country waters under a sustainable fisheries partnership agreement if :

- (a) the eligibility criteria set out in Article 5 are fulfilled;
- (b) the conditions set out in the relevant sustainable fisheries partnership agreement are complied with;
- (c) the operator has paid all fees [...] **due under the relevant agreements, including, where applicable, related financial sanctions;**
- (d) **the fishing vessel has a valid fishing authorisation issued by the third country with sovereignty or jurisdiction over the waters where the activities take place.**

Article 12

[...] **Procedure for obtaining the third country's fishing authorisations**

1. [...] **For the purpose of Article 11 (d),** a flag Member State **that has verified that the conditions set out in Article 11(a) to (c) are complied with,** shall send the Commission the corresponding application for the third country's authorisation.
2. The application referred to in paragraph 1 shall contain the information [...] required under the sustainable fisheries partnership agreement.

3. The flag Member State shall send the application to the Commission at least 10 calendar days before the deadline for the transmission of applications laid down in the sustainable fisheries partnership agreement. The Commission may ask the flag Member State for [...] additional information [...] necessary **for verifying the conditions**.
4. When it is **established** [...] that the conditions in Article 11 **(a) to (c)** are met, the Commission shall send the application to the third country **without delay and in any event before the expiry of the deadline for the transmission of applications laid down in the sustainable fisheries partnership agreement, provided that the deadline set out in paragraph 3 has been respected**.
5. If a third country informs the Commission that it has decided to issue, refuse, suspend or withdraw a fishing authorisation for a Union fishing vessel, the Commission shall inform the flag Member State accordingly **without delay by electronic means**.

Article 13

Temporary *reallocation of unused fishing opportunities in the framework of sustainable fisheries partnership agreements*

[Note: Recital 16 to be amended: "...It is therefore necessary to clarify and improve the reallocation system, which should be a last resort mechanism. Its application should be temporary and it should not affect the initial allocation of fishing opportunities among Member States. Reallocation should only occur once the relevant Member States have given up on their rights to exchange fishing opportunities among themselves, **and should primarily be addressed in the context of sustainable fisheries partnership agreements giving access to mixed fisheries."]**

1. During a specific year or any other relevant period of the implementation of a protocol to a sustainable fisheries partnership agreement **taking into account validity periods of the fishing authorisations and fishing seasons**, the Commission may identify unused fishing opportunities and inform the Member States benefiting from the corresponding shares of the allocation accordingly.

2. Within 10 **calendar** days of receipt of this information from the Commission, the Member States referred to in paragraph 1 may:
 - (a) inform the Commission that they will use their fishing opportunities later in [...] the relevant period of implementation by providing a fishing plan with detailed information on the number of fishing authorisations requested, the estimated catches, zone and period of fishing; or
 - (b) notify the Commission of **the use of their fishing opportunities through** exchanges of fishing opportunities, pursuant to Article 16(8) of Regulation (EU) No 1380/2013.
3. If certain Member States have not informed the Commission of one of the actions referred to in paragraph 2, **or of a partial use of their fishing opportunities only**, and if as a result fishing opportunities remain unused, the Commission may launch a call for interest for the available unused fishing opportunities among the other Member States benefiting from a share of the allocation. **The Commission shall at the same time inform all Member States of the launch of the call for interest.**
4. Within 10 **calendar** days of receipt of this call for interest, [...] Member States **benefiting from a share of the allocation** may communicate their interest in the **available** unused fishing opportunities to the Commission. In support for their request, they shall provide a fishing plan with detailed information on the number of fishing authorisations requested, the estimated catches, zone and period of fishing.
5. **Where** [...] necessary for the assessment of the request, the Commission may ask the Member States concerned for additional information.
6. In the absence of [...] interest in the **total amount of the available** unused fishing opportunities by the Member States benefiting from a share of the allocation, the Commission may [...] **extend the** call for interest to all Member States. A Member State may communicate its interest in the unused fishing opportunities under the conditions referred to in paragraph 4.

7. On the basis of the information provided by Member States in accordance with paragraphs 4 or **6**, [...] the unused fishing opportunities **shall be reallocated by the Council in accordance with Article 43(3) TFEU on a temporary basis for the relevant period of time referred to in paragraph 1** [...].

Article 14

[...]

- 8.** **The temporary reallocation of fishing opportunities** [...] shall [...] **be based on** the following criteria:
- (a) fishing opportunities available for reallocation;
 - (b) number of requesting Member States;
 - (c) share assigned to each requesting Member State in the initial allocation of fishing opportunities;
 - (d) historic catch and effort levels of each requesting Member State, **where available**;
 - (e) **the viability of the fishing plans provided by the requesting Member States, in light of the** number, type and characteristics of vessels and gear used.
 - (f) [...]

Article 15

Sub-allocation of a yearly quota broken down into several successive catch limits

1. Where the Protocol to a sustainable fisheries partnership agreement sets monthly or quarterly catch limits or other subdivisions of [...] **the fishing opportunities available for the relevant year, and where the fishing opportunities allocated may not all be used during the same monthly, quarterly or otherwise applicable period of time,** [...] the corresponding **available** fishing opportunities **shall be sub-allocated by the Council in accordance with Article 43(3) TFEU** [...] **among the** Member States **concerned for the relevant periods of time** [...].
2. **The sub-allocation of the available fishing opportunities shall be carried out using transparent and objective criteria. It** [...] shall be consistent with the annual fishing opportunities allocated to Member States under the relevant Council Regulation.

SECTION 2

FISHING ACTIVITIES UNDER AGREEMENTS ON EXCHANGE OR JOINT MANAGEMENT

Article 15a

Applicable provisions

- 1. Articles 8 to 12 shall apply *mutatis mutandis* to Union fishing vessels fishing in third country waters under an agreement on exchange of fishing opportunities or joint management of fish stocks of common interest insofar as the Union fishing vessels' activities are subject to an authorisation regime put in place by such agreement.**

- 2. By derogation from Article 12, a flag Member State may provide the Commission with the list(s) of vessels that are eligible for carrying out fishing activities in third country waters under the relevant agreement. When it is established that the conditions set out in Article 11 (a) to (c) are met, the Commission shall forward the list(s) of the relevant vessels to the third country without delay. As soon as the third country informed the Commission that the list(s) of vessels has been approved, the Commission shall inform the flag Member State accordingly. The vessels listed on such list(s) shall be considered to have a valid fishing authorisation for the purpose of Article 11(d). The Commission shall also inform the flag Member State without delay by electronic means of any notification by the third country that a vessel on the list(s) is not eligible for carrying out fishing activity in its waters.**

Article 15b

Consultations with third countries in respect of Union fishing vessels

The Commission shall be empowered to adopt delegated acts, in accordance with Article 44, in order to amend or supplement Articles 8 to 12 of this Regulation. The objective of these delegated acts is to reflect in Union law the outcome of the consultations between the Union and third countries with which the Union has concluded an agreement, or of arrangements with coastal states with which fish stocks are shared. Such delegated act may only relate to the conditions and procedures for fishing authorisations.

SECTION 3[...]

FISHING ACTIVITIES UNDER DIRECT AUTHORISATIONS

Article 16

Scope

This Section shall apply to fishing activities carried out by Union fishing vessels [...] in waters of a third country **outside the framework of an agreement referred to in sections 1 or 2.**

Article 17

[...]

Article 18

Conditions for fishing authorisations by the flag Member States

- 1.** A flag Member State may only issue a fishing authorisation for fishing activities carried out in third country waters outside the framework of an [...] agreement **referred to in sections 1 or 2** if:
 - (a) the eligibility criteria set out in Article 5 are fulfilled;
 - (b) [...] no sustainable fisheries partnership agreement **or agreement on exchange of fishing opportunities or joint management with the relevant third country is** in force **or is provisionally applied** [...], or, **where** the [...] agreement **is** in force **or is provisionally applied, it** provides expressly for the possibility of direct authorisations;
 - (c) **it has received complete and accurate information, in accordance with the Annex, about the fishing vessel and the associated support vessel(s), including non-Union support vessels;**

- (d) the operator has provided each of the following:
- [...];
 - evidence of the sustainability of the planned fishing activities, on the basis of, **as relevant:**
 - a scientific evaluation provided by [...] a regional fisheries management organisation **or a regional fisheries body with scientific competences;** [...] **or**
 - **a scientific evaluation established by, or in cooperation with, the third country that has been reviewed by a scientific institute or body of a Member State or of the Union** [...];
 - a copy **of or a reference to** [...] the third country's fisheries legislation **relevant for the intended fishing activities;**
 - a designated official, public bank account number for the payment of all the fees; [...]
- (e) in the case that the fishing activities are to be carried out on species managed by a regional fisheries management organisation, the third country is a contracting party [...] to that organisation; **and**
- (f) **the operator has provided either**
- **[copied from (d):]** a written confirmation from the third country, following the discussions between the operator and the latter, of the terms of the intended direct authorisation to give the operator access to its fishing resources, including the duration, conditions, and fishing opportunities expressed as effort or catch limits; **or**

- **a valid fishing authorisation for the vessel concerned, issued by the third country with sovereignty or jurisdiction over the waters where the activities take place.**

2. The Commission shall be empowered to adopt delegated acts, in accordance with Article 44, for the purpose of amending the Annex to ensure appropriate monitoring of the activities of fishing vessels under this regulation, in particular through new data requirements resulting from fisheries agreements or the development of information technologies.

Article 19

Procedure for [...] *direct authorisations*

1. [...] **A** flag Member State **that has verified that the conditions set out in Article 18(1)(a) to (e) are complied with,** shall send the Commission the relevant information listed in **the** Annex [...] and **information related to the fulfilment of the conditions** in Article 18(1)(d).
2. If the Commission **considers that the information referred to in paragraph 1 is insufficient to assess the fulfilment of the conditions in Article 18, it shall request** [...] further information or justification within **10** calendar days of the **receipt** [...] of [...] **this** information [...].

3. If, following the request for further information or justification referred to in paragraph 2 **and after a dialogue with the Member State concerned**, the Commission finds that the conditions in Article 18 are not met, it may object to the granting of the fishing authorisation within **30 calendar days** [...] of receipt of all the required information or justification. **If the Commission finds that the conditions are met, it shall inform the Member State concerned without delay of its intention not to object.**
- 3a. The flag Member State may issue the fishing authorisation upon expiry of the period referred to in paragraph 2. Where the Commission has requested further information in accordance with that paragraph, the flag Member State may issue the fishing authorisation if no objection has been raised by the Commission within the deadline referred to in paragraph 3 or prior to that deadline, provided that the Commission informed of its intention not to raise objections to the Member State.**
- 3b. By way of derogation from paragraphs 1 to 3a, in case of renewal of a fishing authorisation with the same terms and conditions and within three years from the granting of the initial fishing authorisation, the flag Member State may issue the fishing authorisation upon verification of the information received in relation to the conditions set out in Article 18(1)(a), (b), (c), (e) and (f) and shall inform the Commission thereof without delay.**
4. If a third country informs the Commission that it has decided to issue, refuse, suspend or withdraw a direct authorisation to a Union fishing vessel, the Commission shall inform the flag Member State accordingly.
5. If a third country informs the flag Member State that it has decided to issue, refuse, suspend or withdraw a direct authorisation to a Union fishing vessel, the flag Member State shall inform the Commission accordingly.
6. An operator shall provide the flag Member State with a copy of the agreed final conditions between him and the third country, including a copy of the direct authorisation.

Chapter III

Fishing activities by Union fishing vessels under the auspices of regional fisheries management organisations

Article 20

Scope

This Chapter shall apply to fishing activities carried out by Union fishing vessels [...] under the auspices of a regional fisheries management organisation, in **or outside** Union waters, [...] **insofar as the Union fishing vessels' activities are subject to an authorisation regime put in place by the regional fisheries management organisation.**

Article 21
Fishing authorisations

- 1.** A Union fishing vessel **the activities of which are subject to an authorisation regime adopted by the regional fisheries management organisation** may not carry out fishing activities **under the auspices of the** [...] regional fisheries management organisation unless:
- (a) it has been issued with a fishing authorisation by its flag Member State;
 - (b) it has been included in the relevant register or list of the regional fisheries management organisation; and
 - (c) where the fishing activities are carried out in third country waters: it has been issued a fishing authorisation by the relevant third country in accordance with Chapter II.
- 2.** **Point (a) of paragraph 1 shall not apply in respect of Union fishing vessels fishing exclusively in Union waters that have already been issued with a fishing authorisation in accordance with Article 7 of Regulation (EC) No 1224/2009.**

Article 22
Conditions for fishing authorisations by the flag Member States

A flag Member State may only issue a fishing authorisation if:

- (a) the eligibility criteria in Article 5 are fulfilled;
- (b) the rules laid down by the regional fisheries management organisation or the transposing Union legislation are complied with; and
- (c) where the fishing activities are carried out in third country waters: the criteria set out in Articles 11 or 18 are complied with.

Article 23

Registration by regional fisheries management organisations

1. A flag Member State shall send the Commission the list(s) of vessels it has authorised for fishing activities **in accordance with Article 21 or, in the case of Article 21 (2), in accordance with Article 7 of Regulation (EC) No 1224/2009** [...].
2. The list(s) referred to in paragraph 1 shall be drawn up in accordance with **conditions laid down by** the regional fisheries management organisation [...] and accompanied by the information **required by that organisation** [...].
3. The Commission may **ask the flag Member State for additional information necessary for verifying the conditions** [...].
4. When it **is established** [...] that the conditions in Article 22 are met, the Commission shall **without delay** send the list(s) of authorised vessels to the regional fisheries management organisation.
5. If the regional fisheries management organisation register or list is not public, the Commission shall notify the flag Member State of the vessels included on it.

[Note: Recital (17) to be amended: "*Fishing activities under the auspices of regional fisheries management organisations and on the high seas should also be authorised by the flag Member State and comply with regional fisheries management organisation specific rules or Union legislation governing fishing activities on the high seas. **The registration of vessel lists should follow the procedures foreseen by the regional fisheries management organisation, which may require communication or uploading of information in electronic form.**"*

Chapter IV

Fishing activities by Union fishing vessels on the high seas

[Note: Recital 12 to be amended: *"The core principle of the present regulation is that any Union vessel fishing outside Union waters should be authorised by its flag Member State and monitored accordingly, irrespective of where it operates and the framework under which it does so. The issuing of an authorisation should be dependent on a basic set of common eligibility criteria being fulfilled. **This is without prejudice to additional conditions applying for specific activities such as deep-sea fishing on the high seas in accordance with Regulation (EC) No 734/2008."**...]*

Article 24

Scope

This Chapter shall apply to fishing activities carried out on the high seas **outside the scope of chapter III** by Union fishing vessels exceeding 24 meters in overall length.

Article 25

[...]

Article 26

Conditions for fishing authorisations by the flag Member States

A flag Member State may only issue a fishing authorisation for fishing activities on the high seas if:

- (a) the eligibility criteria in Article 5 are fulfilled;
- (b) **it has received complete and accurate information, in accordance with the Annex, about the fishing vessel and the associated support vessel(s), including non-Union support vessels.**

Article 27

Procedure for the fishing authorisation [...]

- 1.** A flag Member State **that has verified that the conditions set out in Article 26 are complied with,** shall **send to the Commission the information listed in the Annex, and information related to the fulfilment of the conditions in Article 5** [...].
- 2.** **If the Commission considers that the information provided in accordance with paragraph 1 is insufficient to assess the fulfilment of the conditions in Article 26, it shall request further information or justification within 10 calendar days of receipt of this information.**
- 3.** **If, after receiving the requested additional information or justification referred to in paragraph 2, the Commission finds that the conditions in Article 26 are not met, it may object to the granting of the fishing authorisation within 5 calendar days of receipt of the additional information or justification. If the Commission finds that the conditions are met, it shall inform the Member State concerned without delay of its intention not to object.**

4. **The flag Member State may issue the fishing authorisation upon expiry of the period referred to in paragraph 2. Where the Commission has requested further information in accordance with that paragraph, the flag Member State may issue the fishing authorisation if no objection has been raised by the Commission within the deadline referred to in paragraph 3 or prior to that deadline, provided that the Commission informed of its intention not to raise objections to the Member State.**

Chapter V

Chartering of Union fishing vessels

Article 28

Principles

1. A Union fishing vessel may not carry out fishing activities under chartering arrangements **in waters in which** [...] a sustainable fisheries partnership agreement **is in force or is provisionally applied** [...], unless otherwise provided for in that agreement. **The holder of the fishing licence of a Union fishing vessel that is to be chartered shall inform the flag Member State of the chartering arrangement before its start.**
2. A Union **fishing** vessel may not carry out fishing activities under more than one chartering arrangement at **the same** [...] time or engage in sub-chartering.
3. A chartered Union **fishing** vessel may not use the fishing opportunities of its flag Member State **during the application of the chartering arrangement**. The catches of a chartered **Union fishing** vessel shall be counted against the fishing opportunities of the **charter operator's** [...] State.

Article 29

Management of fishing authorisations under a chartering arrangement

When issuing a fishing authorisation to a vessel in accordance with Articles 11, 18, 22 or 26, and when the relevant fishing activities are carried out under a chartering arrangement, the flag Member State shall verify that:

- (a) the [...] competent authority **of the State of the chartering operator** has officially confirmed that the arrangement is in line with its national legislation; and
- (b) the chartering arrangement is specified in the fishing authorisation.

Chapter VI

[...] Observation and reporting obligations

Article 30

Observer programme data

If data are collected on board a Union fishing vessel under an observer programme, **related reports shall be sent, in accordance with the transmission rules specified in the observer programme, without delay to the [...] competent authority of the** flag Member State.

Article 31

Information to third countries

1. When carrying out fishing activities under this Title, and if the sustainable fisheries partnership agreement with the third country so provides, a [...] **master** of a Union fishing vessel **or his representative** shall [...] **make** the relevant catch declarations and landing declarations **available** to the third country, and **in addition** send its flag Member State an **electronic** copy of **these data** [...].
2. A flag Member State shall assess, **through cross-checking in accordance with Article 109 of Regulation (EC) No 1224/2009**, the consistency of the data [...] referred to in paragraph 1 with the data it has received in accordance with Regulation (EC) No 1224/2009 **and in accordance with relevant provisions of the sustainable fisheries partnership agreement**.

3. The non-transmission of catch declarations **or** [...] landing declarations to the third country referred to in paragraph 1 shall **also** be considered [...] serious infringements for the purposes of **Article 90 of Regulation (EC) No 1224/2009** [...] **depending on** the gravity of the infringement **in question which** shall be determined by the competent authority of the **flag** Member State, taking into account criteria such as the nature of the damage, its value, the economic situation of the offender and the extent of the infringement or its repetition.

TITLE III
FISHING ACTIVITIES BY THIRD COUNTRY FISHING VESSELS IN
UNION WATERS

Article 32

General principles

1. A third country fishing vessel may not engage in fishing activities in Union waters unless it has been issued with a fishing authorisation by the Commission.
2. A third country fishing vessel authorised to fish in Union waters shall comply with the rules governing the fishing activities of Union vessels in the fishing zone in which it operates, and the provisions laid down in the relevant fisheries agreement.

[Note: It should be explained, probably in the context of recital 22, that the term "fisheries agreement" is understood in a broad sense.]

3. If a third country fishing vessel is sailing through Union waters without an authorisation issued under this Regulation, its fishing gear shall be lashed and stowed **in accordance with the conditions laid down in Article 47 of Regulation (EC) No 1224/2009** so that it is not readily usable for fishing operations.

Article 33
Conditions for fishing authorisations

The Commission may only issue an authorisation to a third country fishing vessel for fishing activities in Union waters if:

- (a) **the conditions set out in the relevant fisheries agreement are complied with and** the fishing vessel is eligible under the fisheries agreement with the third country concerned and, where **relevant** [...], is on the list of vessels under that agreement;
- (b) the information in **the** Annex [...] about the fishing vessel and the associated support vessel(s) is complete and accurate;
- (c) the vessel and any associated support vessel(s) **apply the relevant International Maritime Organisation ship identification number scheme insofar as is required under applicable Union law** [...];
- (d) [...]
- (e) the fishing vessel is not [...] **included in an** IUU **vessel** list adopted by a regional fisheries management organisation and/or by the Union pursuant to Council Regulation (EC) 1005/2008;
- (f) **the third country is not listed as non-cooperating pursuant to Council Regulation (EC) 1005/2008 or as allowing non-sustainable fishing pursuant to Regulation (EU) No 1026/2012.**
- (g) [...]

Article 34

Procedure for the issuing of fishing authorisations

1. The third country shall send the Commission the applications for its fishing vessels before the deadline in the agreement concerned or that set by the Commission.
2. The Commission may ask the third country for [...] additional information [...] necessary **for verifying that the conditions provided for in Article 33 have been met.**
3. When it is **established** [...] that the conditions **referred to in paragraph 2** [...] are met, the Commission shall issue a fishing authorisation and inform the third country and the Member States concerned of this **without delay.**

Article 35

[...] **Management of** fishing authorisations

1. If a condition in Article 33 is no longer met, the Commission shall **take the appropriate action, including to** amend or withdraw the authorisation, and inform the third country and the Member States concerned of this.
2. The Commission may refuse, suspend or withdraw the authorisation **issued to the third country fishing vessel** in cases where a fundamental change of circumstances has occurred or in cases **of a serious threat to the sustainable exploitation, management and conservation of marine biological resources,** [...] or **where it is essential in order to prevent or suppress** [...] illegal, unreported or unregulated fishing, [...] or in cases where [...] the Union has decided to suspend or sever relations with the third country concerned.

Article 36

Closure of fishing activities

1. Where fishing opportunities granted to a third country are deemed to have been exhausted, the Commission shall immediately notify it and the competent inspection authorities of the Member States of this. To ensure the continuance of fishing activities of non-exhausted fishing opportunities, which may also affect the exhausted opportunities, the third country shall submit to the Commission technical measures preventing any negative impact on the exhausted fishing opportunities.
- 2.** From the date of the notification referred to in paragraph 1, the fishing authorisations issued to vessels flying the flag of that third country concerned shall be considered to be suspended for the fishing activities concerned and the vessels shall no longer be authorised to engage in these fishing activities.
- 3.** [...] Fishing authorisations shall be considered to be withdrawn where a suspension of fishing activities in accordance with paragraph 2 concerns all the activities for which they have been granted.
- 4.** [...] The third country shall ensure that the fishing vessels concerned are informed immediately of the application of this Article and that they cease all fishing activities concerned. **The third country shall also inform the Commission without delay when fishing vessels flying its flag have ceased their fishing activities.**

Article 37

Overfishing of quotas in Union waters

1. When the Commission establishes that a third country has exceeded the quotas it has been allocated for a stock or group of stocks, the Commission shall **operate** [...] deductions from the quotas allocated to that country for that stock or group of stocks in subsequent years.
2. If a deduction according to paragraph 1 cannot be made on the quota for a stock or group of stocks that was overfished as such because that quota for a stock or group of stocks is not sufficiently available to the third country concerned, the Commission may, after consultation with the third country concerned, make deductions from quotas in subsequent years for other stocks or groups of stocks available to that third country in the same geographical area, or to the corresponding commercial value.

[Note: a recital should specify that rules on quota deductions for third country vessels operating in Union waters are to be specified in the relevant fisheries agreement concluded between the Union and the third country concerned.]

Article 38

Control and enforcement

[Note: Recital (22) to be amended: "*With a view to properly addressing access to Union waters of fishing vessels flying the flag of a third country, the relevant rules should be consistent with those applicable to Union fishing vessels, in accordance with the Basic Regulation and the Control Regulation. **It is recalled**, in particular, **that Article 15 of the Basic Regulation on the obligation to land all catches** and Article 33 of [...] **the Control Regulation on the reporting of catch and catch-related data** [...] also apply to third country vessels fishing in Union waters."*]

1. A third country vessel authorised to fish in Union waters shall comply with the control rules governing the fishing activities of Union vessels in the fishing zone in which it operates.
2. A third country vessel authorised to fish in Union waters shall provide to the Commission or the body designated by it, and, where relevant, to the coastal Member State, the data which Union vessels are required to send to the flag Member State under Council Regulation (EC) No 1224/2009.
3. The Commission, or the body designated by it, shall send the data referred to in paragraph 2 to the coastal Member State.
4. A third country vessel authorised to fish in Union waters shall provide upon request to the Commission or the body designated by it the observer reports produced under applicable observer programmes.
5. A coastal Member State shall record all infringements committed by third country fishing vessels, including the related sanctions, in the national register provided for in Article 93 of Council Regulation (EC) No 1224/2009.
6. [...]

Article 38a

Consultations with third countries in respect of third country fishing vessels

The Commission shall be empowered to adopt delegated acts, in accordance with Article 44, in order to amend or supplement Articles 32 to 38 of this Regulation. The objective of these delegated acts is to reflect in Union law the outcome of the consultations between the Union and third countries with which the Union has concluded an agreement, or of arrangements with coastal states with which fish stocks are shared. Such delegated act may only relate to the conditions and procedures for fishing authorisations.

TITLE IV

DATA AND INFORMATION

Article 39

Union database for fishing authorisations issued under this Regulation[...]

1. The Commission shall set up and maintain an electronic Union **database for** fishing authorisations **issued in accordance with Titles II and III** [...], made of a public part and a secure part. That **database** [...] shall:
 - (a) record all information **submitted in accordance with the** [...] Annex [...] **and other information submitted to the Commission for the purpose of issuing fishing authorisations under sustainable fisheries partnership agreements or under the auspices of RFMOs or similar fisheries organisations**, and display the status of each authorisation [...];
 - (b) be used for data and information exchange between the Commission and a Member State; and
 - (c) be used for the purposes of sustainable management of fishing fleets **as well as for the purposes of control** only.

2. The list of fishing authorisations in the **database** [...] shall be publicly accessible and contain each of the following information:
 - (a) name and flag of the vessel;
 - (b) type of authorisation; and
 - (c) authorised time and zone of fishing activity (start and end dates; fishing **area** [...]).

3. A Member State shall use the **database** [...] to submit **applications for** fishing authorisations to the Commission and to keep its details updated, as required under Articles 12, 19, 23 and 27, **and a third country shall use the database to submit applications for fishing authorisations as required under Article 34.**

Article 40

Technical requirements

- 1.** The exchange of information referred to in Titles II, III and IV shall be done in an electronic format.
- 2.** The Commission may adopt implementing acts, without prejudice to the provisions of Directive 2007/2/EC², establishing technical operational requirements for the recording, formatting and transmission of the information referred to in those Titles. **The technical operational requirements shall not become applicable earlier than 6 months, and no later than 18 months after their adoption.** These implementing acts shall be adopted in accordance with the examination procedure referred to in Article 45**(2)**.

Article 41

Access to data

Without prejudice to Article 110 of Council Regulation (EC) No 1224/2009, the Member States or the Commission shall grant access to the secure part of the Union **database for external fishing fleets'** fishing authorisations [...] referred to in Article 39 to the relevant competent administrative services involved in the management of fishing fleets.

² Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108, 25.4.2007, p. 1).

Article 42

Data management, protection of personal data and confidentiality

Data obtained under this Regulation shall be handled in accordance with Articles [...] **112** and 113 of Council Regulation (EC) No 1224/2009, Regulation (EC) No 45/2001 and Directive 95/46/EC and its national implementing rules.

Article 43

Relations with third countries and regional fisheries management organisations

1. When a Member State receives information from a third country or a regional fisheries management organisation which is relevant for the effective application of this Regulation, it shall communicate that information [...] to the Commission or the body designated by it, **and, where appropriate, to other Member States concerned,** provided that it is permitted to do so under bilateral agreements with that third country or the rules of the regional fisheries management organisation concerned.
2. The Commission or the body designated by it may, in the framework of fisheries agreements concluded between the Union and third countries, under the auspices of regional fisheries management organisations [...] to which the Union is a contracting party [...], communicate relevant information concerning non-compliance with the rules of this Regulation, or serious infringements [...], to other parties to those agreements or organisations subject to the consent of the Member State that supplied the information and in accordance with Regulation (EC) No 45/2001.

TITLE V

PROCEDURES, DELEGATION AND IMPLEMENTING MEASURES

Article 44

Exercise of delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles **15b, 18(2) and 38a** [...] shall be conferred on the Commission **for a period of five years from the ... *. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.**
3. The delegation of power referred to in Articles **15b, 18(2) and 38a** [...] may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power 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.
- 3a. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.**
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 **15b, 18(2) and 38a** [...] shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two 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 two months at the initiative of the European Parliament or of the Council.

***[Footnote: OJ: please insert date of entry into force]**

Article 45

Committee procedure

1. The Commission shall be assisted by the Committee for Fisheries and Aquaculture established under Article 47 of Regulation (EU) No 1380/2013. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph Article 5 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

TITLE VI

FINAL PROVISIONS

Article 46

Repeal

1. Regulation (EC) No 1006/2008 is repealed. **However, its Article 10 shall continue to apply for the reallocation of fishing opportunities under those protocols to sustainable fisheries partnership agreements that are in force or are provisionally applied when this Regulation enters into force.**
2. References to provisions of Regulation (EC) No 1006/2008 shall be construed as references to the provisions of this Regulation.

Article 47

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.

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

Done at Brussels,

For the European Parliament

The President

For the Council

The President

Annex [...]

List of data to be provided [...]

All data fields need to be filled in. [...]

I	APPLICANT
<u>1</u>	<i><u>Vessel identifier (CFR, IMO, IRCS,)</u></i>
<u>1a</u>	<u>Vessel name</u>
<u>2</u>	<i>Name of the owner</i>
<u>3</u>	Address
<u>4</u>	Email
<u>5</u>	Fax
	[...]
6	Telephone
7	<i>Name of the <u>economic operator</u> [...]</i>
8	Address
9	Email
10	Fax
11	Telephone
12	<i>Name of association or agent representing the economic operator</i>
13	Address
14	Email
15	Fax

16	Telephone
17	<i>Name(s) of master(s)</i>
18	Address
19	Email
20	Fax
21	Telephone
<u>22</u>	<u><i>Method of fish preservation on board</i></u>

II[...]	FISHING [...] <u>AUTHORISATION INFORMATION</u> [...]
23	<p><u>Fishing authorisation type:</u></p> <p><u>- chartering:</u> <input type="checkbox"/></p> <p><u>- direct authorisation:</u> <input type="checkbox"/></p> <p><u>- high seas:</u> <input type="checkbox"/></p> <p><u>- support activities:</u> <input type="checkbox"/></p>
24	<p><u>Area of operation or Third Party:</u></p> <p><u>- high seas:</u> [...]</p> <p><u>- coastal state(s):</u> [...]</p>
25	<u>Authorised</u> gear type [...] code
26	<u>Authorised</u> fishing area(s) [...] code
27	Landing port(s): [...]
28	Target Species [...] code [...]
29	Authorisation period requested start [...] date
30	<u>Authorisation period requested end date</u> [...]