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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
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Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on a multiannual recovery plan for Mediterranean swordfish and amending Regulations (EC) No 1967/2006 and (EU) 2017/2107

Delegations will find attached document COM(2018) 229 final.

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Brussels, 24.4.2018
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2018/0109 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on a multiannual recovery plan for Mediterranean swordfish and amending Regulations
(EC) No 1967/2006 and (EU) 2017/2107**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

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

The objective of the common fisheries policy (CFP), as set out in Regulation (EU) No 1380/2013¹ (the 'Basic Regulation'), is to ensure an exploitation of marine living biological resources that provides long-term environmental, economic and social sustainability.

By Council Decision 98/392/EC² the Union approved the United Nations Convention on the Law of the Sea, which contains, *inter alia*, principles and rules with regard to the conservation and management of marine living biological resources. In the framework of its wider international obligations, the Union participates in efforts made in international waters to conserve fish stocks.

Pursuant to Council Decision 86/238/EEC³, the Union has been a Contracting Party to the International Convention for the Conservation of Atlantic Tunas (the 'ICCAT Convention') since 14 November 1997.

The ICCAT Convention provides for a framework of regional cooperation on the conservation and management of tunas and tuna-like species in the Atlantic Ocean and the adjoining seas through the setting up of an International Commission for the Conservation of Atlantic Tunas (the 'ICCAT').

The ICCAT has the authority to adopt compulsory decisions (recommendations) for the conservation and management of the fisheries under its purview, which are binding for the Contracting Parties. Those recommendations are essentially addressed to the Contracting Parties to the ICCAT Convention, but also contain obligations for private operators (e.g. vessel masters). The ICCAT recommendations enter into force six months following their adoption and, in respect to the Union, they must be implemented into Union law as soon as possible.

During the 2016 ICCAT Annual Meeting held in Vilamoura (Portugal), the ICCAT CPCs⁴ took a decisive step to address the alarming situation of Mediterranean swordfish (*Xiphias gladius*) by adopting a 15-year recovery plan in the ICCAT Recommendation 16-05. The recommendation lays down rules for the conservation, management and control of the Mediterranean stock of swordfish as to achieve a biomass corresponding to a maximum sustainable yield by 2031 with at least 60% probability of achieving that objective.

¹ Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

² Council Decision 98/392/EC of 23 March 1998 concerning the conclusion by the European Community of the United Nations Convention of 10 December 1982 on the Law of the Sea and the Agreement of 28 July 1994 relating to the implementation of Part XI thereof (OJ L 179, 23.6.1998, p. 1).

³ Council Decision 86/238/EEC of 9 June 1986 on the accession of the Community to the International Convention for the Conservation of Atlantic Tunas, as amended by the Protocol annexed to the Final Act of the Conference of Plenipotentiaries of the States Parties to the Convention signed in Paris on 10 July 1984 (OJ L 162, 18.6.1986, p. 33).

⁴ ICCAT Contracting Parties, Cooperating non-Contracting Parties, Entities or Fishing Entities.

The European Union, by letter addressed to the ICCAT Secretariat in December 2016, confirmed the implementation of ICCAT Recommendation 16-05 as of 1 January 2017

The purpose of this proposal is to transpose ICCAT Recommendation 16-05 into EU law to allow the Union to comply with its international obligations and to provide operators with legal certainty regarding rules and obligations.

ICCAT Recommendation 16-05 establishing a multiannual recovery plan for Mediterranean swordfish requires discarding and releasing swordfish in certain circumstances. For the purpose of the Union's compliance with its international obligations under the ICCAT, Delegated Regulation (EU) 2018/191⁵ provides for derogations from the landing obligation for Mediterranean swordfish, as provided in Article 15 of the Basic Regulation. Consequently, this Regulation establishing a recovery plan for Mediterranean swordfish, does not need to cover such discard and release obligations and will be without prejudice to the corresponding provisions of Delegated Regulation (EU) 2018/191.

Article 15(2) of the Basic Regulation states that the landing obligation should be implemented without prejudice to the Union's international obligations. The Commission is empowered to adopt delegated acts for the purpose of implementing such international obligations into Union law, including in particular, derogations from the landing obligation.

ICCAT Recommendation 16-05 obliges to discard swordfish on board vessels, including in sport and recreational fisheries that exceed the allocated quota of the vessel, and/or the maximum level of permitted by-catches. Mediterranean swordfish caught on board vessels that are below the minimum conservation reference size will also have to be discarded, with the exception of a given by-catch limit established by Member States in their annual fishing plans.

Council Regulation (EU) 2017/127⁶ fixes for 2017 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. These fishing opportunities are usually amended several times during the period in which they are in effect.

With the adoption of ICCAT Recommendation 16-05, a total allowable catch ("TAC") for Mediterranean swordfish was set at 10 500 tonnes. The TAC was, however, not allocated to the CPCs by the ICCAT and hence the Union's share was at the time of publication of Council Regulation (EU) 2017/127 undetermined. The ICCAT was to convene a Working Group to define a fair and equitable allocation scheme of the TAC for Mediterranean swordfish, and to establish a quota for the CPCs for 2017.

The Working Group met in Madrid on the 20-22 February 2017, and an agreement was reached between the Parties on the quota allocation for 2017 and a compromise was found for managing the quota uptake for 2017.

⁵ Commission Delegated Regulation (EU) 2018/191 of 30 November 2017 amending Commission Delegated Regulation (EU) 2015/98 on the implementation of the Union's international obligations, as referred to in Article 15(2) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council, under the International Convention for the Conservation of Atlantic Tunas, regarding the Mediterranean stock of swordfish (OJ L 36, 9.2.2018, p. 13).

⁶ Council Regulation (EU) 2017/127 of 20 January 2017 fixing for 2017 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 (OJ L 24, 28.1.2017, p. 1).

It was therefore relevant to amend Council Regulation (EU) 2017/127 to provide legal certainty to operators, both on the quantities of Mediterranean swordfish they could catch in 2017, and on the establishment of areas where catch limitations exist. That was done through Council Regulation (EU) 2017/1398⁷.

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

Mediterranean swordfish was only regulated through technical measures under Article 25 of Regulation (EC) N° 1967/2006 of 21 December 2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea⁸, and later on by Articles 20 to 26 of Regulation (EU) 2017/2107 of the European Parliament and of the Council of 15 November 2017 laying down management, conservation and control measures applicable in the Convention area of the International Commission for the Conservation of Atlantic Tunas (ICCAT), and amending Council Regulations (EC) No 1936/2001, (EC) No 1984/2003 and (EC) No 520/2007⁹.

Throughout the negotiations the EU position was in line with the objectives of Articles 2(2), 28(1) and (2), 29 and 33 of the Basic Regulation.

The measures adopted by ICCAT Recommendation 16-05, which are transposed by this Regulation, are more restrictive or more precise than those measures already in force (see above) to allow the recovery of the stock. The main differences could be summarized as follows:

a) Minimum conservation reference size: Article 11 of the present Regulation defines the minimum conservation reference size as measuring less than 100 cm Lower Jaw to Fork Length (LJFL), or weighing less than 11,4 kg of round weight, or 10,2 kg of gilled and gutted weight. It is therefore more restrictive than Article 24 of Regulation (EU) 2017/2107 that defines it as 90 cm of LJFL or, alternatively, weighing less than 10 kg of round weight or 9 kg of gilled and gutted weight, or 7,5 kg of dressed weight (gilled, gutted, fins off, part of head off);

b) Maximum number of hooks: Article 14 of the present Regulation sets out that the maximum number of hooks that may be set by or taken on board of fishing vessels targeting Mediterranean swordfish shall be fixed at 2 500 hooks. It is therefore more restrictive than Article 25 of Regulation (EU) 2017/2107 that defines that "By way of derogation from Article 12 of Council Regulation (EC) No 1967/2006, the maximum number of hooks that may be set by or taken on board of vessels targeting Mediterranean swordfish shall be fixed at 2 800 hooks";

c) Closure period: The closure period from 1st January until 31st March each year has been already adopted by Council Regulation (EU) 2017/1398 of 25 July 2017 amending Regulation (EU) 2017/127 as regards certain fishing opportunities¹⁰ and in Council Regulation (EU) 2018/120 of 23 January 2018, 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

⁷ Council Regulation (EU) 2017/1398 of 25 July 2017 amending Regulation (EU) 2017/127 as regards certain fishing opportunities (OJ L 199, 29.7.2017, p. 2).

⁸ OJ L 409, 30.12.2006, p. 11, last amended by Regulation (EU) 2015/2102 of 28 October 2015 (OJ L 308, 25.11.2015, p. 1).

⁹ OJ L 315, 30.11.2017, p. 1.

¹⁰ OJ L 199, 29.7.2017, p. 2.

non-Union waters¹¹. Therefore, the closure periods defined in Article 23 of Regulation (EU) 2017/2107 are no longer valid;

d) Definition of TAC and quota allocation have been already transposed in 2017 and are now included in the Council Regulation (EU) 2018/120 of 23 January 2018, 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. Therefore, it is not necessary to include the transposition of the fishing opportunities here.

- **Consistency with other Union policies**

The ICCAT Recommendation 16-05, which is the object of this transposition, states clearly in its paragraph 1 that Contracting Parties whose vessels have been actively fishing for swordfish in the Mediterranean shall implement a 15-year Recovery plan starting in 2017 and continuing through 2031, with the goal of achieving B_{msy} with at least 60% probability. The objective and maximum duration of the plan (2031) seem in contradiction with the objective of the Common Fisheries Policy whereby the maximum sustainable yield exploitation rate (F_{msy}) shall be achieved at the latest by 2020. However, some elements, in accordance with Articles 28(1) and (2), 29 and 33 of the Basic Regulation, should be taken into consideration to motivate the derogation to Article 2 of the Basic Regulation:

a) the stock is not only exploited by the European Union but by all the riparian countries of the Mediterranean, some of them with direct fisheries (Morocco, Algeria, Tunisia and Turkey) and others as incidental catches;

b) the stock is managed by the International Commission for the Conservation of Atlantic Tunas (ICCAT), of which the European Union is one of the 51 Contracting Parties;

c) it was in November 2016, when at the view of the stock assessment presented by the Standing Committee on Research and Statistics (SCRS, the scientific body of ICCAT), a recovery plan was recommended;

d) the population dynamic and the exploitation pattern of this species does not allow to recover the biomass from now to 2020 and advocates for a longer period which has been fixed by the scientific advice as 15 years;

e) even applying the utmost draconian measures to the EU fleet (i.e. the total closure of the fishery), the biomass levels capable of producing the maximum sustainable yield could not be achieved at the latest by 2020;

f) there is an antecedent of a recovery plan adopted by ICCAT and transposed to the EU legislation. This was the Recovery plan for Bluefin tuna in the Eastern Atlantic and the Mediterranean, established in 2006 by ICCAT Recommendation 06-05 with also 15 years of duration (up to 2022). This Recovery plan was implemented by the Union through Regulation (EU) 2016/1627¹². Already in 2017, in the light of the latest scientific advice by the SCRS, it

¹¹ Council Regulation (EU) 2018/120 of 23 January 2018 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, and amending Regulation (EU) 2017/127 (OJ L 27, 31.1.2018, p. 1).

¹² Regulation (EU) 2016/1627 of the European Parliament and of the Council of 14 September 2016 on a multiannual recovery plan for bluefin tuna in the eastern Atlantic and the Mediterranean, and repealing Council Regulation (EC) No 302/2009 (OJ L 252, 16.9.2016, p. 1).

was agreed that the measures contained in the Recovery plan were no longer necessary (5 years before the date limit to achieve the objective in terms of biomass).

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The proposal is based on Article 43(2) TFEU, as it sets out provisions necessary for the pursuit of the objectives of the common fisheries policy.

• Subsidiarity (for non-exclusive competence)

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

• Proportionality

The proposal will ensure that Union law, with regard to the management of Mediterranean swordfish fisheries, and in particular all the rules and obligations of the recovery plan approved by the ICCAT is in line with its international obligations and that the Union complies with the decisions taken by the RFMOs to which the Union is a Contracting Party. This will be done without exceeding what is necessary to achieve the objective pursued.

• Choice of the instrument

The instrument chosen is a Regulation of the European Parliament and of the Council.

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

• Ex-post evaluations/fitness checks of existing legislation

Not relevant.

• Stakeholder consultations

Member State administrations were informed about this proposal at the meeting of the Committee for Fisheries and Aquaculture on 8 September 2017. The Mediterranean Advisory Council (MEDAC) has been informed about this proposal at the meeting of 10 October 2017.

• Collection and use of expertise

This is a transposition of a recommendation adopted at the level of one Regional Fisheries management Organisation (ICCAT) and in accordance with the scientific advice provided by the Standing Committee on Research and Statistics of ICCAT.

• Impact assessment

Not relevant. This is a transposition of a recommendation directly applicable to Member States.

• Regulatory fitness and simplification

This proposal is not linked to REFIT.

- **Fundamental rights**

This proposal has not consequences on the protection of fundamental rights of the citizens.

4. BUDGETARY IMPLICATIONS

There are no budgetary implications.

5. OTHER ELEMENTS

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

The Union wrote to the ICCAT Secretariat announcing that the Union applies Recommendation ICCAT 16-05, now transposed since 1st January 2017.

- **Explanatory documents (for directives)**

Not applicable.

- **Detailed explanation of the specific provisions of the proposal**

a) Derogation to the landing obligation

Article 15(2) of the Basic Regulation states that the landing obligation should be implemented without prejudice to the Union's international obligations. The Commission is empowered to adopt delegated acts for the purpose of implementing such international obligations into Union law, including in particular, derogations from the landing obligation.

ICCAT Recommendation 16-05 obliges to discard swordfish on board vessels, including in sport and recreational fisheries that exceed the allocated quota of the vessel, and/or the maximum level of permitted by-catches. Mediterranean swordfish caught on board vessels that are below the minimum conservation reference size will also have to be discarded, with the exception of a given by-catch limit established by Member States in their annual fishing plans.

Commission Delegated Regulation (EU) 2018/191 amending Delegated Regulation (EU) 2015/98 implementing the Union's international obligations as referred to in Article 15(2) of the Basic Regulation, allows discarding Mediterranean swordfish in the cases provided in ICCAT Recommendation 16-05.

b) Transposition of the fishing opportunities for 2017 and 2018

Council Regulation (EU) 2017/127¹³ fixes for 2017 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. These fishing opportunities are usually amended several times during the period in which they are in effect.

With the adoption of ICCAT Recommendation 16-05, a total allowable catch ("TAC") for Mediterranean swordfish was set at 10 500 tonnes. The TAC was, however, not allocated to the CPCs by the ICCAT and hence the Union's share was at the time of publication of Council Regulation (EU) 2017/127 undetermined. The ICCAT was to convene a Working Group to

¹³ Council Regulation (EU) 2017/127 of 20 January 2017 fixing for 2017 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 (OJ L 24, 28.1.2017, p. 1).

define a fair and equitable allocation scheme of the TAC for Mediterranean swordfish, and to establish a quota for the CPCs for 2017.

The Working Group met in Madrid on the 20-22 February 2017, and an agreement was reached between the Parties on the quota allocation for 2017 and a compromise was found for managing the quota uptake for 2017.

It was therefore relevant to amend Council Regulation (EU) 2017/127 to provide legal certainty to operators, both on the quantities of Mediterranean swordfish they could catch in 2017, and on the establishment of areas where catch limitations exist. That was done through Council Regulation (EU) 2017/1398¹⁴.

Council Regulation (EU) 2018/120¹⁵ fixes 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, and amends Regulation (EU) 2017/127. Following paragraph 4 of Recommendation ICCAT 16-05, the TAC was reduced by 3% with respect to the TAC adopted in 2017.

c) Delegated powers

Article 34 of this Regulation establishes an exhaustive list of cases where delegated powers are requested in order to address frequent changes on the recommendations adopted by the ICCAT. The main factors that could explain the list of situations where delegated powers are requested could be summarise as follows:

a) The fact that a plan is established for 15 years does not mean that Contracting Parties do not try to rebuild the biomass and bring the stock to safe biological limits as soon as possible, with the objective of achieving as soon as possible the biological objectives of the plan. In this context, the experience shows that after a few years, measures adopted, and in particular technical and control measures need to be reinforced, particularly when trends show that the objectives of recovery are not getting closer and that the stock is not rebuilding at the expected pace. Therefore, specific and regular changes may need to be implemented in short term and request a fast track way to be adopted;

b) Experienced achieved with Recovery plans, in ICCAT and elsewhere, shows that the changes on the text are quite frequent and the need to fully enter into force of the rules quite urgent. As a matter of example for the Recovery plan for Bluefin tuna in the eastern Atlantic and on the Mediterranean the text has been changed 6 times (2006, 2008, 2010, 2012, 2014 and 2017) since it was recommended by ICCAT in 2006.

¹⁴ Council Regulation (EU) 2017/1398 of 25 July 2017 amending Regulation (EU) 2017/127 as regards certain fishing opportunities (OJ L 199, 29.7.2017, p. 2).

¹⁵ Council Regulation (EU) 2018/120 of 23 January 2018 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, and amending Regulation (EU) 2017/127 (OJ L 27, 31.1.2018, p. 1).

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on a multiannual recovery plan for Mediterranean swordfish and amending Regulations (EC) No 1967/2006 and (EU) 2017/2107

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the Opinion of the European Economic and Social Committee,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The objective of the common fisheries policy (the 'CFP'), as set out in Regulation (EU) No 1380/2013¹ of the European Parliament and of the Council, is to ensure exploitation of marine living biological resources that provides sustainable economic, environmental and social conditions.
- (2) The Union is Party to the International Commission for the Conservation of Atlantic Tunas (the 'ICCAT').
- (3) At the 2016 Annual Meeting in Vilamoura (Portugal), the ICCAT contracting parties and cooperating non-contracting parties, entities or fishing entities (the 'CPCs') recognised the need to address the alarming situation of Mediterranean swordfish (*Xiphias gladius*). To that end, ICCAT adopted a recovery plan starting in 2017 and continuing until 2031, considering that the current biology, structure and dynamic of the population of the Mediterranean stock of swordfish does not allow to achieve levels of biomass capable of producing the maximum sustainable yield (MSY) in the short term, even if drastic and urgent management measures (total closure of the fishery) were adopted. The ICCAT recommendation on the recovery plan was adopted at its 20th Special meeting, after analysing the scientific advice of the Standing Committee on Research and Statistics (SCRS). That Recommendation 16-05² entered into force in 12 June 2017 and it is binding on the Union.
- (4) The Union informed the ICCAT Secretariat by letter, in December 2016, that certain measures in Recommendation 16-05 were to enter into force in January 2017, in particular in relation to the closure period established from 1 January to 31 March, and

¹ Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

² ICCAT Recommendation 16-05 adopted at the ICCAT's 2016 Annual Meeting replacing the Recommendation [13-04] and establishing a Multi-annual recovery plan for Mediterranean swordfish.

the allocation of quotas for Mediterranean swordfish fisheries. All other measures of Recommendation 16-05 should be included in the Union recovery plan.

- (5) According to Article 29(2) of Regulation (EU) No 1380/2013, the position of the Union in Regional Fisheries Management Organisations is to be based on the best available scientific advice so as to ensure that fishery resources are managed in accordance with the objectives of the CFP, in particular with the objective of progressively restoring and maintaining populations of fish stocks above biomass levels capable of producing maximum sustainable yield, even if the deadline established continues until 2031, and with the objective of providing conditions for economically viable and competitive fishing capture and processing industry and land-based fishing related activity at the same time in line with 28(1) and (2), 29 and 33 of Regulation (EU) No 1380/2013 promoting a level playing field for Union operators.
- (6) The recovery plan takes into account the specificities of the different types of gear and fishing techniques. When implementing the recovery plan, the Union and Member States should endeavour to promote coastal fishing activities and the use of fishing gear and techniques which are selective and have a reduced environmental impact, including gear and techniques used in traditional and artisanal fisheries, thereby contributing to a fair standard of living for local economies.
- (7) Regulation (EU) No 1380/2013 establishes the concept of minimum conservation reference sizes. In order to ensure consistency, the ICCAT concept of minimum sizes should be transposed into Union law as minimum conservation reference sizes.
- (8) Mediterranean swordfishes that have been caught and are below minimum conservation reference size will have to be discarded pursuant to point 17 of ICCAT Recommendation 16-05, unless they fall within the by-catch limits established by Member States in their annual fishing plans. For the purpose of the Union's compliance with its international obligations under the ICCAT, Delegated Regulation (EU) 2018/191 provides for derogations from the landing obligation for Mediterranean swordfish in accordance with Article 15(2) of Regulation (EU) No 1380/2013. Delegated Regulation (EU) 2018/191 implements certain provisions of ICCAT Recommendation 16-05 laying down the obligation to discard swordfish on board vessels that exceed their allocated quota and/or their maximum level of permitted by-catches. The scope of that Delegated Regulation includes vessels engaged in recreational fishing.
- (9) Taking into consideration that the recovery plan will implement ICCAT Recommendation 16-05, the provisions concerning Mediterranean swordfish in Regulation (EU) 2017/2107 should be deleted.
- (10) Fishing activities using driftnets have in the past undergone a rapid increase in terms of fishing effort and lack of sufficient selectivity. The uncontrolled expansion of those activities posed a serious risk for the target species and their use was prohibited for catching highly migratory fish, including swordfish fisheries, by Council Regulation 1239/98³.
- (11) To ensure compliance with the CFP, Union legislation has been adopted to establish a system of control, inspection and enforcement, which includes the fight against illegal, unreported and unregulated (IUU) fishing. In particular, Council Regulation (EC) No

³ Council Regulation (EC) No 1239/98 of 8 June 1998 amending Regulation (EC) No 894/97 laying down certain technical measures for the conservation of fishery resources (OJ L 171, 17.6.1998, p. 1).

1224/2009⁴ establishes a Union system for control, inspection and enforcement with a global and integrated approach so as to ensure compliance with all the rules of the CFP. Commission implementing Regulation (EU) No 404/2011⁵ lays down detailed rules for the implementation of Regulation (EC) No 1224/2009. Council Regulation (EC) No 1005/2008⁶ establishes a Community system to prevent, deter and eliminate IUU fishing. Those Regulations already include a number of measures laid down in ICCAT Recommendation 16-05. It is therefore not necessary to include those provisions in this Regulation.

- (12) In chartering arrangements the relationships between the owner, the charterer and the flag State are often unclear and some IUU fishers evade controls by abusing the arrangements for the chartering of fishing vessels. Chartering is prohibited in Regulation (EU) 2016/1627⁷ establishing a multiannual recovery plan for Bluefin tuna in the Atlantic and Mediterranean. It is therefore appropriate, as a preventive measure to protect a stock under recovery and for sake of consistency with Union law, to adopt a similar prohibition in the multiannual recovery plan for Mediterranean swordfish.
- (13) Union legislation should implement the ICCAT recommendations in order to place Union and third country fishermen on an equal footing and to ensure that the rules can be accepted by all.
- (14) In order to swiftly implement into Union law future amendments to the ICCAT recommendations, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending the Annexes to this Regulation as well as provisions listed in Article 34 (1) of this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law Making⁸. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (15) In order to ensure uniform conditions for the implementation of the provisions of this Regulation, implementing powers should be conferred on the Commission as regards the annual report on the implementation of this Regulation submitted by the Member

⁴ 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).

⁵ Commission Implementing Regulation (EU) No 404/2011 of 8 April 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system, for ensuring compliance with the rules of the Common Fisheries Policy (OJ L 112, 30.4.2011, p. 1).

⁶ Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999 (OJ L 286, 29.10.2008, p. 1).

⁷ Regulation (EU) 2016/1627 of the European Parliament and of the Council of 14 September 2016 on a multiannual recovery plan for bluefin tuna in the eastern Atlantic and the Mediterranean, and repealing Council Regulation (EC) No 302/2009 (OJ L 252, 16.9.2016, p. 1).

⁸ Interinstitutional Agreement of 13 April 2016 on Better Law Making (OJ L 123, 12.5.2016, p. 1).

States. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁹.

- (16) The delegated acts and implementing acts provided for in this Regulation are without prejudice to the implementation of future ICCAT recommendations into Union law through the ordinary legislative procedure.
- (17) Annex II to Council Regulation (EC) No 1967/2006¹⁰ allows for a maximum of 3 500 hooks that can be set or taken on board of vessels targeting swordfish, while ICCAT Recommendation 16-05 allows for a maximum of 2 500 hooks. In order to properly implement that Recommendation in Union law it is necessary to amend Council Regulation (EC) No 1967/2006 accordingly.
- (18) Section 2 of Chapter III of Regulation (EU) 2017/2107 of the European Parliament and of the Council¹¹ lays down certain technical and control measures on Mediterranean swordfish. The measures adopted by ICCAT Recommendation 16-05, which are transposed by this Regulation, are more restrictive or more precise to allow the recovery of the stock. Section 2 of Chapter III of Regulation (EU) 2017/2107 should therefore be deleted and replaced by the measures laid down in this Regulation.

HAVE ADOPTED THIS REGULATION:

TITLE I GENERAL PROVISIONS

Article 1 *Subject matter*

This Regulation lays down general rules for the implementation by the Union of the multiannual recovery plan for Mediterranean swordfish (*Xiphias gladius*) recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT), starting from 2017 and continuing through 2031 ('the recovery plan').

Article 2 *Scope*

This Regulation applies to:

- (a) Union fishing vessels, and Union vessels engaged in recreational fisheries which:
 - (i) operate in the ICCAT Convention area fishing swordfish in the Mediterranean; or
 - (ii) tranship, also outside the ICCAT Convention area, swordfish caught in the Mediterranean Sea;

⁹ 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).

¹⁰ Council Regulation (EC) No 1967/2006 of 21 December 2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 1626/94 (OJ L 409, 30.12.2006, p. 11).

¹¹ Regulation (EU) 2017/2107 of the European Parliament and of the Council of 15 November 2017 laying down management, conservation and control measures applicable in the Convention area of the International Commission for the Conservation of Atlantic Tunas (ICCAT), and amending Council Regulations (EC) No 1936/2001, (EC) No 1984/2003 and (EC) No 520/2007 (OJ L 315, 30.11.2017, p. 1).

- (b) Third country fishing vessels and third country vessels engaged in recreational fisheries which operate in Union waters fishing swordfish in the Mediterranean;
- (c) Third country vessels which are inspected in Member States ports and which carry on board swordfish caught in the Mediterranean or fishery products originating from swordfish caught in the Mediterranean that have not been previously landed or transhipped at ports.

Article 3 *Objective*

By way of derogation from Article 2, paragraph 2, of Regulation (EU) No 1380/2013, the objective of this Regulation is to achieve a biomass of swordfish in the Mediterranean corresponding to the maximum sustainable yield by 2031, with at least 60% probability of achieving that objective.

Article 4 *Relationship to other Union law*

The provisions of this Regulation apply in addition to the provisions laid down in the following Regulations or, where those Regulations so provide, by way of derogation therefrom:

- (1) Council Regulation (EC) No 1224/2009¹², establishing a Community control system for ensuring compliance with the rules of the common fisheries policy;
- (2) Regulation (EU) No 2017/2403 of the European Parliament and of the Council¹³ on the Sustainable Management of the External Fleets;
- (3) Regulation (EU) 2017/2107 of the European Parliament and of the Council¹⁴ laying down management, conservation and control measures applicable in the Convention area of the International Commission for the Conservation of Atlantic Tunas (ICCAT).

Article 5 *Definitions*

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

- (1) ‘fishing vessel’ means any vessel equipped for commercial exploitation of marine living biological resources;

¹² 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).

¹³ Regulation (EU) 2017/2403 of the European Parliament and of the Council, of 12 December 2017, on the sustainable management of external fishing fleets, and repealing Council Regulation (EC) No 1006/2008 (OJ L 347, 28.12.2017, p. 81).

¹⁴ Regulation (EU) 2017/2107 of the European Parliament and of the Council of 15 November 2017 laying down management, conservation and control measures applicable in the Convention area of the International Commission for the Conservation of Atlantic Tunas (ICCAT), and amending Council Regulations (EC) No 1936/2001, (EC) No 1984/2003 and (EC) No 520/2007 (OJ L 315, 30.11.2017, p. 1).

- (2) 'Union fishing vessel' means a fishing vessel flying the flag of a Member State and registered in the Union;
- (3) 'ICCAT Convention area' means all waters of the Atlantic Ocean and adjacent seas;
- (4) 'Mediterranean Sea' means Maritime Waters of the Mediterranean to the East of line 5°36' West;
- (5) 'CPC' means contracting parties to the ICCAT Convention and cooperating non-contracting parties, entities or fishing entities;
- (6) 'fishing authorisation' means an authorisation issued in respect of a Union fishing vessel entitling it to carry out specific fishing activities during a specified period, in a given area or for a given fishery under specific conditions;
- (7) 'special fishing authorisation' means an authorisation issued in respect of a Union fishing vessel entitling it to carry out specific fishing activities with specific gear during a specified period, in a given area and for a given fishery under specific conditions;
- (8) 'fishing opportunity' means a quantified legal entitlement to fish, expressed in terms of catches and/or fishing effort;
- (9) 'stock' means a marine biological resource that occurs in a given management area;
- (10) 'fishery products' means aquatic organisms resulting from any fishing activity or products derived therefrom;
- (11) 'discards' are catches that are returned to the sea;
- (12) 'recreational fishery' means non-commercial fishing activities exploiting marine living biological resources for recreation, tourism or sport;
- (13) 'vessel monitoring system data' means data on the fishing vessel identification, geographical position, date, time, course and speed transmitted by satellite-tracking devices installed on board fishing vessels to the fisheries monitoring centre of the flag Member State;
- (14) 'landing' means the initial unloading of any quantity of fisheries products from on board a fishing vessel to land;
- (15) 'transshipment' means the unloading of all or any fisheries products on board a vessel to another vessel;
- (16) 'chartering' means an arrangement by which a fishing vessel flying the flag of a Member State is contracted for a defined period by an operator in either another Member State or a third country without a change of flag;
- (17) 'large-scale pelagic longline vessel' means a pelagic longline vessel greater than 24 metres in length overall;
- (18) 'longlines' means a fishing gear which comprises a main line carrying numerous hooks on branch lines (snoods) of variable length and spacing depending on the target species;
- (19) 'hook' means a bent, sharpened piece of steel wire;
- (20) 'rod and line' means a fishing-line placed in a rod used by anglers and wound on a turning mechanism (reel) used to wind the line.

TITLE II

MANAGEMENT, TECHNICAL CONSERVATION MEASURES AND CONTROL

CHAPTER 1

Management Measures

Article 6 *Fishing effort*

1. Each Member State shall take the necessary measures to ensure that the fishing effort of fishing vessels flying its flag is commensurate with the fishing opportunities for Mediterranean swordfish available to that Member State.
2. The carrying-over of any unused quota shall be prohibited.

Article 7 *Allocation of fishing opportunities*

1. In accordance with Article 17 of Regulation (EU) No 1380/2013, when allocating the fishing opportunities available to them, Member States shall use transparent and objective criteria, including those of an environmental, social and economic nature, and shall also endeavour to distribute national quotas fairly among the various fleet segments giving consideration to traditional and artisanal fishing, and to provide incentives to Union fishing vessels deploying selective fishing gear or using fishing techniques with reduced environmental impact.
2. Each Member State shall make provision for by-catch of swordfish within its swordfish quota and shall inform the Commission thereof when transmitting its fishing plan in accordance with Article 9. Such provision shall ensure that all dead fish are deducted from the quota.

Article 8 *Capacity limitations*

1. A capacity limitation by gear type for fishing vessels shall apply for the duration of the recovery plan. Member States shall limit the number of fishing vessels by gear type flying their flag and authorised to fish for Mediterranean swordfish by either of the following measures, whichever results in an inferior number:
 - (a) The average yearly number of their vessels that fished for, retained on board, transhipped, transported, or landed Mediterranean swordfish over the period 2013-2016;
or
 - (b) The number of their fishing vessels that fished for, retained on board, transhipped, transported, or landed Mediterranean swordfish in 2016.
2. Member States may apply a tolerance of 5% to the capacity limit referred to in paragraph 1 for the years 2018-2019.

3. Member States shall inform the Commission of the measures taken to limit the number of fishing vessels flying their flag and authorised to fish for Mediterranean swordfish by 15 February of each year.

Article 9
Annual fishing plans

1. Member States shall submit their fishing plans to the Commission by 1 March of each year. Such plans shall be in accordance with the ICCAT Guidelines for submitting data and information, and shall include detailed information regarding the quota of Mediterranean swordfish allocated by gear type, including to recreational fisheries, where relevant, and to by-catches.
2. The Commission shall compile the plans referred to in paragraph 1 and integrate them into the Union fishing plan. The Commission shall transmit the Union fishing plan to the ICCAT Secretariat by 15 March each year.

CHAPTER 2

Technical Conservation Measures

SECTION 1

FISHING SEASONS

Article 10
Closed fishing seasons

1. Mediterranean swordfish shall not be caught, either as targeted species or as by-catch, retained on board, transhipped or landed during the period from 1 January to 31 March of each year.
2. In order to protect Mediterranean swordfish, a closure period shall apply to longline vessels targeting Mediterranean albacore (*Thunnus alalunga*) from the 1 October to 30 November of each year.
3. Member States shall monitor the effectiveness of the closures referred to in paragraphs 1 and 2 and shall submit to the Commission, at least two months and 15 days before the ICCAT annual meeting each year, all relevant information on appropriate controls and inspections carried out the previous year to ensure compliance with those paragraphs. The Commission shall forward that information to the ICCAT Secretariat at least two months before the ICCAT annual meeting each year.

SECTION 2

MINIMUM CONSERVATION REFERENCE SIZE, INCIDENTAL CATCH AND BY-CATCH

Article 11
Minimum conservation reference size for Mediterranean swordfish

1. By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, it shall be prohibited to target, retain on board, tranship, land, transport, store, sell or display

or offer for sale catches and by-catches of swordfish, including in recreational fisheries:

- (a) Measuring less than 100 cm Lower Jaw to Fork Length (LJFL);
or
 - (b) Weighing less than 11,4 kg of round weight, or 10,2 kg of gilled and gutted weight.
2. Only entire specimens of swordfish, without removal of any external part, or gilled and gutted specimens, may be retained on board, landed, transhipped, or carried in the first transport after landing.

Article 12

Incidental by-catches of swordfish below the minimum conservation reference size

Notwithstanding paragraph 1 of Article 11, catching vessels fishing actively for swordfish may retain on board, tranship, transfer, land, transport, store, sell, display or offer for sale incidental catches of swordfish below the minimum conservation reference size, provided such catches do not exceed 5 % by weight or number of pieces of the total swordfish catch of such vessels.

Article 13

By-catches

1. By-catches of swordfish shall not exceed at any time following a fishing operation the total catch on board by weight or number of specimens caught in longline fisheries.
2. By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, catching vessels not fishing actively for swordfish shall not retain on board swordfish exceeding the by-catch limit that Member States establish in their annual fishing plans for the total catch on board by weight or number of pieces.
3. By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, it shall be prohibited to catch, retain on board, tranship or land more than one swordfish per vessel per day for recreational fisheries. Member States shall take the necessary measures to ensure and facilitate the release of swordfish caught alive in the framework of recreational fishing.
4. By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, if the quota allocated to the flag Member State is exhausted, any swordfish caught alive shall be released.
5. Where the quota allocated to the flag Member State is exhausted, dead swordfish shall be landed whole and unprocessed and shall be subject to confiscation and the appropriate follow-up action. Member States shall provide information on the quantity of such dead swordfish on an annual basis to the Commission who shall forward it to the ICCAT Secretariat, in accordance with Article 21.

SECTION 3

TECHNICAL CHARACTERISTICS OF THE FISHING GEAR

Article 14

Technical characteristics of the fishing gear

1. The maximum number of hooks that may be set by or taken on board of fishing vessels targeting Mediterranean swordfish shall be fixed at 2 500 hooks.
2. By way of derogation from paragraph 1, additional 2 500 replacement unrigged hooks shall be allowed on board fishing vessels for trips longer than 2 days.
3. The hook size shall not be smaller than 7 cm of height.
4. The length of the pelagic longlines shall not exceed 30 nautical miles (55.56 km).

CHAPTER 3

Control Measures

SECTION 1

RECORD OF VESSELS

Article 15

Fishing authorisations

1. Member States shall issue fishing authorisations to catch Mediterranean swordfish to vessels flying their flag, in accordance with the provisions laid down in Regulation (EU) 2017/2403 for:
 - (a) Fishing vessels targeting Mediterranean swordfish;
 - (b) Fishing vessel catching Mediterranean swordfish as by-catch; and
 - (c) Vessels engaged in recreational fisheries.
2. Member States shall issue a special fishing authorisation to Union fishing vessels targeting Mediterranean swordfish using harpoons or pelagic longline.
3. Only Union vessels included in the ICCAT record of vessels according to the procedure laid down in Articles 16 and 17, shall be authorised to target, retain on board, tranship, transport, process or land Mediterranean swordfish.
4. Large scale fishing vessels authorised by Member States shall be registered in the ICCAT record of fishing vessels greater than 20 metres length overall, to be authorised by the ICCAT to target, retain on board, tranship or land tuna and tuna-like species.

Article 16

Information on vessels authorised to catch swordfish and albacore tuna in the current year

1. Member States shall submit electronically each year to the Commission, the following information in the format set out in the ICCAT Guidelines for submitting data and information:
 - (a) By 1 January, the information on catching vessels flying their flag and authorised to catch Mediterranean swordfish, including as by-catch and in the

context of recreational fisheries. The Commission shall send that information to the ICCAT Secretariat by 15th January of each year;

- (b) By 1 March, the information on catching vessels flying their flag and authorised to target Mediterranean albacore tuna. The Commission shall send that information to the ICCAT Secretariat by 15th March of each year.
2. The information on catching vessels referred to in paragraph 1(a) and (b) shall contain the vessel's name and Union fleet register number (CFR) as defined in Annex I to Commission Implementing Regulation (EU) 2017/218¹⁵ on the Union fishing fleet register.
3. In addition to the information referred in paragraph 2, Member States shall notify the Commission, at the latest within 30 days, of any addition to, deletion from or modification of the information on catching vessels referred to in paragraph 1. The Commission shall transmit, at the latest within 45 days from the date of the addition to, deletion from or modification of the information on those catching vessels, inform thereof the ICCAT Secretariat.
4. In accordance with Article 7(6) of Regulation (EU) 2017/2403, the Commission shall, if necessary, modify during the year the information on catching vessels referred to in paragraph 1, by providing updated information to the ICCAT Secretariat.

Article 17

Scientific information on vessels authorised to target Mediterranean swordfish using harpoons or pelagic longlines in the preceding year

1. By 30 June of each year, Member States shall submit electronically to the Commission the following information concerning catching vessels flying their flag that were authorised to carry out pelagic longline fisheries or harpoon fisheries targeting Mediterranean swordfish during the preceding year:
 - (a) Name of the vessel (in the absence of the name, the registry number without country initials shall be indicated);
 - (b) Union fleet register number as defined in Annex I to Commission Implementing Regulation (EU) 2017/218;
 - (c) ICCAT record number.
2. The information referred to in paragraph 1 shall be submitted in the format set out in the last version of the ICCAT Guidelines for submitting data and information.
3. The Commission shall send that information to the ICCAT Secretariat by 31 July of each year.

SECTION 2 MONITORING AND SURVEILLANCE

Article 18

Vessel Monitoring System

1. Union fishing vessels included in the ICCAT record of vessels and authorised to fish Mediterranean swordfish, and third country vessels authorised to fish Mediterranean

¹⁵ OJ L 34, 9.2.2017, p. 9.

swordfish in Union waters which are greater than 12 metres length overall, shall have installed on board a fully functioning device which allows the vessel to be automatically located and identified through the vessel monitoring system (VMS), by transmitting position data at regular intervals, in accordance with Article 9 of Regulation (EC) No 1224/2009.

2. For control purposes, the transmission of VMS data from catching vessels that are authorised to fish Mediterranean swordfish shall not be interrupted when vessels are in port.
3. Member States shall ensure that their fisheries monitoring centres forward to the Commission and a body designated by it, in real time and using the format "https data feed", the VMS messages received from the fishing vessels flying their flag. The Commission shall send those messages electronically to the ICCAT Secretariat.
4. Member States shall ensure that:
 - (a) VMS messages from the fishing vessels flying their flag are forwarded to the Commission at least every two hours;
 - (b) In the event of technical malfunction of the VMS, alternative messages from the fishing vessel flying their flag received under Article 25(1) of Implementing Regulation (EU) No 404/2011 are forwarded to the Commission within 24 hours of receipt by their fisheries monitoring centres;
 - (c) Messages forwarded to the Commission are sequentially numbered (with a unique identifier) in order to avoid duplication;
 - (d) Messages forwarded to the Commission are in accordance with Article 24(3) of Implementing Regulation (EU) No 404/2011.
5. Each Member State shall take the necessary measures to ensure that all messages made available to its inspection vessels are treated in a confidential manner and are limited to inspection at sea operations.

Article 19

Chartering of Union fishing vessels

The chartering of Union fishing vessels for Mediterranean swordfish shall be prohibited.

Article 20

National observer programmes in pelagic longline vessels

1. Each flag Member State with a Mediterranean swordfish quota shall implement a national observer programme for pelagic longline vessels targeting Mediterranean swordfish in accordance with this Article. The national observer programme shall comply with the minimum standards laid down in Annex I.
2. Each Member State concerned shall ensure that national scientific observers are deployed on at least 20% of pelagic longline vessels targeting Mediterranean swordfish. The percentage coverage will be measured in fishing days, number of sets or trips.
3. By way of derogation from paragraph 2, for vessels less than 15 metres in length overall, where an extraordinary safety concern may exist that precludes deployment of an on board observer, a Member State may deploy an alternative scientific monitoring approach. That alternative approach shall ensure coverage comparable to

that specified in paragraph 2 and an equivalent collection of data. The Member State concerned shall present the details of the alternative approach to the Commission without undue delay.

4. The Commission shall immediately submit the details of the alternative approach referred to in paragraph 3, to the ICCAT Standing Committee on Research and Statistics for evaluation. Alternative approaches shall be subject to the approval of the ICCAT Commission at the ICCAT annual meeting prior to their implementation.
5. Member States shall issue national observers with an official identification document.
6. In addition to the tasks of scientific observers laid down in Annex I, Member States shall require scientific observers to assess and report the following data on Mediterranean swordfish:
 - (a) The level of discards of undersized specimens;
 - (b) Region specific size and age at maturity;
 - (c) Habitat use for comparison of the availability of swordfish to the various fisheries, including comparisons between traditional and mesopelagic longlines;
 - (d) The impact of the mesopelagic longline fisheries in terms of catch composition, CPUE series, size distribution of the catches; and
 - (e) Monthly estimation of the proportion of spawners and recruits in the catches.
7. By 30 June of each year Member States shall submit to the Commission the information collected under their national scientific observer programmes of the previous year. The Commission shall forward that information to the ICCAT Secretariat by 31 July of each year.

SECTION 3

CONTROL OF CATCHES

Article 21

Recording and reporting of catches

1. The master of each vessel authorised to catch Mediterranean swordfish shall keep a fishing logbook in accordance with the requirements laid down in Annex II and shall submit the logbook information to the flag Member State.
2. Without prejudice to the reporting obligations for Member States established in Regulation (EC) No 1224/2009, Member States shall send quarterly reports to the Commission of all catches of Mediterranean swordfish made by authorised vessels flying their flag. Those quarterly reports shall be sent no later than 15 days following the end of each quarter period (15 April, 15 July and 15 October of each year and by 15 January of the following year). The Commission shall send that information to the ICCAT Secretariat by 30 April, 30 July and 30 October of each year and by 30 January of the following year.
3. In addition to the information referred to in paragraph 1, Member States shall submit to the Commission, by 30 June of each year, the following information concerning Union fishing vessels that were authorised to carry out pelagic longline fisheries or harpoon fisheries targeting Mediterranean swordfish during the preceding year:

- (a) Information related to fishing activities, based on sampling or on the whole fleet, including:
 - (i) fishing period(s) and total annual number of fishing days of the vessel, by target species and area;
 - (ii) geographical areas, by ICCAT statistical rectangles, for the fishing activities carried out by the vessel, by target species and area;
 - (iii) type of vessel, by target species and area;
 - (iv) number of hooks used by the vessel, by target species and area;
 - (v) number of longline units used by the vessel, by target species and area;
 - (vi) overall length of all longline units for the vessel, by target species and area.
 - (b) Data on the catches, in the smallest time-area possible, including:
 - (i) size and, if possible, age distributions of the catches;
 - (ii) catches and catch composition per vessel;
 - (iii) fishing effort (average fishing days per vessel, average number of hooks per vessel, average longline units per vessel, average overall length of longline per vessel).
4. The Commission shall forward that information to the ICCAT Secretariat by 31 July of each year.
 5. The information referred to in paragraphs 1, 2 and 3 shall be submitted in the format set out in the last version of the ICCAT Guidelines for submitting data and information.

Article 22

Information on quota exhaustion and closure of the fishery

1. Without prejudice to Article 34 of Regulation (EC) No 1224/2009, each Member State shall inform the Commission without delay, when the quota allocated to a gear type is deemed to have reached 80%.
2. When accumulated catches of Mediterranean swordfish have reached the 80% threshold of the national quota, the flag Member States shall send data on catches to the Commission on a weekly basis.

SECTION 4

LANDINGS AND TRANSHIPMENTS

Article 23

Designated ports

1. Mediterranean swordfish catches, including by-catches and Mediterranean swordfish caught in the context of recreational fisheries with no tag affixed to each piece as referred to in Article 30 shall only be landed in designated ports.
2. Each Member State shall designate ports in which landings referred to in paragraph 1 shall take place and shall specify the permitted landing and transshipping times and places and inspection and surveillance procedures applicable in those ports.

3. By 15 February of each year, Member States shall transmit a list of designated ports to the Commission. By 1 March of each year, the Commission shall transmit that information to the ICCAT Secretariat.

Article 24
Prior notification

1. Article 17 of Regulation (EC) No 1224/2009 shall apply to masters of Union fishing vessels of 12 metres length overall or more, included in the list of vessels referred to in Article 16 of this Regulation. The prior arrival notification referred to in Article 17 of Regulation (EC) No 1224/2009 shall be sent to the competent authority of the Member State (including the flag Member State) or CPC whose ports or landing facility they intend to use.
2. Masters of Union fishing vessels under 12 metres length overall included in the list of vessels referred to in Article 16 shall, at least four hours before the estimated time of arrival at the port, notify the competent authority of the Member State (including the flag Member State) or the CPC whose ports or landing facility they wish to use, the following information:
 - (a) Estimated time of arrival;
 - (b) Estimated quantity of Mediterranean swordfish retained on board; and
 - (c) The information on the geographical area where the catch was taken.
3. Authorities of the port Member States shall maintain a record of all prior notifications for the current year.

Article 25
Transhipments

1. Transhipment by Union fishing vessels carrying on board Mediterranean swordfish at sea shall be prohibited in all circumstances.
2. Without prejudice to Articles 51, 52, 54 and 57 of Regulation (EU) 2017/2107, fishing vessels shall only tranship Mediterranean swordfish in designated ports.

SECTION 5
INSPECTIONS

Article 26
Annual inspection plans

1. By 31 January each year, Member States shall transmit their annual inspection plans to the Commission. The inspection plans shall be set up in accordance with:
 - (a) The objectives, priorities, and procedures as well as benchmarks for inspection activities set up in Commission Implementing Decision (EU) 2018/17¹⁶; and

¹⁶ Commission Implementing Decision (EU) 2018/17 of 5 January 2018 amending Implementing Decision 2014/156/EU establishing a specific control and inspection programme for fisheries exploiting stocks of bluefin tuna in the Eastern Atlantic and the Mediterranean, swordfish in the Mediterranean and for fisheries exploiting stocks of sardine and anchovy in the Northern Adriatic Sea (OJ L 4, 9.1.2018, p. 20).

- (b) The national control action programme for Mediterranean swordfish established under Article 46 of Regulation (EC) No [1224/2009](#).
2. The Commission shall compile the national inspection plans and integrate them into the Union inspection plan. The plan shall be transmitted by the Commission to the ICCAT Secretariat, for endorsement by ICCAT, together with the annual fishing plans referred to in Article 9.

Article 27

ICCAT Scheme for Joint International Inspection

1. Joint international inspection activities shall be carried out in accordance with the ICCAT Scheme for Joint International Inspection ("the ICCAT Scheme") set out in Annex III.
2. Member States whose fishing vessels are authorised to fish Mediterranean swordfish shall assign inspectors and carry out inspections at sea under the ICCAT Scheme. The Commission or a body designated by it may assign Union inspectors to the ICCAT Scheme.
3. When, at any time, more than 50 fishing vessels flagged to a Member State are engaged in the Convention area fishing swordfish in the Mediterranean, that Member State shall deploy an inspection vessel for the purpose of inspection and control at sea in the Mediterranean Sea throughout the period that those vessels are there. That obligation shall also be deemed to have been complied with where Member States cooperate to deploy an inspection vessel or where a Union inspection vessel is deployed in the Mediterranean Sea.
4. The Commission or a body designated by it shall coordinate the surveillance and inspection activities for the Union. The Commission may draw up, in coordination with the Member State concerned, joint inspection programmes to enable the Union to fulfil its obligation under the ICCAT Scheme. Member States whose fishing vessels are engaged in Mediterranean swordfish fisheries shall adopt the necessary measures to facilitate the implementation of those programmes, in particular as regards the human and material resources required and the periods when and geographical areas where those resources are to be deployed.
5. Member States shall inform the Commission, by 1 December of each year, of the names of the inspectors and the inspection vessels they intend to assign to the ICCAT Scheme during the following year. Using that information, the Commission shall draw up, in collaboration with the Member States, an annual plan for the Union participation in the ICCAT Scheme, which it shall send to the ICCAT Secretariat by 1 January of each year.

Article 28

Inspections in case of infringements

1. Each flag Member State shall take the action under paragraph 2 of this Article if a vessel flying its flag has committed an infringement of the provisions of this Regulation.
2. Each flag Member State shall ensure that a physical inspection takes place under its authority in its ports or, when a fishing vessel flying its flag is not in one of its ports, by a person designated by it.

CHAPTER 4

Recreational Fisheries

Article 29

Management measures

1. Each Member State shall make provision for a recreational fisheries quota within its national quota and shall inform the Commission thereof when transmitting its fishing plan in accordance with Article 9. Such provision shall ensure that all dead fish are deducted from the quota.
2. In recreational fisheries, it shall be prohibited to catch, retain on board, tranship or land more than one swordfish per vessel per day.
3. Member States shall take the necessary measures to ensure, to the greatest extent possible, the release of swordfish caught alive in the framework of recreational fisheries.
4. The selling and any other form of marketing of Mediterranean swordfish caught in recreational fisheries shall be prohibited.

Article 30

Control measures

1. Only 'rod and line' vessels shall be authorised to catch Mediterranean swordfish in recreational fisheries.
2. The information on authorised recreational vessels sent to the ICCAT Secretariat in accordance with Article 16(1)(a) shall include the following:
 - (a) Name of the vessel (in the absence of the name, the registry number without country initials shall be indicated);
 - (b) Union fleet register number as defined in Annex I to Commission Implementing Regulation (EU) 2017/218;
 - (c) Previous name of the vessel, where relevant;
 - (d) Vessel's length overall;
 - (e) Name and address of owner(s) and operator(s) of the fishing vessel.
3. Catch data, including round weight and length (LJFL) of each Mediterranean swordfish caught, retained on board and landed in the context of recreational fisheries shall be recorded and reported in accordance with Article 21.
4. Mediterranean swordfish may only be landed whole or gilled and gutted, and either in a designated port in accordance with Article 23, or with a tag affixed to each piece. Each tag shall have a unique country specific number and be tamper proof.
5. Member States shall establish a tagging programme for the purposes of this Regulation and include the specifications of such programme in the annual fishing plans referred in Article 9 of this Regulation.
6. Member States shall only authorise the use of tags when the accumulated catch amounts are within the quota allocated to them.

7. Member States shall send to the Commission an annual report of the implementation of the tagging programme two months and 15 days before the ICCAT annual meeting, each year. The Commission shall compile the information from Member States and send it to the ICCAT Secretariat two months before the ICCAT annual meeting, each year.

TITLE III

FINAL PROVISIONS

Article 31

Annual report

1. By 15 September of each year, Member States shall submit to the Commission an annual report, for the preceding calendar year, on their implementation of this Regulation, and any additional information as appropriate.
2. The annual report shall include information on the steps taken to mitigate by-catch and reduce discards of undersized Mediterranean swordfish, and on any relevant research in that field.
3. The Commission shall compile the information received pursuant to paragraphs 1 and 2, and shall forward it to the ICCAT Secretariat by 15 October of each year.
4. The Commission may adopt implementing acts as regards detailed requirements for the format of the annual report referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 36.

Article 32

Review

The Commission shall report to the European Parliament and to the Council on the functioning of the Recovery plan for Mediterranean swordfish under this Regulation by 31 December 2025.

Article 33

Financing

For the purposes of Regulation (EU) No 508/2014 of the European Parliament and of the Council, the multiannual recovery plan for Mediterranean swordfish shall be deemed to be a multiannual plan within the meaning of Article 9 of Regulation (EU) No 1380/2013.

Article 34

Procedure for amendments

1. Where necessary in order to implement into Union law amendments to or supplement the existing ICCAT recommendations which become binding on the Union, and insofar as amendments to Union law do not go beyond ICCAT recommendations, the Commission is empowered to adopt delegated acts in accordance with Article 35 for the purpose of amending:
 - (a) Deadlines for reporting information as laid down in Articles 9(1) and (2), 10(3), 16(1) and (3), 17(1) and (3), 21(2) and (3), 22(2), 23(3), 26(1), 27(5) and 31(1) and (3);

- (b) Time periods for closures as provided in Article 10(1) and (2);
 - (c) The minimum conservation reference size set in Article 11(1);
 - (d) The tolerance levels referred to in Articles 12 and 13;
 - (e) The technical characteristics of the fishing gear in Article 14(1) to (4);
 - (f) The percentage of quota exhaustion laid down in Article 22(1) and (2);
 - (g) The information on catching vessels referred to in Articles 16(2), 17(1), 21(1), (2), (3) and (4) and 23(3); and
 - (h) Annexes I, II and III of this Regulation.
2. Any amendments adopted in accordance with paragraph 1 shall be strictly limited to the implementation of amendments and/or supplements to the respective ICCAT recommendations into Union law.

Article 35
Exercise of delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 34 shall be conferred on the Commission for a period of five years from the date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension no later than three months before the end of each period.
3. The delegation of power referred to in Article 34 may be revoked at any time by the European Parliament or the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated act already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 34 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament or the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 36
Committee procedure

The Commission shall be assisted by the Committee for Fisheries and Aquaculture established by Article 47 of Regulation (EU) No 1380/2013. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 37
Amendments to Regulation (EU) 2017/2107

In Regulation (EU) 2017/2107, Articles 20 to 26 are deleted.

Article 38
Amendments to Regulation (EC) No 1967/2006

In Annex II to Regulation (EC) No 1967/2006, point 6(2) is replaced by the following:

- “2. 2 500 hooks for vessels targeting swordfish (*Xiphias gladius*) where this species account for at least 70% of the catch in live weight after sorting;”

Article 39

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President