



Brussels, 8 December 2016
(OR. en)

Interinstitutional File:
2016/0344 (NLE)

14854/2/16
REV 2

LIMITE

PECHE 452

OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
To: Delegations

No. Cion doc.: 13797/16 PECHE 400 + ADD 1-2 - COM(2016) 698 final

Subject: Proposal for a Council Regulation fixing for 2017 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters, and for Union vessels, in certain non-Union waters

Following discussions in the meetings of the Working Party on Internal Fisheries Policy between 4 November and 7 December 2016, delegations will find attached a "bible" (*comments of delegations are in bold and italics*). This document also takes into account delegations' written comments (for the detailed positions of delegations please refer to the documents themselves¹) and Commission non-papers received to date (docs. 14351/16, 14457/16, 14611/16, 14759/16, 14786/16, 15023/16 and 15102/16). For ease of reference, TACs applying for 2016 are referred to as well (*in bold and italics*), and new comments or changes to comments compared to the first revision of this document are marked in grey.

¹ Docs. 14552/16 + ADD 1-12.

GENERAL COMMENTS:

All delegations maintained scrutiny reservations, in particular with regard to elements of the proposal which need updating in the course of the deliberations in Council and its preparatory bodies. In particular, delegations were still awaiting the implementation of outcomes of Northern consultations into the proposal. UK, FR and DK also entered a parliamentary scrutiny reservation.

Delegations invited the Commission to pursue a transparent process in respect of TAC recalculations to cater for discards of species that will be under the landing obligation in 2017, referring to acceptable outcomes of this exercise in 2015. COM explained that the method it applied this year was essentially identical to the one applied last year. If a landing obligation concerned only parts of a fleet, the proportion of landings concerned was calculated following the proportionate fishing effort deployed. SE, like DE, DK and NL, held the view that quota adjustments for the landing obligation should be based on the estimated discard rates by fleet segment by management areas following the principle of relative stability.

ES suggested merging all TACs and quotas proposals into one single regulation or splitting them into different regulations for each sub-region.

SE generally supported the proposal's approach in respect of moving quickly towards MSY.

FR welcomed the progression towards managing stocks at MSY level, as evidenced by the Commission's communication on fishing opportunities of June 2016.

ES, PT and IE stressed the importance of socio-economic stability and the vulnerability of coastal communities, the difficult conditions in which parts of the fishing sector are placed after a series of TAC reductions and accompanying measures had already been adopted, and recalled the possibility of achieving MSY objectives gradually until 2020 if necessary to avoid abrupt and drastic measures. In a similar vein, FR and BE held the view that in certain situations a progressive approach was needed to keep the fishing enterprises competitive, and spoke against abrupt variations in TACs, be it upwards or downwards.

In respect of data limited stocks, UK, ES, FR, IE, DE, DK, BE, PT and NL preferred a case by case analysis, using all available evidence and reflecting on directional trends in fishing mortality, biomass, fishing effort and technical characteristics of the métier. ES and PT suggested that for TACs that are not underpinned by new advice or by any advice, the level should be rolled over. UK and also FR welcomed the efforts invested by scientific bodies into developing MSY proxy values for stocks that do not yet benefit from a full analytical assessment. They underlined the need for this work to continue in order to be able to measure the attainment of CFP objectives.

DK, IE, BE, DE and NL opposed fixing of TACs at the level of zero, in order to avoid unavoidable discards while moving towards a landing obligation.

IE was concerned about granting quota flexibility across management areas. As an example, flexibility for North Sea fisheries towards the West of Scotland carried the risk of increasing by-catches of vulnerable stocks in this area, such as cod. IE reserved its rights as regards a possible invocation of Hague preferences. FR, BE and DE opposed this.

UK was generally pleased with the progress made under the reform - recognizing that more needs to be done, varying in degree across the different regions. While supportive in general of the approach to achieve MSY by 2017, some exceptions have to be made, in particular considering possible discard increases in mixed fisheries.

UK also underlined the importance of developing multi-annual management plans based on the reform principles and MSY targets expressed in ranges. It underlined the importance of agreeing with Norway on the management of shared stocks including top-ups in connection to the landing obligation, and drew attention to the fact that Norway's intentions with regard to quota, share and access to blue whiting are still unknown. With regard to quota adjustments in connection with the landing obligation, UK expects the method applied in 2016 to be used again, resulting in catch limits that do not increase fishing mortality and respect relative stability. Finally, UK reserved its rights as regards a possible invocation of Hague preferences. FR, BE and DE opposed this.

HR and IT highlighted their general position on reflecting binding rules adopted by RFMOs into Union law, namely that this should be done by transferring literally and consistently the main elements of those rules in their genuine form in order not to jeopardize the original idea behind and efforts put into their development. Following these general considerations and a reflection on the GFCM management framework for small pelagic species in the Adriatic, these delegations opposed the inclusion of TACs and Quotas for those species into the Regulation.

SI also supported a more literal transposition of the relevant GFCM rules of the management framework for small pelagic species. However, SI supported the Commission in reserving 300 tonnes of sardine and anchovy for the Slovenian sector, preferably for both species (sardine and anchovy) combined.

LV reiterated its strong interest in the developing snow crab fishery, highlighting the serious and long-term investments undertaken in Latvia. Fishing for snow crab in Svalbard waters increased significantly the fleet's competitiveness and ensured employment for EU fishermen.

Proposal for a

COUNCIL REGULATION

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

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 Council² 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.

² 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).

- (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 2017, 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 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 2017 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 2017, 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.
- (6a) Council Regulation (EU) 1342/2008 has been amended, removing Chapter III of the regulation. For this reason, and in line with Commission Delegated Regulation .../2016 establishing a discard plan for certain demersal fisheries in the North Sea and in Union waters of ICES Division IIa, as of 1 January 2017 the landing obligation of cod will apply to catches of cod in ICES Subarea IV, ICES Division IIa and Union waters of ICES Division IIa, in accordance with the Article 1, 3 and the Annex of the Commission Delegated Regulation. For this reason, fishing opportunities for the cod stock should be fixed in accordance with Article 16(2) of Regulation 1380/2013, taking into account the amounts of fish that were discarded in the past and now will have to be landed.**

(7) According to scientific advice, sea bass (*Dicentrarchus labrax*) in the Celtic Sea, Channel, Irish Sea and southern North Sea (ICES divisions IVb, IVc and VIIa, VIId–VIIh) remains in a perilous state and the stock continues to decline. The conservation actions to prohibit fishing for sea bass should therefore be maintained in ICES divisions VIIa, VIIb, VIIc, VIIg, VIIj and VIIk, with the exception of the waters within 12 nautical miles of the baseline under the sovereignty of the United Kingdom. Spawning aggregations of sea bass should be protected with commercial catches restricted further in 2017. On the basis of social and economic impacts limited fisheries using hooks and lines should be permitted, while providing for a closure to protect spawning aggregations. Additionally, due to incidental and unavoidable by-catches of sea bass by vessels using demersal trawls and seines, such by-catches should be limited to 1 % of the weight of the total catch of marine organisms on board. Catches of recreational fishermen should be restricted by a monthly limit.

(7a) There is a progressive decrease in the commercial catches of sea bass in the Bay of Biscay. To restore and maintain this slowly maturing stock and to prevent further decreases in fishing opportunities for commercial and recreational fishermen, preventative conservation measures should be introduced. For the commercial sector, vessel catch limits should be put in place in order to reduce targeted fishing. Recreational catches represent an important contribution to mortality, and necessary measures should be put established to restrict the monthly out-take. This approach is consistent with the measures applicable in ICES subarea VII.³

(8) For some years, certain TACs for stocks of elasmobranchs (skates, sharks, rays) have been set at 0, 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.

(8a) Different species of skates and rays have been managed together within generalised skate and ray TACs. According to scientific advice, this raises concerns that some of the more vulnerable species or data-limited stocks in these generalised TACs do not have sufficient protection. Conversely, such a system has not allowed fishing some commercially important stocks sustainably with a higher quota level. Therefore, it is appropriate to establish catch limits on more vulnerable species of skates and rays, based on ICES advised catch limits, whilst allowing continued sustainable fishing of commercially important species using the generalised TACs.

³ **FR, ES: delete. See comments to Art 10a.**

- (9) 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 509/2007⁴, (EC) No 676/2007⁵ and (EC) No 302/2009⁶. The objective for the Southern hake stock as set out in Council Regulation (EC) No 2166/2005⁷ 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) 1380/2013, to fix the TAC on the basis of maximum sustainable yield advice, as provided by ICES.
- (10) 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 VIa, VIIb and VIIc (West of Scotland, West of Ireland). The advice covers two separate TACs (for VIaS, VIIb and VIIc on the one hand, and for Vb, VIb and VIaN 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 stock⁸ cannot be applied to the combined stocks, it is appropriate, in order to contribute to the achievement of the objectives of the Common Fisheries Policy as defined in Regulation (EU) 1380/2013, to fix the TACs on the basis of the maximum sustainable yield advice.
- (11) 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.

⁴ 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).

⁵ 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).

⁶ 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).

⁷ 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).

⁸ 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).

- (12) Council Regulation (EC) No 847/96⁹ introduced additional conditions for year-to-year management of TACs including, under Articles 3 and 4, 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 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 living 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.
- (13) The scientific advice for shortly-lived species is issued shortly before the start of the fishery. In order to ensure that the relevant catch limits are adapted in line with the scientific advice in order to allow the start of such fisheries, it is appropriate to empower the Commission to adopt implementing acts establishing catch limits for sandeel in Union waters of ICES divisions IIa and IIIa and subarea IV, capelin in Greenland waters of ICES subareas V and XIV and sprat in ICES division IIa and subarea IV.
- (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.
- (15) It is necessary to establish the fishing effort ceilings for 2017 in accordance with Article 5 of Regulation (EC) No 509/2007, Article 9 of Regulation (EC) No 676/2007, Articles 11 and 12 of Regulation (EC) No 1342/2008 and Articles 5 and 9 of Regulation (EC) No 302/2009, while taking into account Council Regulation (EC) No 754/2009¹⁰.
- (16) In order to guarantee full use of fishing opportunities, it is appropriate to allow for the implementation of a flexible arrangement between some of the TAC areas where the same biological stock is concerned.¹¹
- (17) In the light of the most recent scientific advice from ICES and in accordance with the international commitments in the context of the North East Atlantic Fisheries Convention (NEAFC), it is necessary to limit the fishing effort on certain deep-sea species.

⁹ 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).

¹⁰ Council Regulation (EC) No 754/2009 of 27 July 2009 excluding certain groups of vessels from the fishing effort regime laid down in Chapter III of Regulation (EC) No 1342/2008 (OJ L 214, 19.8.2009, p. 16).

¹¹ **UK: supports the principle of flexibility across areas where stock is the same, and expects Commission to apply this in the TAC tables. IE: recital not appropriate, this type of flexibility bring with it problems for other stocks.**

- (18) 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.
- (19) At the 11th Conference of the Parties of the Convention 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.
- (20) The use of fishing opportunities available to Union fishing vessels set out in this Regulation is subject to Council Regulation (EC) No 1224/2009¹², 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.
- (21) It is appropriate, following advice from the ICES, to maintain a specific system to manage sandeel in Union waters of ICES divisions IIa and IIIa and ICES subarea IV. Given that the ICES scientific advice is expected to become available only in February 2017, it is appropriate to set the TAC and quotas for this stock provisionally at zero until such advice is released.
- (22) In accordance with the procedure provided for in the agreements or protocols on fisheries relations with Norway¹³ and the Faroe Islands¹⁴ 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 Greenland¹⁵, the Joint Committee has established the level of fishing opportunities available for the Union in Greenland waters in 2017. It is therefore necessary to include these fishing opportunities in this Regulation. [Recital to be modified, as well as the relevant provisions to which it refers, after the new consultations are held]

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

¹⁴ 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).

¹⁵ 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).

- (23) At its Annual Meeting in 2015, NEAFC adopted a conservation measure on the redfish stock in the Irminger Sea fixing for 2016 the TAC and quotas for the contracting parties, including the Union. [Recital to be modified, as well as the relevant provisions to which it refers, after the new consultations are held]
- (24) *At its Annual Meeting in 2016, 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 2016 TACs and quotas previously established for bluefin tuna and bigeye tuna. Concerning blue and white marlins, ICCAT confirmed for 2016 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 meter 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.*
- (25) *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.*
- (26) 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.
- (27) The Annual Meeting of the South Pacific Regional Fisheries Management Organisation (SPRFMO) will be held on 18 – 22 January 2017. It is appropriate that current measures in the SPRFMO Convention Area are provisionally maintained until such Annual Meeting is held. However, the stock of jack mackerel should not be targeted before a TAC is set as a result of that Annual Meeting.

- (28) **The Inter American Tropical Tuna Commission (IATTC) failed to conclude its 90th Annual Meeting during 2016. The meeting will resume in 2017. IATTC maintained its conservation measures for yellowfin tuna, bigeye tuna, skipjack tuna, oceanic whitetip sharks and mobulid rays. These measures should continue to be implemented in the law of the Union.**
- (29) **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 BI 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.**
- (30) At its 12th 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. [Recital to be modified, as well as the relevant provisions to which it refers, after the new consultations are held]
- (31) **At the Annual Meeting in 2016, the Parties to the Convention on the Conservation and Management of Pollock resources in the central Bering Sea did not modify the measures regarding fishing opportunities. Those measures should be implemented in the law of the Union.**
- (32) At its 38th Annual Meeting in 2016, the Northwest Atlantic Fisheries Organisation (NAFO) adopted a number of fishing opportunities for 2017 of certain stocks in Subareas 1-4 of the NAFO Convention Area. Those measures should be implemented in the law of the Union.
- (33) 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.
- (34) 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 2016, 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.

(34a) In order to preserve the rights of those Member States which are Contracting Parties to the Treaty of Paris of 1920 and with a view to guarantee an exploitation of snow crab around the area of Svalbard in a manner consistent with the non-discriminatory management rules set out by Norway, which enjoys sovereignty and jurisdiction in the area within the limits of such Treaty, it appear convenient to limit the number of vessels authorised to conduct such fishery in 2017.

- (35) In accordance with the declaration by the Union addressed to the Bolivarian Republic of Venezuela on the granting of fishing opportunities in EU waters to fishing vessels flying the flag of Bolivarian Republic of Venezuela in the exclusive economic zone off the coast of French Guiana¹⁶, it is necessary to fix the fishing opportunities for snapper available to Venezuela in Union waters.
- (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 days 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 Council¹⁷.
- (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 2017, except for the provisions concerning fishing effort limits, which should apply from 1 February 2017, and certain provisions in 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:

¹⁶ OJ L 6, 10.1.2012, p. 8.

¹⁷ 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).

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 2017 and, where specified in this Regulation, for the year 2018;
 - (b) fishing effort limits for the period from 1 February 2017 to 31 January 2018, except where other periods are established for effort limits in Articles 9, 26 and 27 and Annex IIE;
 - (c) fishing opportunities for the period from 1 December 2016 to 30 November 2017 for certain stocks in the CCAMLR Convention Area;
 - (d) fishing opportunities for certain stocks in the IATTC Convention Area set out in Article 28 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 living aquatic resources 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 517/2008¹⁸;
- (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 218/2009¹⁹;

¹⁸ 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).

¹⁹ 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).

- (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 VII’ 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 IXa’ 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,
 - 42° 00' N 10° 00' W,
 - 42° 00' N 8° 00' W;
- (f) ‘Functional Unit 27 of ICES division IXa’ 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 IXa 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 Council²⁰;
- (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 Council²¹;
- (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 Ocean²²;
- (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 Tunas²³;
- (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 601/2004²⁴;
- (m) ‘IATTC (Inter–American Tropical Tuna Commission) Convention Area’ is the geographical area defined in the Convention for the Strengthening of the Inter-American Tropical Tuna Commission established by the 1949 Convention between the United States of America and the Republic of Costa Rica²⁵;

²⁰ 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).

²¹ 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).

²² Concluded by Council Decision 2002/738/EC (OJ L 234, 31.8.2002, p. 39).

²³ The Union acceded by Council Decision 86/238/EEC (OJ L 162, 18.6.1986, p. 33).

²⁴ 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, 1.4.2004, p. 16).

²⁵ Concluded by Council Decision 2006/539/EC (OJ L 224, 16.8.2006, p. 22).

- (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 Commission²⁶;
- (o) ‘SPRFMO (South Pacific Regional Fisheries Management Organisation) Convention Area’ is the high seas geographical area south of 10° N, north of the CCAMLR Convention Area, east of the SIOFA Convention Area as defined in the Southern Indian Ocean Fisheries Agreement²⁷, and west of the areas of fisheries jurisdictions of South American States;
- (p) ‘the 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 Ocean²⁸;
- (q) ‘the GFCM (General Fisheries Commission for the Mediterranean) geographical subareas’ are the areas defined in Annex I of Regulation (EU) No 1343/2011²⁹.
- (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.

²⁶ The Union acceded by Council Decision 95/399/EC (OJ L 236, 5.10.1995, p. 24).

²⁷ Concluded by Council Decision 2008/780/EC (OJ L 268, 9.10.2008, p. 27).

²⁸ The Union acceded by Council Decision 2005/75/EC (OJ L 32, 4.2.2005, p. 1).

²⁹ 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, Iceland and Norway, and the fishing zone around Jan Mayen, subject to the condition set out in Article 15 of and Annex III to this Regulation and in Regulation (EC) No 1006/2008³⁰ and its implementing provisions.

³⁰ 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 6
*TACs to be determined by the Commission and by Member States*³¹

1. The TACs for the following fish stocks shall be determined by the Commission by means of implementing acts:
 - (a) sandeel in Union waters of ICES divisions IIa and IIIa and subarea IV;
 - (b) capelin in Greenland waters of ICES subareas V and XIV;
 - (c) sprat in ICES division IIa and area IV.

The TACs to be determined by the Commission shall be consistent with the principles and rules of the Common Fisheries Policy, in particular the principle of sustainable exploitation of the stock.

2. The TACs for certain fish stocks shall be determined by the Member State concerned. Those stocks are identified in Annex I.

³¹ ***ES: the two cases should be distinguished in two different Articles. DK: consider subdividing current para 2 into two paragraphs.***
SE: support as it enables a swift procedure, but need to ensure that it is in accordance with the Treaty. DK: Support for implementing acts as this can provide a solid procedure to ensure that these TACs can be set directly after the advice is made available and before fishing season starts. Underlines the particular importance for DK. Need more information about legal concerns and how to overcome them. Add Norway pout to the stocks. Need COM commitment on how to involve MS.
FR, ES, PL: strong preference for deletion: keep Council prerogative, lack of direction in the proposal. In case maintained, an involvement of MS must be obligatory, eg through examination procedure. PT: main concern is to ensure rapidity. Preference for current practice if this can be ensured; add anchovies. NL: empowerment is much too vague; compulsory involvement of MS needed. UK, BE: serious horizontal concern about Council prerogative; need to think it carefully through. COM should express its intentions regarding consultation process with MS. DE: preference for current practice. Open to discuss this procedure if it can be accompanied by sufficient direction.
COM: aim is to ensure rapidity which recently has been ensured only through an informal procedure. In line with previous practice. Open to refining the text.
The CLS intervened on the issue of principle concerning the power of the Council to fix fishing opportunities pursuant to Article 43(3) TFEU, and the granting of implementing powers to the Commission in this respect, for alleged reasons of urgency. Even if that possibility were to be accepted as a matter of principle, the implementing power could not extend to amending the annexes of the Council regulation itself, and the empowerment would need to be closely circumscribed in order to reflect its implementing nature.

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 2017 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.

By 15 March 2017, 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 the second subparagraph.³²

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.

³² **DK: Reference ("second subparagraph") unclear.**

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 IV;³³
- (b) Annex IIB for the recovery of hake and Norway lobster in ICES divisions VIIIc and IXa, with the exception of the Gulf of Cádiz;
- (c) Annex IIC for the management of the sole stock in ICES division VIIe.

Article 9
*Catch and effort limits for deep-sea fisheries*³⁴

- 1. Article 3(1) of Regulation (EC) No 2347/2002³⁵ establishing the requirement of holding a deep-sea fishing permit shall apply to Greenland halibut. The catching, retaining on board, transshipping and landing of Greenland halibut shall be subject to the conditions referred to in that Article.
- 2. Member States shall ensure that for 2017 the fishing effort levels, measured in kilowatt days absent from port, by vessels holding deep-sea fishing permits referred to in Article 3(1) of Regulation (EC) No 2347/2002, do not exceed 65 % of the average annual fishing effort deployed by the vessels of the Member State concerned in 2003 on trips when deep-sea fishing permits were held or deep-sea species, as listed in Annexes I and II to that Regulation, were caught.
- 3. Paragraph 2 shall apply only to fishing trips on which more than 100 kg of deep-sea species, other than greater silver smelt, are caught.

³³ **UK, DK, BE: effort ceilings in Annex IIA need deletion in view of adoption of the cod plan amendment.**

³⁴ **UK, DK: needs revision in view of the adoption of the new deep sea regime. Cion: waiting for EP vote.**

³⁵ Council Regulation (EC) No 2347/2002 of 16 December 2002 establishing specific access requirements and associated conditions applicable to fishing for deep-sea stocks (OJ L 351, 28.12.2002, p. 6).

Article 10
*Measures on Sea bass fisheries*³⁶

1. It shall be prohibited for Union fishing vessels³⁷ to fish for sea bass in ICES divisions VIIb, VIIc, VIIj and VIIk, as well as in the waters of ICES divisions VIIa and VIIg that are more than 12 nautical miles from the baseline under the sovereignty of the United Kingdom. It shall be prohibited for Union fishing vessels to retain on board, tranship, relocate or land sea bass caught in that area.
2. It shall be prohibited for Union fishing vessels to fish for sea bass and to retain on board, relocate, tranship or land sea bass caught in the following areas:
 - (a) ICES divisions IVb, IVc, VIIId, VIIe, VIIf and VIIh;
 - (b) waters within 12 nautical miles from baseline under the sovereignty of the United Kingdom in ICES divisions VIIa and VIIg.

By derogation from the first subparagraph, the following measures shall apply in the areas referred to in that subparagraph:

- (a) a Union fishing vessel deploying demersal trawls and seines^{38 39} may retain on board catches of sea bass that do not exceed 1 %⁴⁰ of the weight of the total catches of marine organisms on board in any single day.⁴¹ The catches of sea bass retained on board by a Union fishing vessel on the basis of this derogation may not exceed 1 tonne per month;⁴²

³⁶ **FR, NL: the aim should be to develop a long-term management plan. NL: need to clarify if the landing obligation is applicable to sea bass or not (see para 3). UK: need to know overall strategy behind (expected catches of seabass in 2017 per sector and metier, reflecting on 2016 data collection and on new rules). DK: scrutiny reservation.**

³⁷ **UK: consider extension of the rules to commercial fishermen working from shore. Note that current footnote on derogations already lists certain gear types operated from shore.**

³⁸ All types of demersal trawls including Danish/Scottish seines, including OTB, OTT, PTB, TBB, SSC, SDN, SPR, SV, SB, SX, TBN, TBS, TB.

³⁹ **NL: pelagic gears (including PTM, OTM) are missing in the exemption.**

⁴⁰ **FR: technical adjustment: 5% instead of 1% which allows to lower the monthly ceiling as suggested by FR.**

⁴¹ **NL, BE: "Any single day" difficult to control; should refer to the fishing trip. UK: if no compelling reason for change, the current wording on retention on board should be kept unchanged.**

⁴² **FR: in combination with a by-catch limit closer to reality, the monthly ceiling could be lowered to 600 kg. Additional technical adjustment: a similar exemption is needed for netters, 30 kg monthly limit. NL: fixed gill nets should also be included in the derogation. UK: might consider similar provision for netters, catering for unavoidable by-catches, analysis not completed yet.**

- (b) in January 2017 and from 1 April to 31 December 2017⁴³, Union fishing vessels using hooks and lines⁴⁴, may fish for sea bass and retain on board, relocate, tranship or land sea bass caught in that area not exceeding 10 tonnes per vessel per year.⁴⁵ This derogation shall apply only to Union fishing vessels that have recorded catches of sea bass using hooks and lines from 1 July 2015 to 30 September 2016.⁴⁶
3. The catch limits⁴⁷ set in paragraph 2 shall not be transferable between vessels. Member States shall report to the Commission catches of sea bass per type of gear not later than 20 days after the end of each month.
 4. In January 2017 and from 1 April to 31 December 2017 in recreational fisheries⁴⁸ in ICES divisions IVb, IVc, VIIa and from VIId to VIIk, a maximum of 10 fish per fisherman may be retained each month.⁴⁹
 5. From 1 February to 31 March 2017 in recreational fisheries in ICES divisions IVb, IVc, VIIa and from VIId to VIIk, only catch-and-release fishing for sea bass⁵⁰, including from shore, shall be allowed. During this period, it shall be prohibited to retain on board, relocate, tranship or land sea bass caught in that area.

⁴³ **NL: period insufficient.**

⁴⁴ All long lines or pole and line or rod and line fisheries, including LHP, LHM, LLD, LL, LTL, LX and LLS.

⁴⁵ **UK: the limitation for hooks and lines should return to monthly limit. FR: reference period wrong in the FR text of the proposal.**

⁴⁶ **UK: impact of this ring-fencing might have unforeseen effect, as many polyvalent vessels have had at least some bass catches.**

⁴⁷ **NL: formulation "catch limit" (as opposed to "landing restriction") suggests that the landing obligation applies to sea bass; this should be clarified.**

⁴⁸ **UK: should expressly include those operating from shore.**

⁴⁹ **IE: daily bag limit should continue around IE, as applied in IE for decades. Suggest reformulating: "In recreational fisheries, including from shore, not more than one specimen of sea bass may be retained per fisherman per day from 1 January to 31 December 2017 in the following areas: ICES divisions VIIa, VIIb, VIIc, VIIg to VIIk, VIa." FR, NL, BE, UK, DE: not in favour of changing the limitation per day, in particular in view of practical control problem. UK: An approach using both options might be possible.**

⁵⁰ **DE: negative scrutiny reservation on catch and release fishing.**

Article 10a

Measures on Sea bass fisheries in the Bay of Biscay⁵¹

1. It shall be prohibited for Union fishing vessels to fish for sea bass and to retain on board, relocate, tranship or land quantities of sea bass caught in ICES area VIIIa and VIIIb exceeding the following limits set out in Paragraph 2 .
2. For the purposes of paragraph 1, the following catch limits shall apply:

<u>Gear</u>	<u>Allocation</u>	
	<u>Annual (t)</u>	<u>Monthly (t)</u>
<u>All GN, all drift net and fixed (trammel) net fisheries</u>		<u>0.170</u>
<u>All LL, all long lines or pole and line fisheries</u>	<u>3.5</u>	
<u>all types of demersal trawls including Danish / Scottish seines</u>		<u>0.080</u>
<u>Purse seine (PS)</u>		<u>0.060</u>
<u>Pelagic: OTM or PTM, Mid water or pelagic trawls</u>		<u>0.60</u>

3. For Union vessels using more than one gear in a single calendar month the lowest catch limit set in paragraph 2 for either gear shall apply.
4. The catch limits set in paragraph 2 shall not be transferable from one month to another and between vessels.

⁵¹ FR: Article 10a not acceptable. Insufficient scientific basis, not coordinated with national measures, no industry buy-in. ES: proposal comes too late and is too broad; need consensual approach. UK: support in principle for management measures supporting sea bass in VIIIab, but sympathise with the view that more time is needed to agree on them. BE: scrutiny reservation.

5. Member States shall report to the Commission catches of sea bass per vessel indicating the gear type used not later than 14 days after the end of each month.

6. From 1 January 2017 to 31 December 2017 in recreational fisheries in ICES divisions VIIIab, a maximum of 10 fish per fisherman may be retained each month.

Article 11

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 1380/2013;
 - (e) quantities withheld in accordance with Article 4 of Regulation (EC) No 847/96 and Article 15(9) of Regulation 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 16 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 12
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 2017: 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 IIa, IIIa and ICES subarea IV from 1 January to 31 March 2017 and from 1 August to 31 December 2017.

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

Article 13
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:
 - (1) starry ray (*Amblyraja radiata*) in Union waters of ICES divisions IIa, IIIa and VIId and ICES subarea IV;
 - (2) white shark (*Carcharodon carcharias*) in all waters;
 - (3) leafscale gulper shark (*Centrophorus squamosus*) in Union waters of ICES division IIa and subarea IV and in Union and international waters of ICES subareas I and XIV;
 - (4) Portuguese dogfish (*Centroscymnus coelolepis*) in Union waters of ICES division IIa and subarea IV and in Union and international waters of ICES subareas I and XIV;
 - (5) basking shark (*Cetorhinus maximus*) in all waters;
 - (6) kitefin shark (*Dalatias licha*) in Union waters of ICES division IIa and subarea IV and in Union and international waters of ICES subareas I and XIV;
 - (7) birdbeak dogfish (*Deania calcea*) in Union waters of ICES division IIa and subarea IV and in Union and international waters of ICES subareas I and XIV;
 - (8) common skate (*Dipturus batis*) complex (*Dipturus* cf. *flossada* and *Dipturus* cf. *intermedia*) in Union waters of ICES division IIa and ICES subareas III, IV, VI, VII, VIII, IX and X;
 - (9) great lanternshark (*Etmopterus princeps*) in Union waters of ICES division IIa and subarea IV and in Union and international waters of ICES subareas I and XIV;
 - (10) smooth lanternshark (*Etmopterus pusillus*) in Union waters of ICES division IIa and subarea IV and in Union and international waters of ICES subareas I, V, VI, VII, VIII, XII and XIV;
 - (11) tope shark (*Galeorhinus galeus*) when taken with longlines in Union waters of ICES division IIa and subarea IV and in Union and international waters of ICES subareas I, V, VI, VII, VIII, XII and XIV;⁵²
 - (12) porbeagle (*Lamna nasus*) in all waters;
 - (13) reef manta ray (*Manta alfredi*) in all waters;
 - (14) giant manta ray (*Manta birostris*) in all waters;

⁵² **FR: foresee a TAC of 283 t for artisanal longliners, is not contrary to scientific advice.**

- (15) 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 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*);
- (16) the following species of sawfish (*Pristidae*) in all waters:
- (i) narrow sawfish (*Anoxypristis cuspidate*);
 - (ii) dwarf sawfish (*Pristis clavata*);
 - (iii) smalltooth sawfish (*Pristis pectinata*);
 - (iv) largetooth sawfish (*Pristis pristis*);
 - (v) green sawfish (*Pristis zijsron*);
- (17) thornback ray (*Raja clavata*) in Union waters of ICES division IIIa;
- (18) Norwegian skate (*Raja (Dipturus) nidarosiensis*) in Union waters of ICES divisions VIa, VIb, VIIa, VIIb, VIIc, VIIE, VIIf, VIIg, VIIh and VIIk;
- (19) undulate ray (*Raja undulata*) in Union waters of ICES subareas VI and X;
- (20) white skate (*Raja alba*) in Union waters of ICES subareas VI, VII, VIII, IX and X;
- (21) guitarfishes (*Rhinobatidae*) in Union waters of ICES subareas I, II, III, IV, V, VI, VII, VIII, IX, X and XII;
- (22) 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 14
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 15
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 16
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 2018 for quota transfers from a RFMO Contracting Party to the Union and their subsequent allocation to Member States.

SECTION 1

ICCAT CONVENTION AREA

Article 17

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 of at least 20 meters length that fish for bigeye tuna in the ICCAT Convention Area shall be limited as set out in point 7 of Annex IV.

Article 18
Recreational fisheries

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

Article 19
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 20
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 21
Exploratory fisheries

1. Member States may participate in longline exploratory fisheries for *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 2017. 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 2017.
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 22
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 23

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 (IUU vessels) 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 24

Drifting fish aggregating devices (FADs) and supply vessels

1. A purse seine vessel shall not deploy more than 425 active drifting fish aggregating devices (FADs) at any one time.

2. **The number of EU supply vessels shall not exceed half of the EU purse-seine vessels. For the purposes of this paragraph, the number of EU supply vessels and EU purse-seine vessels shall be established on the basis of the IOTC register of active vessels.**⁵³

Article 25
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 paragraph 1 and 2 shall not be harmed. Specimens shall be promptly released.

SECTION 4
SPRFMO CONVENTION AREA

Article 26
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 IJ.
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 IJ 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 (VMS), 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.

⁵³ **FR: can accept the revised wording if this is necessary to achieve a compromise. The distribution key in Annex IK may not be put into question. ES: acknowledge the improvement in the wording, expresses dissatisfaction with Annex IK.**

Article 27
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 28
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 to 28 September 2017 or from 18 November 2017 to 18 January 2018 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 29 September to 29 October 2017 in the area defined by the following limits:
 - longitude 96° W,
 - longitude 110° W,
 - latitude 4° N,
 - latitude 3° S.

2. The Member States concerned shall notify the Commission of the selected period of closure referred to in paragraph 1 before 1 April 2017. 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 29
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 30
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 31
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 32
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.

Article 33
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 fish aggregating devices (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 34
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 35
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 36
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 28(1)(a), (2), (3) and (4) and Article 29 when fishing in the overlap area between IATTC and WCPFC as defined in Article 4(s).

SECTION 8
GFCM AGREEMENT AREA

Article 37
Small pelagic stocks in geographical subareas 17 and 18⁵⁴

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 of the European Parliament and of the Council (1), as set out** in Annex II.
2. **Union fishing vessels targeting small pelagics 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.**

⁵⁴ **IT, HR, ES, EL, CY: delete Article 37 and Annex II. GFCM recommendation does not contain concept of TAC & Quota, but rather an additional safeguard mechanism referring to previous catches. IT, HR: against break-down of quotas in the Annex including per footnote. Limit it to literal transposition. GFCM working groups develops the management measure, should not be pre-empted. HR: request combined catch limit for both stocks. For the rest, the refinement of wording might be acceptable by way of compromise. SI: welcomes the "de minimis" TAC in the Annex, vital to have a buffer so that disproportionate administrative burden is avoided.**

SECTION 9
BERING SEA

Article 38
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 39
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 40
Fishing authorisations

The maximum number of fishing authorisations for third-country vessels fishing in Union waters shall be as set out in Annex VIII.

Article 41
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 40.

Article 42
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:
 - (1) starry ray (*Amblyraja radiata*) in Union waters of ICES divisions IIa, IIIa and VIId and ICES subarea IV;
 - (2) the following species of sawfish in Union waters:
 - (i) narrow sawfish (*Anoxypristis cuspidate*);
 - (ii) dwarf sawfish (*Pristis clavata*);
 - (iii) smalltooth sawfish (*Pristis pectinata*);
 - (iv) largetooth sawfish (*Pristis pristis*);
 - (v) green sawfish (*Pristis zijsron*);
 - (3) basking shark (*Cetorhinus maximus*) and white shark (*Carcharodon carcharias*) in Union waters;
 - (4) common skate (*Dipturus batis*) complex (*Dipturus* cf. *flossada* and *Dipturus* cf. *intermedia*) in Union waters of ICES division IIa and ICES subareas III, IV, VI, VII, VIII, IX and X;
 - (5) tope shark (*Galeorhinus galeus*) when taken with longlines in Union waters of ICES division IIa and ICES subareas I, IV, V, VI, VII, VIII, XII and XIV;
 - (6) smooth lanternshark (*Etmopterus pusillus*) in Union waters of ICES division IIa and ICES subareas I, IV, V, VI, VII, VIII, XII and XIV;
 - (7) 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 IIa and ICES subareas I, IV and XIV;
 - (8) porbeagle (*Lamna nasus*) in Union waters;
 - (9) reef manta ray (*Manta alfredi*) in Union waters;
 - (10) giant manta ray (*Manta birostris*) in Union waters;
 - (11) 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 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*);
- (12) thornback ray (*Raja clavata*) in Union waters of ICES division IIIa;
 - (13) Norwegian skate (*Raja (Dipturus) nidarosiensis*) in Union waters of ICES divisions VIa, VIb, VIIa, VIIb, VIIc, VIIE, VIIf, VIIg, VIIh and VIIk;
 - (14) undulate ray (*Raja undulata*) in Union waters of ICES subareas VI, IX and X and white skate (*Raja alba*) in Union waters of ICES subareas VI, VII, VIII, IX and X;
 - (15) guitarfishes (*Rhinobatidae*) in Union waters of ICES subareas I, II, III, IV, V, VI, VII, VIII, IX, X and XII;
 - (16) 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 43 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 44 Transitional provision

Articles 10, 12 (2), 13, 19, 20, 25, 29, 30, 31, 35, 38, 42 shall continue to apply, *mutatis mutandis*, in 2018 until the entry into force of the Regulation fixing the fishing opportunities for 2018.

Article 45 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 2017.

However, Article 8 shall apply from 1 February 2017.

The provisions on fishing opportunities set out in Articles 20, 21 and 22 and Annexes IE and V for certain stocks in the CCAMLR Convention Area shall apply from 1 December 2016.

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

Done at Brussels,

*For the Council
The President*
