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PECHE 414

## PROPOSAL

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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	7 November 2017
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2017) 645 final
Subject:	Proposal for a COUNCIL REGULATION fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non Union waters

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Delegations will find attached document COM(2017) 645 final.

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Encl.: COM(2017) 645 final



EUROPEAN  
COMMISSION

Brussels, 7.11.2017  
COM(2017) 645 final

2017/0287 (NLE)

Proposal for a

## **COUNCIL REGULATION**

**fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks,  
applicable in Union waters and, for Union fishing vessels, in certain non Union waters**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### • **Reasons for and objectives of the proposal**

All fishing opportunities regulations must limit the harvesting of the fish stocks to levels which must be consistent with the overall objectives of the Common Fisheries Policy (CFP). In this respect, Regulation (EU) No 1380/2013 of the European Parliament and of the Council on the Common Fisheries Policy (“the Basic Regulation”) sets out the objectives for the annual proposals for catch and fishing effort limitations to ensure that Union fisheries are ecologically, economically and socially sustainable.

The fishing opportunities exercise represents an annual management cycle (biennial in the case of deep sea stocks). However, this does not stand in the way of the introduction of long-term management approaches. A number of current multi-annual plans are outdated, as they are not compatible with the objectives established in the Basic Regulation or their biological reference points have changed in the meantime. Therefore, on 3 August 2016 the Commission has submitted a Proposal for a North Sea multi-annual plan<sup>1</sup>, and in the near future the Commission envisages submitting a proposal for a multi-annual plan in the Atlantic Ocean.

This proposal contains fishing opportunities that the Union establishes autonomously. However, it also features fishing opportunities resulting from multilateral or bilateral fisheries consultations. The outcome is implemented by providing for internal allocation among Member States on the principle of relative stability.

Thus this proposal covers, apart from autonomous Union stocks:

- Shared stocks, i.e. stocks that are jointly managed with Norway in the North Sea and the Skagerrak, or related to North East Atlantic Fisheries Commission (NEAFC) Coastal State consultations;
- Fishing opportunities resulting from agreements reached in the framework of Regional Fisheries Management Organisations (RFMOs).

A number of fishing opportunities are marked as “*pm*” (*pro memoria*) in this proposal. This is due to the fact that:

- the advice on some stocks is not available at the time when the proposal is adopted; or
- certain catch limitations and other recommendations from the relevant RFMOs are pending because their annual meetings have not taken place yet; or
- for some stocks in Greenland waters, as well as shared stocks or stocks exchanged with Norway and other third countries, the figures are not available yet, pending the conclusion of consultations in November and December 2017 with those countries; or
- for a few TACs the advice has been received, but the evaluation is still ongoing.

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<sup>1</sup> COM(2016)0493

## **Approach for setting fishing opportunities**

As usual, the Commission has reviewed the situation to which the fishing opportunities proposals must respond via its annual Communication from the Commission concerning a consultation on Fishing Opportunities (COM(2017)368), hereinafter "Communication"). The Communication provides an overview of the state of the stocks based on the findings of the scientific advice available.

In response to the Commission's request, the International Council for the Exploration of the Seas (ICES) provided on 30 June 2017 its annual advice on most fish stocks covered by this proposal. ICES has taken into account the orientations presented by the Commission in its Communication.

Scientific advice delivered by ICES is essentially dependent on data: only stocks for which there is sufficient and reliable data can be fully assessed, so that stock size estimates are produced, as well as a forecast of how they will react to the various exploitation scenarios (this is referred to as "catch options tables"). Where sufficient data is available, the scientific bodies are able to provide estimates of adjustments to the fishing opportunities that will bring the stock to produce its maximum sustainable yield (MSY). The advice is then referred to as "MSY advice". In other cases, the scientific bodies rely on the precautionary approach to make recommendations as to what the level of fishing opportunities should be. The methodology followed by ICES to that end is presented in ICES published material pertaining to the implementation of advice for data limited stocks<sup>2</sup>.

All the proposed fishing opportunities respond to the scientific advice received by the Commission as to the state of the stocks, which has been used in the manner outlined in the Communication.

## **Landing obligation introduced by Regulation (EU) No 1380/2013**

The landing obligation introduced by the Basic Regulation of the CFP is becoming progressively applicable from 2015 to 2019. In 2019, all stocks under catch limits will be subject to the landing obligation. As from 1 January 2016, certain demersal fisheries in the North Sea, North-Western and South-Western Atlantic waters have been placed under the landing obligation. On the basis of the joint recommendations submitted by the Member States and in accordance with Article 15 of Regulation (EU) No 1380/2013, the Commission adopted Delegated Regulations laying down specific discard plans. In 2016 the Member States have submitted updated joint recommendations in order to progressively extend the landing obligation from 1 January 2017. The implementation of the landing obligation is continuing in 2017 and Member States have submitted joint recommendations for the fisheries to be subject to the landing obligation as from 1 January 2018.

With the introduction of the landing obligation, and in accordance with Article 16(2) of Regulation (EU) No 1380/2013, the fishing opportunities proposed have to reflect the change from amount landed to amount caught, taking into account that discards are no longer allowed. This is done on the basis of the received scientific advice for the fish stocks in fisheries referred to in Article 15(1) of the Basic Regulation of the CFP. The fishing opportunities should also be fixed in accordance with other relevant provisions, i.e. Articles 16(1) (referring to the principle of relative stability) and 16(4) (referring to the objectives of the Common Fisheries Policy and the rules provided for in multiannual plans).

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<sup>2</sup> See in particular the document "General Context of ICES Advice" at the following link: [http://www.ices.dk/sites/pub/Publication%20Reports/Advice/2016/2016/Introduction\\_to\\_advice\\_2016.pdf](http://www.ices.dk/sites/pub/Publication%20Reports/Advice/2016/2016/Introduction_to_advice_2016.pdf)

As a consequence, the Commission will propose TAC supplements (top-ups) for stocks which will become subject to the landing obligation in 2018. Where catches from the same stock must be landed in the fisheries brought under the landing obligation in 2018, but other catches from the same stock can still be discarded (caught in fisheries coming under the landing obligation in 2018 and 2019), the Commission will propose, on the basis of the best available data, TAC top-ups corresponding to the amounts that will have to be landed.

These top-ups will be calculated on the basis of the data submitted by the Member States. Pending the submission of such data, it was decided for the time being in the Commission Proposal to include the figures without top-ups. The top-ups will be added as soon as the data enabling their calculation is provided.

Finally, the links between the Basic Regulation of the CFP and Council Regulation (EC) No 847/96 must be considered. The latter establishes additional conditions for year-to-year management of TACs, including flexibility provisions under Articles 3 and 4 for precautionary and analytical stocks respectively. Under its Article 2, when fixing the TACs, the Council is to decide to which stocks Articles 3 and 4 shall not apply, in particular on the basis of the biological status of the stocks. More recently, another flexibility mechanism was introduced by Article 15(9) of Regulation (EU) No 1380/2013. Therefore, in order to avoid excessive flexibility that would undermine the principle of rational and responsible exploitation of living marine biological resources and hinder the achievement of the objectives of the Common Fisheries Policy, it should be clarified that Article 3 and 4 of Regulation (EC) No 847/96 cannot apply in addition to the year-to-year flexibility provided for in Article 15(9) of Regulation 1380/2013.

### **Measures on European eel**

The European eel life cycle is complex, as it is a long-lived fish which is widely dispersed: recent evidence suggests that eels spawn in the Sargasso Sea and their larvae arrive with the ocean currents to the continental shelf of Europe and North Africa, where they transform into glass eels and enter continental waters.

The recurrent scientific advice states that: "... when the precautionary approach is applied for European eel, all anthropogenic impacts (e.g. recreational and commercial fishing on all stages, hydropower, pumping stations, and pollution) decreasing production and escapement of silver eel should be reduced to – or kept as close to – zero as possible."<sup>3</sup>

Given the ICES advice, it is important that all fisheries that target spawners should cease until there is a clear evidence of improvement of the state of the stock. In the light of this severe ICES advice, it is therefore appropriate, pending longer term solutions, to prohibit any fishery of European eel in 2018 in the Union waters of the ICES area and in the Baltic Sea.

### **Measures on sea bass**

The measures for sea bass will be established following the scientific advice by ICES, which will be issued on 24 October 2017.

- **Consistency with existing policy provisions in the policy area**

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

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<sup>3</sup> ICES Advice on fishing opportunities, catch and effort, Northeast Atlantic. ICES advice 2016, Book 9, published 28 October 2016

- **Consistency with other Union policies**

The measures proposed are consistent with other Union policies, in particular with the policies in the field of environment.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

The legal basis of this proposal is Article 43(3) of the Treaty on the Functioning of the European Union.

The Union's obligations for sustainable exploitation of living aquatic resources arise from obligations set out in Article 2 of the Basic Regulation of the CFP.

- **Subsidiarity (for non-exclusive competence)**

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

- **Proportionality**

The proposal complies with the proportionality principle for the following reason: the CFP is a common policy. According to Article 43(3) of the Treaty it is incumbent upon the Council to adopt the measures on the fixing and allocation of fishing opportunities.

The proposed Council Regulation allocates fishing opportunities to Member States. Having regard to Articles 16 and 17 of the Basic Regulation, Member States then proceed to allocate in turn such opportunities among regions or operators as they see fit. Therefore, Member States have ample room for manoeuvre on decisions related to the social/economic model of their choice to exploit their allocated fishing opportunities.

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

- **Choice of the instrument**

Proposed instrument: regulation.

## **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Ex-post evaluations/fitness checks of existing legislation**

The fishing opportunities regulation is revised several times per year to introduce the necessary changes to reflect the most recent scientific advice and other developments.

- **Stakeholder consultations**

(a) Consultation methods, main sectors targeted and general profile of respondents

The Commission has consulted stakeholders, in particular through the Advisory Councils (ACs), and Member States on its proposed approach to its various fishing opportunities proposals on the basis of its Communication on Fishing Opportunities for 2018.

In addition, the Commission has followed the orientations outlined in its Communication to the Council and European Parliament on improving consultation on Community fisheries management (COM(2006)246 final), which sets out the principles for the so-called "front-loading process".

(b) Summary of responses and how they were taken into account

The response to the Commission Communication on Fishing Opportunities mentioned above reflects the views of stakeholders on the evaluation made by the Commission of the state of the resources and how to ensure the appropriate management response. These responses have been considered by the Commission when formulating the Proposal.

- **Collection and use of expertise**

As for the methodology used, the Commission consulted, as already noted, the International Council for the Exploration of the Sea (ICES). Advice from ICES is based on an advice framework developed by its expert groups and decision-making bodies and issued in accordance with the Memorandum of Understanding agreed with the Commission.

The ultimate objective is to bring and maintain the stocks to levels that can deliver Maximum Sustainable Yield (MSY). This objective has been incorporated expressly in the Basic Regulation of the CFP, in particular its Article 2(2) stating that this objective “*shall be achieved by 2015 where possible, and [...] by 2020 for all stocks*”. This reflects the commitment taken by the Union regarding the conclusions of the 2002 World Summit on Sustainable Development in Johannesburg and its related Plan of Implementation. As already noted, for some stocks information on maximum sustainable yield levels is indeed available. Among these, there are very important stocks in terms of volume of catches and commercial value such as hake, cod, anglerfish, sole, megrims, haddock and Norway lobster.

Reaching the MSY objective may, in certain cases, need a reduction in fishing mortality rates and/or a reduction in catches. Against this background, this proposal makes use of the MSY advice, where available. In line with the objectives of the Common Fisheries Policy, where TACs are proposed on the basis of MSY advice, the TAC corresponds to the level which, according to that advice, would ensure delivery of the MSY objective in 2018. This approach follows the principles presented in the Communication on fishing opportunities for 2018.

For data-limited stocks, the scientific advisory bodies issue recommendations as to whether to reduce, stabilise or allow catches to increase. ICES advice has in many cases provided quantitative guidance about such variations, based on their methodology of a +/- 20% maximum change in catches from one year to the other, on precautionary grounds. This guidance has been used to set the TACs proposed. Where there is no scientific advice at all, the precautionary approach has been followed, meaning precautionary TAC reductions by 20%.

For some stocks (mainly widely distributed stocks, sharks and rays) the advice will be issued in the autumn. This proposal will need to be updated as appropriate once that advice is received. Finally, as mentioned above, for certain stocks the advice is used for the purpose of implementing management plans.

- **Impact assessment**

The scope of the fishing opportunities regulation is circumscribed by Article 43(3) of the Treaty.

The proposal seeks to avoid short-term approaches in favour of long-term sustainability decisions, and hence it takes into account initiatives from stakeholders and Advisory Councils if they have been positively reviewed by ICES and/or STECF. Furthermore, the Commission's CFP reform proposal was duly developed on the basis of an impact assessment (SEC(2011)891) in the context of which the MSY objective was analysed. Its conclusions identify this objective as a necessary condition to achieve environmental, economic and social sustainability.



As regards RFMO fishing opportunities and stocks which are shared with third countries, this proposal essentially implements internationally agreed measures. Any elements relevant to assess possible impacts of the fishing opportunities are dealt with in the preparation and conduct phase of international negotiations in the framework of which the Union's fishing opportunities are agreed with third parties.

- **Regulatory fitness and simplification**

The proposal provides for simplification of administrative procedures for public authorities (Union or national), in particular as regards requirements regarding the effort management.

- **Fundamental rights**

Not applicable

#### **4. BUDGETARY IMPLICATIONS**

The proposed measures will have no budgetary implications.

#### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The provisions of the Regulation will be implemented and the compliance will be controlled in accordance with the existing Common Fisheries Policy.



Proposal for a

## COUNCIL REGULATION

**fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non Union waters**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Article 43(3) of the Treaty provides that the Council, on a proposal from the Commission, is to adopt measures on the fixing and allocation of fishing opportunities.
- (2) Regulation (EU) No 1380/2013 of the European Parliament and of the Council<sup>4</sup> requires that conservation measures be adopted taking into account available scientific, technical and economic advice, including, where relevant, reports drawn up by the Scientific, Technical and Economic Committee for Fisheries (STECF) and other advisory bodies, as well as in the light of any advice received from Advisory Councils.
- (3) It is incumbent upon the Council to adopt measures on the fixing and allocation of fishing opportunities, including certain conditions functionally linked thereto, as appropriate. In accordance with Article 16(4) of Regulation (EU) No 1380/2013, fishing opportunities should be fixed in accordance with the objectives of the Common Fisheries Policy established in Article 2(2) of that Regulation. In accordance with Article 16(1) of that Regulation, fishing opportunities should be allocated to Member States in such a way as to ensure relative stability of fishing activities of each Member State for each fish stock or fishery.
- (4) The total allowable catch (TACs) should therefore be established, in line with Regulation (EU) No 1380/2013, on the basis of available scientific advice, taking into account biological and socio-economic aspects whilst ensuring fair treatment between fishing sectors, as well as in the light of the opinions expressed during the consultation of stakeholders, in particular at the meetings of the Advisory Councils.
- (5) The landing obligation referred to in Article 15 of Regulation (EU) No 1380/2013 is introduced on a fishery-by-fishery basis. In the region covered by this Regulation, when a fishery falls under the landing obligation, all species in that fishery subject to catch limits should be landed. From 1 January 2016, the landing obligation applies to the species that define the fisheries. Article 16(2) of Regulation (EU) No 1380/2013 provides that, when the landing obligation in respect of a fish stock is introduced, fishing opportunities are to be fixed taking into account the change from fixing fishing

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<sup>4</sup> Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

opportunities that reflect landings to fixing fishing opportunities that reflect catches. On the basis of the joint recommendations submitted by the Member States and in accordance with Article 15 of Regulation (EU) No 1380/2013, the Commission adopted a number of delegated Regulations laying down specific discard plans applicable on a temporary basis for a maximum period of three years, in preparation for the full implementation of the landing obligation.

- (6) The fishing opportunities for stocks of species falling under the landing obligation from 1 January 2018 should compensate for former discards and be based on scientific information and advice. In order to ensure fair compensation for the fish that has been previously discarded and that will have to be landed from 1 January 2018, a top-up should be calculated according to the following methodology: the new landings figure should be calculated by subtracting from the International Council for the Exploration of the Sea (ICES) figure of total catches the amounts that will continue to be discarded during the operation of the landing obligation; subsequently a top-up applied to the TAC figure should be proportional to the change between the new calculated landings figure and the previous ICES landings figure.
- (7) As regards European eel stock, the ICES advised that all anthropogenic mortalities including recreational and commercial fisheries should be reduced to zero, or kept as close to zero as possible. It is therefore necessary to implement this advice by establishing a prohibition on fishing for this species in the Baltic Sea, Kattegat, Skagerrak, the North Sea, and in the Atlantic Ocean (Union waters).
- (8) [The measures for sea bass will be established following the scientific advice by ICES, which will be issued on 24 October 2017].
- (9) For some years, certain TACs for stocks of elasmobranchs (skates, sharks, rays) have been set at zero, with a linked provision establishing an obligation to immediately release accidental catches. The reason for this specific treatment is that the conservation status of those stocks is poor and, because of their high survival rates, discards will not raise fishing mortality rates for them, but are deemed as beneficial for the conservation of these species. As of 1 January 2015, however, catches of those species in pelagic fisheries have to be landed, unless they are covered by any of the derogations from the landing obligation foreseen in Article 15 of Regulation (EU) No 1380/2013. Article 15(4)(a) of that Regulation allows such derogations for species in respect of which fishing is prohibited and which are identified as such in a Union legal act adopted in the area of the Common Fisheries Policy. Therefore, it is appropriate to prohibit the fishing of those species in the areas concerned.
- (10) Pursuant to Article 16(4) of Regulation (EU) No 1380/2013, for stocks subject to specific multiannual plans the TACs should be established in accordance with the rules laid down in those plans. Consequently, the TACs for stocks of sole in the Western Channel, of plaice and sole in the North Sea and of bluefin tuna in the Eastern Atlantic and the Mediterranean should be established in accordance with the rules laid down in Council Regulations (EC) No 509/2007<sup>5</sup>, (EC) No 676/2007<sup>6</sup> and (EC) No 302/2009<sup>7</sup>. The objective for the Southern hake stock as set out in Council

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<sup>5</sup> Council Regulation (EC) No 509/2007 of 7 May 2007 establishing a multi-annual plan for the sustainable exploitation of the stock of sole in the Western Channel (OJ L 122, 11.5.2007, p. 7).

<sup>6</sup> Council Regulation (EC) No 676/2007 of 11 June 2007 establishing a multiannual plan for fisheries exploiting stocks of plaice and sole in the North Sea (OJ L 157, 19.6.2007, p. 1).

<sup>7</sup> Council Regulation (EC) No 302/2009 of 6 April 2009 concerning a multiannual recovery plan for bluefin tuna in the eastern Atlantic and Mediterranean, amending Regulation (EC) No 43/2009 and repealing Regulation (EC) No 1559/2007 (OJ L 96, 15.4.2009, p. 1).

Regulation (EC) No 2166/2005<sup>8</sup> is to rebuild the biomass of the stocks concerned to within safe biological limits, while staying in line with the scientific data. In accordance with scientific advice, in the absence of definitive data on a target spawning stock biomass and while taking into account changes in safe biological limits, it is appropriate, in order to contribute to the achievement of the objectives of the Common Fisheries Policy as defined in Regulation (EU) No 1380/2013, to fix the TAC on the basis of maximum sustainable yield advice, as provided by ICES.

- (11) As a result of the recent benchmark exercise, as regards the stock of herring to the west of Scotland, ICES has provided advice for the combined herring stocks in Divisions 6a, 7b and 8c (West of Scotland, West of Ireland). The advice covers two separate TACs (for 6aS, 7b and 8c on the one hand, and for 5b, 6b and 6aN on the other). According to ICES, a rebuilding plan has to be developed for these stocks. Since, according to scientific advice, the management plan for the northern stock<sup>9</sup> cannot be applied to the combined stocks and it is not possible to set separate fishing opportunities for these two stocks, a TAC is established to permit limited catches in a commercially operated scientific sampling programme.
- (12) For stocks for which there is no sufficient or reliable data in order to provide size estimates, management measures and TAC levels should follow the precautionary approach to fisheries management as defined in Article 4(1)(8) of Regulation (EU) No 1380/2013, while taking into account stock-specific factors, including, in particular, available information on stock trends and mixed fisheries considerations.
- (13) Council Regulation (EC) No 847/96<sup>10</sup> introduced additional conditions for year-to-year management of TACs including, under Articles 3 and 4 of that Regulation, flexibility provisions for precautionary and analytical TACs. Under Article 2 of that Regulation, when fixing the TACs, the Council is to decide to which stocks Articles 3 or 4 of that Regulation shall not apply, in particular on the basis of the biological status of the stocks. More recently, the year-to-year flexibility mechanism was introduced by Article 15(9) of Regulation (EU) No 1380/2013 for all stocks that are subject to the landing obligation. Therefore, in order to avoid excessive flexibility that would undermine the principle of rational and responsible exploitation of marine biological resources, hinder the achievement of the objectives of the CFP and deteriorate the biological status of the stocks, it should be established that Articles 3 and 4 of Regulation (EC) No 847/96 apply to analytical TACs only where the year-to-year flexibility provided for in Article 15(9) of Regulation (EU) No 1380/2013 is not used.
- (14) Where a TAC relating to a stock is allocated to one Member State only, it is appropriate to empower that Member State in accordance with Article 2(1) of the Treaty to determine the level of such TAC. Provisions should be made to ensure that, when fixing that TAC level, the Member State concerned acts in a manner fully consistent with the principles and rules of the Common Fisheries Policy.

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<sup>8</sup> Council Regulation (EC) No 2166/2005 of 20 December 2005 establishing measures for the recovery of the Southern hake and Norway lobster stocks in the Cantabrian Sea and Western Iberian peninsula and amending Regulation (EC) No 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (OJ L 345, 28.12.2005, p. 5).

<sup>9</sup> Council Regulation (EC) No 1300/2008 of 18 December 2008 establishing a multi-annual plan for the stock of herring distributed to the west of Scotland and the fisheries exploiting that stock (OJ L 344, 20.12.2008, p. 6).

<sup>10</sup> Council Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of TACs and quotas (OJ L 115, 9.5.1996, p. 3).

- (15) It is necessary to establish the fishing effort ceilings for 2018 in accordance with Article 5 of Regulation (EC) No 509/2007, Article 9 of Regulation (EC) No 676/2007, and Articles 5 and 9 of Regulation (EC) No 302/2009.
- (16) For certain species, such as certain species of sharks, even a limited fishing activity could result in a serious risk to their conservation. Fishing opportunities for such species should therefore be fully restricted through a general prohibition on fishing those species.
- (17) At the 11th Conference of the Parties of the Convention on the Conservation of Migratory Species of Wild Animals, held in Quito from 3 to 9 November 2014, a number of species were added to the lists of protected species in Appendices I and II of the Convention, with effect from 8 February 2015. Therefore, it is appropriate to provide for the protection of those species with respect to Union fishing vessels fishing in all waters and non-Union fishing vessels fishing in Union waters.
- (18) The use of fishing opportunities available to Union fishing vessels set out in this Regulation is subject to Council Regulation (EC) No 1224/2009<sup>11</sup>, and in particular to Articles 33 and 34 of that Regulation, concerning the recording of catches and fishing effort and the notification of data on the exhaustion of fishing opportunities. It is therefore necessary to specify the codes to be used by Member States when sending data to the Commission relating to landings of stocks subject to this Regulation.
- (19) It is appropriate, following advice from the ICES, to maintain a specific system to manage sandeel and associated by-catches in Union waters of ICES divisions 2a and 3a and ICES subarea 4. Given that the ICES scientific advice is expected to become available only in February 2018, it is appropriate to set the TAC and quotas for this stock provisionally at zero until such advice is released.
- (20) In accordance with the procedure provided for in the agreements or protocols on fisheries relations with Norway<sup>12</sup> and the Faroe Islands<sup>13</sup>, the Union has held consultations on fishing rights with those partners. In accordance with the procedure provided for in the agreement and protocol on fisheries relations with Greenland<sup>14</sup>, the Joint Committee has established the level of fishing opportunities available for the Union in Greenland waters in 2018. It is therefore necessary to include these fishing opportunities in this Regulation [The recital will be updated after the consultations].
- (21) At its Annual Meeting in 2017, the North-East Atlantic Fisheries Commission (NEAFC) adopted conservation measures on the two redfish stocks in the Irminger

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<sup>11</sup> Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).

<sup>12</sup> Agreement on fisheries between the European Economic Community and the Kingdom of Norway (OJ L 226, 29.8.1980, p. 48).

<sup>13</sup> Agreement on fisheries between the European Economic Community, of the one part, and the Government of Denmark and the Home Government of the Faeroe Islands, of the other part (OJ L 226, 29.8.1980, p. 12).

<sup>14</sup> Fisheries Partnership Agreement between the European Community on the one hand, and the Government of Denmark and the Home Rule Government of Greenland, on the other hand (OJ L 172, 30.6.2007, p. 4) and Protocol setting out the fishing opportunities and financial contribution provided for in that Agreement (OJ L 293, 23.10.2012, p. 5).



Sea. Those measures should be implemented in the law of the Union [The recital will be updated after the annual meeting].

- (22) At its Annual Meeting in 2017, the International Commission for the Conservation of Atlantic Tunas (ICCAT) adopted an extension of the TAC and quotas for North and South Atlantic albacore and North and South Atlantic swordfish and an extension of the TAC for yellowfin tuna. Furthermore, it also set a catch limit for North Atlantic blue shark, East Atlantic and West Atlantic sailfish, it set a TAC for Mediterranean swordfish and confirmed for 2018 TACs and quotas previously established for bluefin tuna and bigeye tuna. Concerning blue and white marlins, ICCAT confirmed for 2018 the TACs previously established and accepted the proposed payback plan proposed by the EU due to the overharvest by Spain in 2014 and 2015. As it is already the case for the stock of bluefin tuna, it is appropriate that catches in recreational fisheries of all other ICCAT stocks should be subject to the catch limits as adopted by that organisation. Furthermore, Union fishing vessels of at least 20 metre length fishing for bigeye tuna in the ICCAT Convention Area should be subject to the capacity limitations adopted by ICCAT in the ICCAT Recommendation 15-01. All these measures should be implemented in the law of the Union [The recital will be updated after the annual meeting].
- (23) At its 35th Annual Meeting in 2016, the Parties to the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) adopted catch limits for both target and by-catch species for 2016/2017 and 2017/2018. The uptake of such quota during 2016 should be considered when setting fishing opportunities for the year 2017 [The recital will be updated after the annual meeting].
- (24) At its Annual Meeting in 2016, the Indian Ocean Tuna Commission (IOTC) adopted catch limits for yellowfin tuna (*Thunnus albacares*). It also adopted a measure reducing the use of Fish Aggregating Devices (FADs) and limiting the use of supply vessels. As the activities of supply vessels and the use of FADs are an integral part of the fishing effort exerted by the purse seine fleet, the measure should be implemented in the law of the Union [The recital will be updated after the annual meeting].
- (25) The Annual Meeting of the South Pacific Regional Fisheries Management Organisation (SPRFMO) will be held on 30 January – 3 February 2018. It is appropriate that the current measures in the SPRFMO Convention Area are provisionally maintained until such Annual Meeting is held.
- (26) At its Annual Meeting in 2017, the Inter American Tropical Tuna Commission (IATTC) adopted a conservation measure for yellowfin tuna, bigeye tuna and skipjack tuna for 2018-2020 and amended the existing conservation measure for 2017 for those species. It is appropriate to implement those measures in the law of the Union. .
- (27) At its Annual Meeting in 2016, the South East Atlantic Fisheries Organisation (SEAFO) adopted a conservation measure for biennial TACs for Patagonian toothfish, deep sea red crab, alfonsinos and pelagic armourhead. A biennial TAC for orange roughy in Division B1 was also adopted, while the TAC for those species in the remainder of the SEAFO Convention Area was limited to one year. The currently applicable measures on allocation of fishing opportunities adopted by SEAFO should be implemented in the law of the Union [The recital will be updated after the annual meeting].
- (28) At its 13th Annual Meeting, the Western and Central Pacific Fisheries Commission (WCPFC) confirmed the conservation and management measures in place. Those

measures should continue to be implemented in the law of the Union [The recital will be updated after the annual meeting].

- (29) At its 39th Annual Meeting in 2017, the Northwest Atlantic Fisheries Organisation (NAFO) adopted a number of fishing opportunities for 2018 for certain stocks in Subareas 1-4 of the NAFO Convention Area. Those measures should be implemented in the law of the Union.
- (30) At its 40th Annual Meeting in 2016, the General Fisheries Commission for the Mediterranean (GFCM) adopted catch and effort limits for certain small pelagic stocks for the years 2017 and 2018 in the geographical subareas 17 and 18 (Adriatic Sea) of the GFCM Agreement Area. Those measures should be implemented in the law of the Union. The maximum catch limits established in Annex II are fixed exclusively for one year and without prejudice to any other measures adopted in the future and any possible allocation scheme between Member States.
- (31) Taking into account the particularities of the Slovenian fleet and their marginal impact on the stocks of small pelagic species, it is appropriate to preserve the existing fishing patterns and to ensure access of the Slovenian fleet to a minimum quantity of small pelagic species.
- (32) Certain international measures which create or restrict fishing opportunities for the Union are adopted by the relevant Regional Fisheries Management Organisations (RFMOs) at the end of the year and become applicable before the entry into force of this Regulation. It is therefore necessary for the provisions that implement such measures in the law of the Union to apply retroactively. In particular, since the fishing season in CCAMLR Convention Area runs from 1 December to 30 November, and thus certain fishing opportunities or prohibitions in the CCAMLR Convention Area are laid down for a period of time starting from 1 December 2017, it is appropriate that the relevant provisions of this Regulation apply from that date. Such retroactive application does not prejudice the principle of legitimate expectations as CCAMLR members are forbidden to fish in the CCAMLR Convention Area without authorisation.
- (33) As regards the fishing opportunities for snow crab around the area of Svalbard, the Treaty of Paris of 1920 grants an equal and non-discriminatory access to resources for all parties to that Treaty, including with respect to fishing. The Union's view of this access as regards fishing for snow crab on the continental shelf around Svalbard has been set out in a *note verbale* to Norway dated 25 October 2016, in respect of a Norwegian regulation of the fishing for snow crab on its continental shelf, which in the Union's view disregards the specific provisions of the Treaty of Paris and in particular those laid down in Articles 2 and 3 thereof. In order to ensure that the exploitation of snow crab within the area of Svalbard is made consistent with such non-discriminatory management rules as may be set out by Norway, which enjoys sovereignty and jurisdiction in the area within the limits of the said Treaty, it is appropriate to fix the number of vessels that are authorised to conduct such fishery. The allocation of such fishing opportunities among Member States is limited to 2018. It is recalled that primary responsibility for ensuring compliance with applicable law lies with the flag Member States. [The recital will be updated in light of possible developments]
- (34) In accordance with the declaration by the Union addressed to the Bolivarian Republic of Venezuela on the granting of fishing opportunities in Union waters to fishing vessels flying the flag of Bolivarian Republic of Venezuela in the exclusive economic

zone off the coast of French Guiana<sup>15</sup>, it is necessary to fix the fishing opportunities for snapper available to Venezuela in Union waters.

- (35) Given that certain provisions are to be applied on a continuous basis, and in order to avoid legal uncertainty during the period between the end of 2017 and the date of entry into force of the Regulation fixing the fishing opportunities for 2018, it is appropriate that the provisions concerning prohibitions and closed seasons continue to apply at the beginning of 2019, until the entry into force of the Regulation fixing the fishing opportunities for 2019.
- (36) In order to ensure uniform conditions for granting an individual Member State an authorisation to benefit from the system of managing its fishing effort allocations in accordance with a kilowatt-day system, 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<sup>16</sup>.
- (37) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission relating to the granting of additional days at sea for permanent cessation of fishing activities and for enhanced scientific observer coverage as well as to establish the formats of spreadsheet for the collection and transmission of information concerning transfer of days at sea between fishing vessels flying the flag of a Member State.
- (38) In order to avoid the interruption of fishing activities and to ensure the livelihood of the fishermen of the Union, this Regulation should apply from 1 January 2018, except for the provisions concerning fishing effort limits, which should apply from 1 February 2018, and certain provisions concerning particular regions, which should have a specific date of application. For reasons of urgency, this Regulation should enter into force immediately after its publication.
- (39) Fishing opportunities should be used in full compliance with the applicable law of the Union,

HAS ADOPTED THIS REGULATION:

## **TITLE I GENERAL PROVISIONS**

### *Article 1 Subject matter*

1. This Regulation fixes the fishing opportunities available in Union waters and, to Union fishing vessels, in certain non-Union waters for certain fish stocks and groups of fish stocks.
2. The fishing opportunities referred to in paragraph 1 include:
  - (a) catch limits for the year 2018 and, where specified in this Regulation, for the year 2019;

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<sup>15</sup> OJ L 6, 10.1.2012, p. 9.

<sup>16</sup> 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 powers (OJ L 55, 28.2.2011, p. 13).



- (b) fishing effort limits for the period from 1 February 2018 to 31 January 2019, except where other periods are established for effort limits in Articles 25, 26 and 38, and in Annex IIE, as well as regarding fishing aggregating devices (FADs);
- (c) fishing opportunities for the period from 1 December 2017 to 30 November 2018 for certain stocks in the CCAMLR Convention Area;
- (d) fishing opportunities for certain stocks in the IATTC Convention Area set out in Article 27 for the periods in 2017 and 2018 specified in that provision.

*Article 2*  
*Scope*

1. This Regulation shall apply to the following vessels:
  - (a) Union fishing vessels;
  - (b) third-country vessels in Union waters.
2. This Regulation shall also apply to recreational fisheries where they are expressly referred to in the relevant provisions.

*Article 3*  
*Definitions*

For the purposes of this Regulation, the definitions referred to in Article 4 of Regulation (EU) No 1380/2013 apply. In addition, the following definitions shall apply:

- (a) ‘third-country vessel’ means a fishing vessel flying the flag of, and registered in, a third country;
- (b) ‘recreational fisheries’ means non-commercial fishing activities exploiting marine biological resources such as for recreation, tourism or sport;
- (c) ‘international waters’ means waters falling outside the sovereignty or jurisdiction of any State;
- (d) ‘total allowable catch. (TAC) means:
  - (i) in fisheries subject to the landing obligation referred to in Article 15 of Regulation (EU) No 1380/2013, the quantity of fish that can be caught from each stock each year;
  - (ii) in all other fisheries, the quantity of fish that can be landed from each stock each year;
- (e) ‘quota’ means a proportion of the TAC allocated to the Union, a Member State or a third country;
- (f) ‘analytical assessments’ means quantitative evaluations of trends in a given stock, based on data about the stock’s biology and exploitation, which scientific review has indicated to be of sufficient quality to provide scientific advice on options for future catches;

- (g) 'mesh size' means the mesh size of fishing nets as determined in accordance with Commission Regulation (EC) No 517/2008<sup>17</sup>;
- (h) 'Union fishing fleet register' means the register set up by the Commission in accordance with Article 24(3) of Regulation (EU) No 1380/2013;
- (i) 'fishing logbook' means the logbook referred to in Article 14 of Regulation (EC) No 1224/2009.

*Article 4*  
*Fishing zones*

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

- (a) ICES (International Council for the Exploration of the Sea) zones are the geographical areas specified in Annex III to Regulation (EC) No 218/2009<sup>18</sup>;
- (b) 'Skagerrak' means the geographical area bounded on the west by a line drawn from the Hanstholm lighthouse to the Lindesnes lighthouse and on the south by a line drawn from the Skagen lighthouse to the Tistlarna lighthouse and from this point to the nearest point on the Swedish coast;
- (c) 'Kattegat' means the geographical area bounded on the north by a line drawn from the Skagen lighthouse to the Tistlarna lighthouse and from this point to the nearest point on the Swedish coast and on the south by a line drawn from Hasenøre to Gnibens Spids, from Korshage to Spodsbjerg and from Gilbjerg Hoved to Kullen;
- (d) 'Functional Unit 16 of ICES subarea 7' means the geographical area bounded by rhumb lines sequentially joining the following positions:
  - 53° 30' N 15° 00' W,
  - 53° 30' N 11° 00' W,
  - 51° 30' N 11° 00' W,
  - 51° 30' N 13° 00' W,
  - 51° 00' N 13° 00' W,
  - 51° 00' N 15° 00' W,
  - 53° 30' N 15° 00' W;
- (e) 'Functional Unit 26 of ICES division 9a' means the geographical area bounded by rhumb lines sequentially joining the following positions:
  - 43° 00' N 8° 00' W,
  - 43° 00' N 10° 00' W,

<sup>17</sup> Commission Regulation (EC) No 517/2008 of 10 June 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 850/98 as regards the determination of the mesh size and assessing the thickness of twine of fishing nets (OJ L 151, 11.6.2008, p. 5).

<sup>18</sup> Regulation (EC) No 218/2009 of the European Parliament and of the Council of 11 March 2009 on the submission of nominal catch statistics by Member States fishing in the north-east Atlantic (OJ L 87, 31.3.2009, p. 70).

- 42° 00' N 10° 00' W,
  - 42° 00' N 8° 00' W;
- (f) 'Functional Unit 27 of ICES division 9a' means the geographical area bounded by rhumb lines sequentially joining the following positions:
- 42° 00' N 8° 00' W,
  - 42° 00' N 10° 00' W,
  - 38° 30' N 10° 00' W,
  - 38° 30' N 9° 00' W,
  - 40° 00' N 9° 00' W,
  - 40° 00' N 8° 00' W;
- (g) 'Gulf of Cádiz' means the geographical area of ICES division 9a east of longitude 7° 23' 48" W;
- (h) CECAF (Committee for Eastern Central Atlantic Fisheries) areas are the geographical areas specified in Annex II to Regulation (EC) No 216/2009 of the European Parliament and of the Council<sup>19</sup>;
- (i) NAFO (Northwest Atlantic Fisheries Organisation) areas are the geographical areas specified in Annex III to Regulation (EC) No 217/2009 of the European Parliament and of the Council<sup>20</sup>;
- (j) 'SEAFO (South East Atlantic Fisheries Organisation) Convention Area' is the geographical area defined in the Convention on the Conservation and Management of Fishery Resources in the South-East Atlantic Ocean<sup>21</sup>;
- (k) 'ICCAT (International Commission for the Conservation of Atlantic Tunas) Convention Area' is the geographical area defined in the International Convention for the Conservation of Atlantic Tunas<sup>22</sup>;
- (l) 'CCAMLR (Commission for the Conservation of Antarctic Marine Living Resources) Convention Area' is the geographical area defined in point (a) of Article 2 of Council Regulation (EC) No 601/2004<sup>23</sup>;
- (m) 'IATTC (Inter-American Tropical Tuna Commission) Convention Area' is the geographical area defined in the Convention for the Strengthening of the

<sup>19</sup> Regulation (EC) No 216/2009 of the European Parliament and of the Council of 11 March 2009 on the submission of nominal catch statistics by Member States fishing in certain areas other than those of the North Atlantic (OJ L 87, 31.3.2009, p. 1).

<sup>20</sup> Regulation (EC) No 217/2009 of the European Parliament and of the Council of 11 March 2009 on the submission of catch and activity statistics by Member States fishing in the north-west Atlantic (OJ L 87, 31.3.2009, p. 42).

<sup>21</sup> Concluded by Council Decision 2002/738/EC (OJ L 234, 31.8.2002, p. 39).

<sup>22</sup> The Union acceded by Council Decision 86/238/EEC (OJ L 162, 18.6.1986, p. 33).

<sup>23</sup> Council Regulation (EC) No 601/2004 of 22 March 2004 laying down certain control measures applicable to fishing activities in the area covered by the Convention on the conservation of Antarctic marine living resources and repealing Regulations (EEC) No 3943/90, (EC) No 66/98 and (EC) No 1721/1999 (OJ L 97, 14.2.2004, p. 16).

Inter-American Tropical Tuna Commission established by the 1949 Convention between the United States of America and the Republic of Costa Rica<sup>24</sup>;

- (n) 'IOTC (Indian Ocean Tuna Commission) Area of Competence' is the geographical area defined in the Agreement for the establishment of the Indian Ocean Tuna Commission<sup>25</sup>;
- (o) 'SPRFMO (South Pacific Regional Fisheries Management Organisation) Convention Area' is the geographical area defined in the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean<sup>26</sup>;
- (p) 'WCPFC (Western and Central Pacific Fisheries Commission) Convention Area' is the geographical area defined in the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean<sup>27</sup>;
- (q) 'GFCM (General Fisheries Commission for the Mediterranean) geographical subareas' are the areas defined in Annex I of Regulation (EU) No 1343/2011 of the European Parliament and of the Council<sup>28</sup>.
- (r) 'high seas of the Bering Sea' is the geographical area of the high seas of the Bering Sea beyond 200 nautical miles from the baselines from which the breadth of the territorial sea of the coastal States of the Bering Sea is measured;
- (s) 'overlap area between IATTC and WCPFC' is the geographical area defined by the following limits:
  - longitude 150° W,
  - longitude 130° W,
  - latitude 4° S,
  - latitude 50° S.

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<sup>24</sup> Concluded by Council Decision 2006/539/EC (OJ L 224, 16.8.2006, p. 22).

<sup>25</sup> The Union acceded by Council Decision 95/399/EC (OJ L 236, 5.10.1995, p. 24).

<sup>26</sup> The Union acceded by Council Decision 2012/130/EU (OJ L67, 6.3.2012, p.1).

<sup>27</sup> The Union acceded by Council Decision 2005/75/EC (OJ L 32, 4.2.2005, p. 1).

<sup>28</sup> Regulation (EU) No 1343/2011 of the European Parliament and of the Council of 13 December 2011 on certain provisions for fishing in the GFCM (General Fisheries Commission for the Mediterranean) Agreement area and amending Council Regulation (EC) No 1967/2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea (OJ L 347, 30.12.2011, p. 44).

# TITLE II

## FISHING OPPORTUNITIES FOR UNION FISHING VESSELS

### Chapter I

#### General provisions

##### *Article 5* *TACs and allocations*

1. The TACs for Union fishing vessels in Union waters or certain non-Union waters and the allocation of such TACs among Member States, and the conditions functionally linked thereto, where appropriate, are set out in Annex I.
2. Union fishing vessels shall be authorised to make catches, within the TACs set out in Annex I, in waters falling within the fisheries jurisdiction of the Faroe Islands, Greenland and Norway, and the fishing zone around Jan Mayen, subject to the condition set out in Article 14 of, and Annex III to, this Regulation and in Council Regulation (EC) No 1006/2008<sup>29</sup> and its implementing provisions.

##### *Article 6* *TACs to be determined by Member States*

1. The TACs for certain fish stocks shall be determined by the Member State concerned. Those stocks are identified in Annex I.
2. The TACs to be determined by a Member State shall:
  - (a) be consistent with the principles and rules of the Common Fisheries Policy, in particular the principle of sustainable exploitation of the stock; and
  - (b) result:
    - (i) if analytical assessments are available, in the exploitation of the stock consistent with maximum sustainable yield from 2018 onwards, with as high a probability as possible;
    - (ii) if analytical assessments are unavailable or incomplete, in the exploitation of the stock consistent with the precautionary approach to fisheries management.
3. By 15 March 2018, each Member State concerned shall submit the following information to the Commission:
  - (a) the TACs adopted;
  - (b) the data collected and assessed by the Member State concerned on which the TACs adopted are based;
  - (c) details on how the TACs adopted comply with paragraph 2.

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<sup>29</sup> Council Regulation (EC) No 1006/2008 of 29 September 2008 concerning authorisations for fishing activities of Community fishing vessels outside Community waters and the access of third-country vessels to Community waters, amending Regulations (EEC) No 2847/93 and (EC) No 1627/94 and repealing Regulation (EC) No 3317/94 (OJ L 286, 29.10.2008, p. 33).

*Article 7*  
*Conditions for landing catches and by-catches*

1. Catches that are not subject to the landing obligation established in Article 15 of Regulation (EU) No 1380/2013 shall be retained on board or landed only if they:
  - (a) have been taken by vessels flying the flag of a Member State having a quota and that quota has not been exhausted; or
  - (b) consist of a share in a Union quota which has not been allocated by quota among Member States, and that Union quota has not been exhausted.
2. The stocks of non-target species within safe biological limits referred to in Article 15(8) of Regulation (EU) No 1380/2013 are identified in Annex I to this Regulation for the purposes of the derogation from the obligation to count catches against the relevant quotas provided for in that Article.

*Article 8*  
*Fishing effort limits*

For the periods referred to in Article 1(2)(b), the following fishing effort measures shall apply:

- (a) Annex IIA for the management of plaice and sole stocks in ICES subarea 4;
- (b) Annex IIB for the recovery of hake and Norway lobster in ICES divisions 8c and 9a, with the exception of the Gulf of Cádiz;
- (c) Annex IIC for the management of the sole stock in ICES division 7e.

*Article 9*  
*Measures on Sea bass fisheries*

[The measures for sea bass will be established following the scientific advice by ICES, which will be issued on 24 October 2017].

*Article 10*  
*Special provisions on allocations of fishing opportunities*

1. The allocation of fishing opportunities among Member States as set out in this Regulation shall be without prejudice to:
  - (a) exchanges made pursuant to Article 16(8) of Regulation (EU) No 1380/2013;
  - (b) deductions and reallocations made pursuant to Article 37 of Regulation (EC) No 1224/2009;
  - (c) reallocations made pursuant to Article 10(4) of Regulation (EC) No 1006/2008;
  - (d) additional landings allowed under Article 3 of Regulation (EC) No 847/96 and Article 15(9) of Regulation (EU) No 1380/2013;
  - (e) quantities withheld in accordance with Article 4 of Regulation (EC) No 847/96 and Article 15(9) of Regulation (EU) No 1380/2013;
  - (f) deductions made pursuant to Articles 105, 106 and 107 of Regulation (EC) No 1224/2009;
  - (g) quota transfers and exchanges pursuant to Article 15 of this Regulation.

2. Stocks which are subject to precautionary or analytical TACs are identified in Annex I to this Regulation for the purposes of the year-to-year management of TACs and quotas provided for in Regulation (EC) No 847/96.
3. Except where otherwise specified in Annex I to this Regulation, Article 3 of Regulation (EC) No 847/96 shall apply to stocks subject to a precautionary TAC and Article 3(2) and (3) and Article 4 of that Regulation shall apply to stocks subject to an analytical TAC.
4. Articles 3 and 4 of Regulation (EC) No 847/96 shall not apply where a Member State uses the year-to-year flexibility provided for in Article 15(9) of Regulation (EU) No 1380/2013.

*Article 11*  
*Closed fishing seasons*

1. It shall be prohibited to fish or retain on board any of the following species in the Porcupine Bank during the period from 1 May to 31 May 2018: cod, megrims, anglerfish, haddock, whiting, hake, Norway lobster, plaice, pollack, saithe, skates and rays, common sole, tusk, blue ling, ling and picked dogfish.

For the purposes of this paragraph, the Porcupine Bank shall comprise the geographical area bounded by rhumb lines sequentially joining the following positions:

Point	Latitude	Longitude
1	52° 27' N	12° 19' W
2	52° 40' N	12° 30' W
3	52° 47' N	12° 39,600' W
4	52° 47' N	12° 56' W
5	52° 13,5' N	13° 53,830' W
6	51° 22' N	14° 24' W
7	51° 22' N	14° 03' W
8	52° 10' N	13° 25' W
9	52° 32' N	13° 07,500' W
10	52° 43' N	12° 55' W
11	52° 43' N	12° 43' W
12	52° 38,800' N	12° 37' W
13	52° 27' N	12° 23' W
14	52° 27' N	12° 19' W

By way of derogation from the first subparagraph, transit through the Porcupine Bank while carrying on board the species referred to in that paragraph, shall be permitted in accordance with Article 50(3), (4) and (5) of Regulation (EC) No 1224/2009.



2. Commercial fishing for sandeel with demersal trawl, seine or similar towed gears with a mesh size of less than 16 mm shall be prohibited in ICES divisions 2a, 3a and ICES subarea 4 from 1 January to 31 March 2018 and from 1 August to 31 December 2018.

The prohibition set out in the first subparagraph shall also apply to third-country vessels authorised to fish for sandeel and associated by-catches in Union waters of ICES subarea 4.

*Article 12*  
*Prohibitions*

1. It shall be prohibited for Union fishing vessels to fish for, to retain on board, to tranship or to land the following species:
- (a) European eel (*Anguilla anguilla*) of an overall length of 12 cm or longer in Union waters of the ICES area and in the Baltic Sea;
  - (b) starry ray (*Amblyraja radiata*) in Union waters of ICES divisions 2a, 3a and 7d and ICES subarea 4;
  - (c) white shark (*Carcharodon carcharias*) in all waters;
  - (d) leafscale gulper shark (*Centrophorus squamosus*) in Union waters of ICES division 2a and subarea 4 and in Union and international waters of ICES subareas 1 and 14;
  - (e) Portuguese dogfish (*Centroscymnus coelolepis*) in Union waters of ICES division 2a and subarea 4 and in Union and international waters of ICES subareas 1 and 14;
  - (f) basking shark (*Cetorhinus maximus*) in all waters;
  - (g) kitefin shark (*Dalatias licha*) in Union waters of ICES division 2a and subarea 4 and in Union and international waters of ICES subareas 1 and 14;
  - (h) birdbeak dogfish (*Deania calcea*) in Union waters of ICES division 2a and subarea 4 and in Union and international waters of ICES subareas 1 and 14;
  - (i) common skate (*Dipturus batis*) complex (*Dipturus* cf. *flossada* and *Dipturus* cf. *intermedia*) in Union waters of ICES division 2a and ICES subareas 3, 4, 6, 7, 8, 9 and 10;
  - (j) great lanternshark (*Etmopterus princeps*) in Union waters of ICES division 2a and subarea 4 and in Union and international waters of ICES subareas 1 and 14;
  - (k) smooth lanternshark (*Etmopterus pusillus*) in Union waters of ICES division 2a and subarea 4 and in Union and international waters of ICES subareas 1, 5, 6, 7, 8, 12 and 14;
  - (l) tope shark (*Galeorhinus galeus*) when taken with longlines in Union waters of ICES division 2a and subarea 4 and in Union and international waters of ICES subareas 1, 5, 6, 7, 8, 12 and 14;
  - (m) porbeagle (*Lamna nasus*) in all waters;
  - (n) reef manta ray (*Manta alfredi*) in all waters;
  - (o) giant manta ray (*Manta birostris*) in all waters;

- (p) the following species of *Mobula* rays in all waters:
    - (i) devil fish (*Mobula mobular*);
    - (ii) lesser Guinean devil ray (*Mobula rochebrunei*);
    - (iii) spinetail mobula (*Mobula japanica*);
    - (iv) smoothtail mobula (*Mobula thurstoni*);
    - (v) longhorned mobula (*Mobula eregoodootenkee*);
    - (vi) Munk's devil ray (*Mobula munkiana*);
    - (vii) Chilean devil ray (*Mobula tarapacana*);
    - (viii) shortfin devil ray (*Mobula kuhlii*);
    - (ix) lesser devil ray (*Mobula hypostoma*);
  - (q) the following species of sawfish (*Pristidae*) in all waters:
    - (i) pointed sawfish (*Anoxypristis cuspidata*);
    - (ii) dwarf sawfish (*Pristis clavata*);
    - (iii) smalltooth sawfish (*Pristis pectinata*);
    - (iv) largetooth sawfish (*Pristis pristis*);
    - (v) green sawfish (*Pristis zijsron*);
  - (r) thornback ray (*Raja clavata*) in Union waters of ICES division 3a;
  - (s) Norwegian skate (*Dipturus nidarosiensis*) in Union waters of ICES divisions 6a, 6b, 7a, 7b, 7c, 7e, 7f, 7g, 7h and 7k;
  - (t) undulate ray (*Raja undulata*) in Union waters of ICES subareas 6 and 10;
  - (u) white skate (*Rostroraja alba*) in Union waters of ICES subareas 6, 7, 8, 9 and 10;
  - (v) guitarfishes (*Rhinobatidae*) in Union waters of ICES subareas 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 12;
  - (w) picked dogfish (*Squalus acanthias*) in Union waters of ICES subareas 2, 3, 4, 5, 6, 7, 8, 9 and 10, with the exception of avoidance programmes as set out in Annex IA;
  - (x) angel shark (*Squatina squatina*) in Union waters.
2. When accidentally caught, species referred to in paragraph 1 shall not be harmed. Specimens shall be promptly released.

### *Article 13*

#### *Data transmission*

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

## **Chapter II**

### **Fishing authorisations in third-country waters**

#### *Article 14*

##### *Fishing authorisations*

1. The maximum number of fishing authorisations for Union fishing vessels fishing in waters of a third country is set out in Annex III.
2. Where one Member State transfers quota to another Member State ('swap') in the fishing areas set out in Annex III to this Regulation on the basis of Article 16(8) of Regulation (EU) No 1380/2013, the transfer shall include an appropriate transfer of fishing authorisations and shall be notified to the Commission. However, the total number of fishing authorisations for each fishing area, as set out in Annex III to this Regulation, shall not be exceeded.

## **Chapter III**

### **Fishing opportunities in waters of regional fisheries management organisations**

#### *Article 15*

##### *Quota transfers and exchanges*

1. Where, under the rules of a regional fisheries management organisation ('RFMO'), quota transfers or exchanges between the Contracting Parties to the RFMO are permitted, a Member State ('the Member State concerned') may discuss with a Contracting Party to the RFMO and, as appropriate, establish a possible outline of an intended quota transfer or exchange.
2. Upon notification to the Commission by the Member State concerned, the Commission may endorse the outline of the intended quota transfer or exchange that the Member State has discussed with the relevant Contracting Party to the RFMO. Thereupon, the Commission shall express, without undue delay, the consent to be bound by such quota transfer or exchange with the relevant Contracting Party to the RFMO. The Commission shall notify the secretariat of the RFMO of the agreed quota transfer or exchange in accordance with the rules of that organisation.
3. The Commission shall inform the Member States of the agreed quota transfer or exchange.
4. The fishing opportunities received from or transferred to the relevant Contracting Party to the RFMO under the quota transfer or exchange shall be deemed to be quotas allocated to, or deducted from, the allocation of the Member State concerned, as of the moment that the quota transfer or exchange takes effect in accordance with the terms of the agreement reached with the relevant Contracting Party to the RFMO or in accordance with the rules of the relevant RFMO, as appropriate. Such allocation shall not change the existing distribution key for the purpose of allocating fishing opportunities among Member States in accordance with the principle of relative stability of fishing activities.
5. This Article shall apply until 31 January 2019 for quota transfers from a RFMO Contracting Party to the Union and their subsequent allocation to Member States.

## SECTION 1 ICCAT CONVENTION AREA

### *Article 16*

#### *Fishing, farming and fattening capacity limitations*

1. The number of Union bait boats and trolling boats authorised to fish actively for bluefin tuna between 8 kg/75 cm and 30 kg/115 cm in the Eastern Atlantic shall be limited as set out in point 1 of Annex IV.
2. The number of Union coastal artisanal fishing vessels authorised to fish actively for bluefin tuna between 8 kg/75 cm and 30 kg/115 cm in the Mediterranean shall be limited as set out in point 2 of Annex IV.
3. The number of Union fishing vessels fishing for bluefin tuna in the Adriatic Sea for farming purposes authorised to fish actively for bluefin tuna between 8 kg/75 cm and 30 kg/115 cm shall be limited as set out in point 3 of Annex IV.
4. The number and total capacity in gross tonnage of fishing vessels authorised to fish for, retain on board, tranship, transport, or land bluefin tuna in the eastern Atlantic and Mediterranean shall be limited as set out in point 4 of Annex IV.
5. The number of traps engaged in the eastern Atlantic and Mediterranean bluefin tuna fishery shall be limited as set out in point 5 of Annex IV.
6. The bluefin tuna farming capacity, the fattening capacity and the maximum input of wild caught bluefin tuna allocated to the farms in the eastern Atlantic and Mediterranean shall be limited as set out in point 6 of Annex IV.
7. The maximum number of Union fishing vessels authorised to fish for northern albacore as a target species in accordance with Article 12 of Regulation (EC) No 520/2007 shall be limited as set out in point 7 of Annex IV.
8. The maximum number of Union fishing vessels of at least 20 metres length that fish for bigeye tuna in the ICCAT Convention Area shall be limited as set out in point 8 of Annex IV.

### *Article 17*

#### *Recreational fisheries*

Where appropriate, Member States shall allocate a specific share for recreational fisheries from their quotas allocated in Annex ID.

### *Article 18*

#### *Sharks*

1. Retaining on board, transshipping or landing any part or whole carcass of bigeye thresher sharks (*Alopias superciliosus*) in any fishery shall be prohibited.
2. It shall be prohibited to undertake a directed fishery for species of thresher sharks of the *Alopias* genus.
3. Retaining on board, transshipping or landing any part or whole carcass of hammerhead sharks of the *Sphyrnidae* family (except for the *Sphyrna tiburo*) in association with fisheries in the ICCAT Convention Area shall be prohibited.

4. Retaining on board, transshipping or landing any part or whole carcass of oceanic whitetip sharks (*Carcharhinus longimanus*) taken in any fishery shall be prohibited.
5. Retaining on board silky sharks (*Carcharhinus falciformis*) taken in any fishery shall be prohibited.

## SECTION 2 CCAMLR CONVENTION AREA

### *Article 19*

#### *Prohibitions and catch limitations*

1. Direct fishing of the species set out in Part A of Annex V, shall be prohibited in the zones and during the periods set out therein.
2. For exploratory fisheries, the TACs and by-catch limits set out in Part B of Annex V, shall apply in the subareas set out therein.

### *Article 20*

#### *Exploratory fisheries*

1. Member States may participate in longline exploratory fisheries for toothfish (*Dissostichus* spp.) in FAO subareas 88.1 and 88.2 as well as in divisions 58.4.1, 58.4.2 and 58.4.3a outside areas of national jurisdiction in 2018. If a Member State intends to participate in such fisheries, it shall notify the CCAMLR Secretariat in accordance with Articles 7 and 7a of Regulation (EC) No 601/2004 and in any case no later than 1 June 2018.
2. With regard to FAO subareas 88.1 and 88.2 as well as divisions 58.4.1, 58.4.2 and 58.4.3a, TACs and by-catch limits per subarea and division, and their distribution among Small Scale Research Units (SSRUs) within each of them, shall be as set out in Part B of Annex V. Fishing in any SSRU shall cease when the reported catch reaches the specified TAC, and the SSRU shall be closed to fishing for the remainder of the season.
3. Fishing shall take place over as large a geographical and bathymetric range as possible to obtain the information necessary to determine fishery potential and to avoid over-concentration of catch and fishing effort. However, fishing in FAO subareas 88.1 and 88.2 as well as in divisions 58.4.1, 58.4.2 and 58.4.3a shall be prohibited in depths less than 550 m.

### *Article 21*

#### *Krill fishery during the 2017/2018 fishing season*

1. If a Member State intends to fish for krill (*Euphausia superba*) in the CCAMLR Convention Area during the 2017/2018 fishing season, it shall notify the Commission, no later than 1 May 2017, using the format laid down in Part C of Annex V to this Regulation of its intention to fish for krill. On the basis of the information provided by Member States, the Commission shall submit the notifications to the CCAMLR Secretariat no later than 30 May 2017.
2. The notification referred to in paragraph 1 of this Article shall include the information provided for in Article 3 of Regulation (EC) No 601/2004 for each vessel to be authorised by the Member State to participate in the krill fishery.

3. A Member State intending to fish for krill in the CCAMLR Convention Area shall notify its intention to do so only in respect of authorised vessels either flying its flag at the time of the notification or flying the flag of another CCAMLR member that are expected, at the time the fishery takes place, to be flying the flag of that Member State.
4. Member States shall be entitled to authorise participation in a krill fishery by vessels other than those notified to CCAMLR Secretariat in accordance with paragraphs 1, 2 and 3 of this Article, if an authorised vessel is prevented from participation due to legitimate operational reasons or *force majeure*. In such circumstances the Member States concerned shall immediately inform the CCAMLR Secretariat and the Commission, providing:
  - (a) full details of the intended replacement vessel(s), including information provided for in Article 3 of Regulation (EC) No 601/2004;
  - (b) a comprehensive account of the reasons justifying the replacement and any relevant supporting evidence or references.
5. Member States shall not authorise a vessel on any CCAMLR illegal, unreported and unregulated (IUU) Vessel List to participate in krill fisheries.

### SECTION 3 IOTC AREA OF COMPETENCE

#### *Article 22*

##### *Limitation of fishing capacity of vessels fishing in the IOTC Area of Competence*

1. The maximum number of Union fishing vessels fishing for tropical tunas in the IOTC Area of Competence and the corresponding capacity in gross tonnage shall be as set out in point 1 of Annex VI.
2. The maximum number of Union fishing vessels fishing for swordfish (*Xiphias gladius*) and albacore (*Thunnus alalunga*) in the IOTC Area of Competence and the corresponding capacity in gross tonnage shall be as set out in point 2 of Annex VI.
3. Member States may re-allocate vessels assigned to one of the two fisheries referred to in paragraphs 1 and 2 to the other fishery, provided that they can demonstrate to the Commission that this change does not lead to an increase of fishing effort on the fish stocks involved.
4. Member States shall ensure that, where there is a proposed transfer of capacity to their fleet, vessels to be transferred are on the IOTC Record of Vessels or on the record of vessels of other tuna regional fisheries organisations. Furthermore, no vessels featuring on the list of vessels engaged in IUU fishing activities of any RFMO may be transferred.
5. Member States may only increase their fishing capacity beyond the ceilings referred to in paragraphs 1 and 2 within the limits set out in the development plans submitted to the IOTC.

#### *Article 23*

##### *Drifting fish aggregating devices (FADs) and supply vessels*

1. A purse seine vessel shall not deploy more than 425 active drifting FADs at any one time.



2. The number of Union supply vessels shall not exceed half of the Union purse-seine vessels. For the purposes of this paragraph, the number of Union supply vessels and Union purse-seine vessels shall be established on the basis of the IOTC register of active vessels.

*Article 24*  
*Sharks*

1. Retaining on board, transshipping or landing any part or whole carcass of thresher sharks of all the species of the *Alopiidae* family in any fishery shall be prohibited.
2. Retaining on board, transshipping or landing any part or whole carcass of oceanic whitetip sharks (*Carcharhinus longimanus*) in any fishery shall be prohibited, except for vessels under 24 metres overall length engaged solely in fishing operations within the Exclusive Economic Zone (EEZ) of the Member State whose flag they fly, and provided that their catch is destined solely for local consumption.
3. When accidentally caught, species referred to in paragraphs 1 and 2 shall not be harmed. Specimens shall be promptly released.

**SECTION 4**  
**SPRFMO CONVENTION AREA**

*Article 25*  
*Pelagic fisheries*

1. Only Member States having actively exercised pelagic fisheries activities in the SPRFMO Convention Area in 2007, 2008 or 2009 may fish for pelagic stocks in that area in accordance with the TACs set out in Annex II.
2. Member States referred to in paragraph 1 shall limit the total level of gross tonnage of vessels flying their flag and fishing for pelagic stocks in 2017 to the total Union level of 78 600 gross tonnage in that area.
3. The fishing opportunities set out in Annex II may only be used under the condition that Member States send to the Commission the list of vessels actively fishing or engaged in transshipment in the SPRFMO Convention Area, records from vessel monitoring systems, monthly catch reports and, where available, port calls at the latest by the fifth day of the following month, in order to communicate this information to the SPRFMO Secretariat.

*Article 26*  
*Bottom fisheries*

1. Member States shall limit their bottom fishing catch or effort in 2017 in the SPRFMO Convention Area to those parts of the Convention Area where bottom fishing has occurred from 1 January 2002 to 31 December 2006 and to a level that does not exceed the annual average levels of catches or effort parameters in that period. They may fish beyond the track record only if SPRFMO endorses their plan to fish beyond the track record.
2. Member States without a track record in bottom fishing catch or effort in the SPRFMO Convention Area over the period from 1 January 2002



to 31 December 2006 shall not fish, unless SPRFMO endorses their plan to fish without the track record.

## SECTION 5 IATTC CONVENTION AREA

### *Article 27 Purse-seine fisheries*

1. Fishing by purse-seine vessels for yellowfin tuna (*Thunnus albacares*), bigeye tuna (*Thunnus obesus*) and skipjack tuna (*Katsuwonus pelamis*) shall be prohibited:
  - (a) from 29 July 00:00 hours to 8 October 2018 24:00 hours or from 9 November 2017 00:00 hours to 19 January 2018 24:00 hours in the area defined by the following limits:
    - the Pacific coastlines of the Americas,
    - longitude 150° W,
    - latitude 40° N,
    - latitude 40° S;
  - (b) from 9 October 2018 00:00 hours to 8 November 2018 24:00 hours in the area defined by the following limits:
    - longitude 96° W,
    - longitude 110° W,
    - latitude 4° N,
    - latitude 3° S.
2. For each of their vessels, Member States concerned shall notify to the Commission before 1 April 2018 the selected period of closure referred to in paragraph 1. All the purse-seine vessels of the Member States concerned shall stop purse-seine fishing in the areas defined in paragraph 1 during the selected period.
3. Purse-seine vessels fishing for tuna in the IATTC Convention Area shall retain on board and then land or tranship all yellowfin, bigeye and skipjack tuna caught.
4. Paragraph 3 shall not apply in the following cases:
  - (a) where the fish is considered unfit for human consumption for reasons other than size; or
  - (b) during the final set of a trip when there may be insufficient well space remaining to accommodate all the tuna caught in that set.

### *Article 28 Drifting fish aggregating devices (FADs)*

1. A purse-seine vessel shall not have more than 450 FADs active at any time in the IATTC Convention Area. A FAD is considered active when it is deployed at sea,

starts transmitting its location and is being tracked by the vessel, its owner, or operator. A FAD shall only be activated on board a purse-seine vessel.

2. A purse-seine vessel may not deploy FADs during 15 days before the start of the selected closure period set out in Article 27(1)(a) and it shall recover the same number of FADs as initially deployed within 15 days prior to the start of the closure period.
3. Member States on a monthly basis shall report to the Commission daily information on all active FADs as required by the IATTC. The reports shall be submitted with a delay of at least 60 days, but not longer than 75 days. The Commission shall transmit that information to the IATTC Secretariat without delay.

#### *Article 29*

##### *Catch limits for bigeye tuna in long-line fisheries*

The total annual catches of bigeye tuna by longline vessels of each Member State in the IATTC Convention Area shall not exceed 500 metric tons or their respective yearly catches of bigeye tuna in 2001.

#### *Article 30*

##### *Prohibition of fishing for oceanic whitetip sharks*

1. It shall be prohibited to fish for oceanic whitetip sharks (*Carcharhinus longimanus*) in the IATTC Convention Area, and to retain on board, to tranship, to store, to offer to sell, to sell or to land any part or whole carcass of oceanic whitetip sharks caught in that area.
2. When accidentally caught, the species referred to in paragraph 1 shall not be harmed. Specimens shall be promptly released by vessel operators.
3. Vessel operators shall:
  - (a) record the number of releases with indication of status (dead or alive);
  - (b) report the information specified in point (a) to the Member State of which they are nationals. Member States shall transmit the information collected during the previous year to the Commission by 31 January.

#### *Article 31*

##### *Prohibition of fishing for Mobulid rays*

It shall be prohibited for Union fishing vessels in the IATTC Convention Area to fish for, to retain on board, to tranship, to land, to store, to offer to sell or to sell any part or whole carcass of Mobulid rays (family *Mobulidae*, which includes the genera *Manta* and *Mobula*). As soon as Union fishing vessels notice that Mobulid rays have been caught, Union fishing vessels shall promptly release them alive and unharmed wherever possible.

## SECTION 6 SEAFO CONVENTION AREA

### *Article 32 Prohibition of fishing for deep water sharks*

Directed fishing for the following deep water sharks in the SEAFO Convention Area shall be prohibited:

- ghost catshark (*Apristurus manis*),
- blurred smooth lanternshark (*Etmopterus bigelowi*),
- shorttail lanternshark (*Etmopterus brachyurus*),
- great lanternshark (*Etmopterus princeps*),
- smooth lanternshark (*Etmopterus pusillus*),
- skates (*Rajidae*),
- velvet dogfish (*Scymnodon squamulosus*),
- deep-sea sharks of the *Selachimorpha* super-order,
- picked dogfish (*Squalus acanthias*).

## SECTION 7 WCPFC CONVENTION AREA

### *Article 33 Conditions for bigeye tuna, yellowfin tuna, skipjack tuna and south Pacific albacore fisheries*

1. Member States shall ensure that the number of fishing days allocated to purse-seine vessels fishing for bigeye tuna (*Thunnus obesus*), yellowfin tuna (*Thunnus albacares*) and skipjack tuna (*Katsuwonus pelamis*) in the part of the WCPFC Convention Area located in the high seas between 20° N and 20° S does not exceed 403 days.
2. Union fishing vessels shall not target south Pacific albacore (*Thunnus alalunga*) in the WCPFC Convention Area south of 20° S.
3. Member States shall ensure that catches of bigeye tuna (*Thunnus obesus*) by longliners do not exceed 2 000 tonnes in 2017.
4. Member States shall ensure that the by-catch of bigeye tuna (*Thunnus obesus*) by purse seiners does not exceed 2 857 tonnes in 2017.

### *Article 34 Closed area for FAD fishing*

1. In the part of the WCPFC Convention Area located between 20° N and 20° S, fishing activities of purse-seine vessels making use of FADs shall be prohibited

between 00:00 hours of 1 July 2017 and 24:00 hours of 31 October 2017. During that period, a purse-seine vessel may only engage in fishing operations within that part of the WCPFC Convention Area if it carries onboard an observer to monitor that at no time does the vessel:

- (a) deploy or service a FAD or associated electronic device;
  - (b) fish on schools in association with FADs.
2. All purse-seine vessels fishing in the part of the WCPFC Convention Area referred to in paragraph 1 shall retain onboard and land or tranship all bigeye, yellowfin and skipjack tuna caught.
  3. Paragraph 2 shall not apply in the following cases:
    - (a) in the final set of a trip, if the vessel has insufficient well space left to accommodate all fish;
    - (b) where the fish is unfit for human consumption for reasons other than size; or
    - (c) when a serious malfunction of freezer equipment occurs.

#### *Article 35*

##### *Limitations to the number of Union fishing vessels authorised to fish for swordfish*

The maximum number of Union fishing vessels authorised to fish for swordfish (*Xiphias gladius*) in areas south of 20° S of the WCPFC Convention Area shall be as set out in Annex VII.

#### *Article 36*

##### *Silky sharks and oceanic whitetip sharks*

1. Retaining on board, transhipping, storing or landing any part or whole carcass of the following species in the WCPFC Convention Area shall be prohibited:
  - (a) silky sharks (*Carcharhinus falciformis*),
  - (b) oceanic whitetip sharks (*Carcharhinus longimanus*).
2. When accidentally caught, species referred to in paragraph 1 shall not be harmed. Specimens shall be promptly released.

#### *Article 37*

##### *Overlap area between IATTC and WCPFC*

1. Vessels listed exclusively in the WCPFC register shall apply the measures set out in this Section when fishing in the overlap area between IATTC and WCPFC as defined in Article 4(s).
2. Vessels listed in both the WCPFC register and the IATTC register and vessels listed exclusively in the IATTC register shall apply the measures set out in Article 27(1)(a), (2), (3) and (4) and Articles 28, 29 and 30 when fishing in the overlap area between IATTC and WCPFC as defined in Article 4(s).

## SECTION 8 GFCM AGREEMENT AREA

### *Article 38*

#### *Small pelagic stocks in geographical subareas 17 and 18*

1. Catches of small pelagic stocks by Union fishing vessels in the geographical subareas 17 and 18 shall not exceed the levels exerted in 2014, reported in accordance with Article 24 of Regulation (EU) No 1343/2011, as set out in Annex II to this Regulation.
2. Union fishing vessels targeting small pelagic stocks in geographical subareas 17 and 18 shall not exceed 180 fishing days per year. Within this total of 180 fishing days, a maximum of 144 fishing days targeting sardine and a maximum of 144 fishing days targeting anchovy shall apply.

## SECTION 9 BERING SEA

### *Article 39*

#### *Prohibition on fishing in the high seas of the Bering Sea*

Fishing for pollock (*Theragra chalcogramma*) in the high seas of the Bering Sea shall be prohibited.

## TITLE III FISHING OPPORTUNITIES FOR THIRD-COUNTRY VESSELS IN UNION WATERS

### *Article 40*

#### *TACs*

Fishing vessels flying the flag of Norway and fishing vessels registered in the Faroe Islands shall be authorised to make catches in Union waters within the TACs set out in Annex I to this Regulation and shall be subject to the conditions provided for in this Regulation and Chapter III of Regulation (EC) No 1006/2008.

### *Article 41*

#### *Fishing authorisations*

Fishing vessels flying the flag of Venezuela shall be subject to the conditions provided for in this Regulation and in Chapter III of Regulation (EC) No 1006/2008. The maximum number of fishing authorisations for third-country vessels fishing in Union waters shall be as set out in Annex VIII.

### *Article 42*

#### *Conditions for landing catches and by-catches*

The conditions specified in Article 7 shall apply to catches and by-catches of third-country vessels fishing under the authorisations specified in Article 41.

*Article 43*  
*Prohibitions*

1. It shall be prohibited for third-country vessels to fish for, to retain on board, to tranship or to land the following species whenever they are found in Union waters:
  - (a) European eel (*Anguilla anguilla*) of an overall length of 12 cm or longer in Union waters of the ICES area and in the Baltic Sea;
  - (b) starry ray (*Amblyraja radiata*) in Union waters of ICES divisions 2a, 3a and 7d and ICES subarea 4;
  - (c) the following species of sawfish in Union waters:
    - (i) pointed sawfish (*Anoxypristis cuspidata*);
    - (ii) dwarf sawfish (*Pristis clavata*);
    - (iii) smalltooth sawfish (*Pristis pectinata*);
    - (iv) largetooth sawfish (*Pristis pristis*);
    - (v) green sawfish (*Pristis zijsron*);
  - (d) basking shark (*Cetorhinus maximus*) and white shark (*Carcharodon carcharias*) in Union waters;
  - (e) common skate (*Dipturus batis*) complex (*Dipturus* cf. *flossada* and *Dipturus* cf. *intermedia*) in Union waters of ICES division 2a and ICES subareas 3, 4, 6, 7, 8, 9 and 10;
  - (f) tope shark (*Galeorhinus galeus*) when taken with longlines in Union waters of ICES division 2a and ICES subareas 1, 4, 5, 6, 7, 8, 12 and 14;
  - (g) smooth lanternshark (*Etmopterus pusillus*) in Union waters of ICES division 2a and ICES subareas 1, 4, 5, 6, 7, 8, 12 and 14;
  - (h) kitefin shark (*Dalatias licha*), birdbeak dogfish (*Deania calcea*), leafscale gulper shark (*Centrophorus squamosus*), great lanternshark (*Etmopterus princeps*) and Portuguese dogfish (*Centroscymnus coelolepis*) in Union waters of ICES division 2a and ICES subareas 1, 4 and 14;
  - (i) porbeagle (*Lamna nasus*) in Union waters;
  - (j) reef manta ray (*Manta alfredi*) in Union waters;
  - (k) giant manta ray (*Manta birostris*) in Union waters;
  - (l) the following species of Mobula rays in Union waters:
    - (i) devil fish (*Mobula mobular*);
    - (ii) lesser Guinean devil ray (*Mobula rochebrunei*);
    - (iii) spinetail mobula (*Mobula japonica*);
    - (iv) smoothtail mobula (*Mobula thurstoni*);
    - (v) longhorned mobula (*Mobula eregoodootenkee*);
    - (vi) Munk's devil ray (*Mobula munkiana*);
    - (vii) Chilean devil ray (*Mobula tarapacana*);
    - (viii) shortfin devil ray (*Mobula kuhlii*);

- (ix) lesser devil ray (*Mobula hypostoma*);
  - (m) hornback ray (*Raja clavata*) in Union waters of ICES division 3a;
  - (n) Norwegian skate (*Dipturus nidarosiensis*) in Union waters of ICES divisions 6a, 6b, 7a, 7b, 7c, 7e, 7f, 7g, 7h and 7k;
  - (o) undulate ray (*Raja undulata*) in Union waters of ICES subareas 6, 9 and 10 and white skate (*Rostroraja alba*) in Union waters of ICES subareas 6, 7, 8, 9 and 10;
  - (p) guitarfishes (*Rhinobatidae*) in Union waters of ICES subareas 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 12;
  - (q) picked dogfish (*Squalus acanthias*) in Union waters of ICES subareas 2, 3, 4, 5, 6, 7, 8, 9 and 10;
  - (r) angel shark (*Squatina squatina*) in Union waters.
2. When accidentally caught, the species referred to in paragraph 1 shall not be harmed. Specimens shall be promptly released.

## TITLE IV FINAL PROVISIONS

### *Article 44* *Committee procedure*

1. The Commission shall be assisted by the Committee for Fisheries and Aquaculture established by 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.

### *Article 45* *Transitional provision*

Articles 9, 11(2), 12, 18, 19, 24, 30, 31, 32, 36, 39, 43 shall continue to apply, *mutatis mutandis*, in 2019 until the entry into force of the Regulation fixing the fishing opportunities for 2019.

### *Article 46* *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 2018.

However, Article 8 shall apply from 1 February 2018.

The provisions on fishing opportunities set out in Articles 19, 20 and 21 and Annexes IE and V for certain stocks in the CCAMLR Convention Area shall apply from 1 December 2017.



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

Done at Brussels,

*For the Council  
The President*