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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	17 December 2013
To:	Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2013) 889 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Council Regulations (EC) No 850/98, (EC) No 2187/2005, (EC) No 1967/2006, (EC) No 1098/2007, No 254/2002, (EC) No 2347/2002 and (EC) No 1224/2009 and repealing (EC) No 1434/98 as regards the landing obligation

Delegations will find attached document COM(2013) 889 final.

Encl.: COM(2013) 889 final

EUROPEAN
COMMISSION

Brussels, 17.12.2013
COM(2013) 889 final

2013/0436 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Council Regulations (EC) No 850/98, (EC) No 2187/2005, (EC) No 1967/2006, (EC) No 1098/2007, No 254/2002, (EC) No 2347/2002 and (EC) No 1224/2009 and repealing (EC) No 1434/98 as regards the landing obligation

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

One of the central objectives of the reform of the current Common Fisheries Policy (CFP)[1] is the progressive elimination of discards in all European Union (EU) fisheries through the introduction of a landing obligation. This is designed to make better use of the available resources, and responds to public expectation to end the practice of throwing marketable fish back into the sea. High levels of discards are identified as an important driver of the lack of environmental sustainability of the CFP in the impact assessment[2] carried out for the proposal for the Basic Regulation for the CFP.

The European Parliament in its plenary vote in February 2013 agreed the gradual introduction of the landing obligation with a starting date of 2014 for pelagic fisheries, highly migratory species and salmon in the Baltic and extending to all fisheries in the Union in the following years. Later in February, the Council also gave a clear indication that they support this approach and agreed a similar timetable for implementation. Subsequently political agreement has been reached by the European Parliament and Council on the Basic Regulation with a new start date for implementation of the landing obligation of 1 January 2015.

In order to make the landing obligation operational certain provisions within the current Regulations on technical measures, management measures and control that run contrary to the landing obligation and oblige fishermen to discard fish must be removed or amended. A declaration signalling this intention was made by the Council at the June Council[3], urging the Commission to act swiftly to make these changes to the existing regulations once the reform is agreed.

It is the intention of the Commission that a new technical measures framework will be developed as part of the reform which, over time, should facilitate the full implementation of the landing obligation as envisaged. It would also incorporate the new, regionalised approach, including the development of multiannual and discard plans. However, this new framework will almost certainly not be in place in time for the first group of fisheries to be covered under the landing obligation. Therefore legislation is required to remove any legal and practical impediments to implementation on a transitional basis while this new framework is being developed.

On the technical measures regulations several provisions contained in the current regulations contradict the landing obligation and oblige fishermen to discard. These are minimum landing sizes (MLS), catch composition rules and bycatch provisions.

Minimum Landing Sizes (MLS) are contained in Regulation (EC) No 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of

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1 COM(2011) 425 final. Proposal for a Regulation of the European Parliament and of the Council on the Common Fisheries Policy

2 http://ec.europa.eu/fisheries/reform/sec_2011_891_en.pdf

3 "The Council noted with approval the Commission's intention to review, and where appropriate propose the removal of associated control measures and technical measures in good time before landing obligations come into effect".

marine organisms[4] as amended in particular by Regulation (EU) No 227/2013[5], and Regulation (EC) No 2187/2005 for the conservation of fishery resources through technical measures in the Baltic Sea, the Belts and the Sound, amending Regulation (EC) No 1434/98 and repealing Regulation (EC) No 88/98[6]. MLS set the legal sizes of fish which can be retained on board. Fish below these sizes currently must not be retained on board or landed. Under the landing obligation, for all species under catch limits, MLS will be replaced by minimum conservation reference sizes (MCRS). Fish below these MCRS will have to be landed but the sale of catches below MCRS will be limited to uses other than human consumption. A specific situation occurs in the Mediterranean Sea where Regulation (EC) No 1967/2006 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 1624/94[7]. This Regulation prohibits that marine organisms which are smaller than the minimum size specified therein are caught, retained on board, transhipped, landed, transferred, stored, sold, displayed or offered for sale. These minimum sizes were put in place in 2007 and were established to promote improvements in the size selection beyond the minimum standards of the gear characteristics for the fisheries concerned. In the Mediterranean where minimum catching sizes apply these will also be replaced by minimum conservation reference sizes for consistency with the same requirement that fish below the MCRS will have to be landed but will their use will be limited to purposes other than human consumption.

Catch composition rules are contained in Regulation (EC) 850/98 and associated regulations (Regulation (EC) No 1098/2007 establishing a multiannual plan for the cod stocks in the Baltic Sea and the fisheries exploiting those stocks[8], Regulation (EC) No 1434/98 specifying conditions under which herring may be landed for industrial purposes other than direct human consumption[9], Regulation (EC) No 254/2002 establishing measures to be applicable in 2002 for the recovery of the stocks of cod in the Irish Sea (ICES division VIIa[10] and Regulation (EC) No 2347/2002 establishing specific access requirements and associated conditions applicable to fishing for deep-sea stocks[11]). There are similar catch composition percentages in the Baltic Sea Regulation (Regulation (EC) No 2187/2005) but not in the Mediterranean.

Catch composition rules set limits which must be met on a daily basis and at the end of a fishing trip. If fishermen are outside the limits they are obliged to discard components of the catch in order to balance the retained catch with the catch composition rules. Under the landing obligation, fishermen will no longer be allowed to discard, so the contradiction between continuing to regulate catch composition and obliging fishermen to land all catches must be addressed. This will be achieved by requiring that all unintended catches of marine organisms subject to the landing obligation over the permitted catch composition percentages must be landed and counted against quotas. The catch composition rules are interlinked with other provisions (e.g. mesh size ranges, conditions for use of certain combinations of mesh sizes) and detailed rules for sorting of catches on board vessels are also based on the catch

4 OJ L 125, 27.4.1998, p.1
5 OJ L 78, 20.3.2013, p.1
6 OJ L 349, 31.12.2005, p.1
7 OJ L 409, 30.12.2006, p.11
8 OJ L 248, 22.9.2007, p.1
9 OJ L 191, 7.7.1998, p.10
10 OJ L 41, 13.2.2002, p.1
11 OJ L 351, 28.12.2002, p.6

composition percentages. These rules will also have to be aligned or deleted to remove the obligation to discard.

In the case of Regulation (EC) No 1434/1998 the catch composition rules and associated restrictions on the use of herring contained in this regulation are no longer relevant. The landing obligation will apply to all pelagic and industrial fisheries in EU waters from 1 January 2015 and requires that all herring caught must be landed and counted against quotas and that any herring below the minimum conservation reference size can only be used for purposes other than human consumption. This regulation should be repealed.

Within the technical conservation measures regulations (Regulation (EC) 850/98 and associated regulations (Regulation (EC) No 1098/2007 and Regulation (EC) No 254/2002) for Union waters in the Atlantic and some other specified areas, and Regulation (EC) No 2187/2005[10] for the Union waters of the Baltic Sea) there are also multiple bycatch provisions. These are similar to catch composition rules but are area or gear specific. Typically these are derogations to allow bycatch of certain species of 5-10% in restricted areas with certain gear types in specific fisheries. Catches in excess of these bycatch limits currently have to be discarded. As with catch composition rules this creates a contradiction with the landing obligation as they currently require fishermen to discard fish caught in excess of the bycatch provisions whereas under the landing obligation such fish must be landed. Therefore, they need to be dealt with in a similar way as the catch composition rules to remove the obligation to discard.

One further amendment is proposed to Regulation (EC) No 850/98 which is not linked to the landing obligation but is required to ensure legal certainty. Several Member States have indicated that the current provisions pertaining to an area closure in ICES division VIb to protect juvenile haddock have led to misinterpretation creating concerns for the conservation of haddock in this area. Therefore it is proposed to amend this article in Regulation (EC) 850/98 by reverting to the original wording included under Annex III of Regulation (EC) No 43/2009 and removing any possibility of misinterpretation.

Council Regulation (EC) 1224/2009 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[12] also needs to be aligned with the landing obligation. The modifications required concern changes to fishing authorisations; recording of data on all catches particularly when below minimum conservation reference sizes; a higher margin of tolerance for catch estimates below 50 kg in logbooks and transhipment declarations; establishment of rules for remote electronic monitoring (REM) for the recording of data for monitoring the landing obligation at sea; separate stowage of catches and control of marketing of catches below minimum conservation reference sizes; establishing the conditions for the use of control observers for monitoring purposes; the definition of the violation of the landing obligation as a serious infringement. The introduction of the landing obligation in combination with certain new inter-annual quota flexibilities, makes adjustment of existing rules on the deduction of quotas and effort necessary. All of these changes follow from rules in the CFP reform.

[12] OJ L 343, 22.12.2009, p.1

As the first group of fisheries will be subject to the landing obligation in 2015, the relevant provisions of the regulations on technical measures, management measures and on control measures should be amended by this Regulation to ensure timely removal of legal obstacles to applying the landing obligation.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

No specific Impact Assessment has been carried out as the impacts of introducing a landing obligation have already been assessed under the impact assessment supporting the reform of the CFP. As part of that impact assessment[13], the impacts of discard reducing policies including a discard ban were quantified. That assessment had two phases. The first phase comprised a series of desk studies on the extent of discarding practices in the EU and described the anti-discard policies in a number of fisheries (in Iceland, Norway, Scotland and Denmark). Moreover, the level of discarding in EU fisheries was classified and finally specific studies of discarding in Mediterranean fisheries were undertaken. The second analytical phase assessed the impacts of a range of anti-discard policy options in EU fisheries including the effects of changes in fishing gear selectivity and the introduction of new technical measures such as real-time closures. This analysis showed that the introduction of an anti-discard policy based on more effective technical measures and the removal of ineffective technical measures that induce discarding would result in short-term economic losses but medium to long-term additional gains, primarily in environmental and economic terms.

A further impact assessment would not add to the information already available from the previous assessment carried out. The changes that are needed to the existing regulations are essential to the proper functioning of the new CFP.

3. LEGAL ELEMENTS OF THE PROPOSAL

Summary of the proposed action

The main action is to facilitate the implementation of the landing obligation envisaged under the Common Fisheries Policy reform by removing all existing provisions from EU technical measures and control regulations that run contrary to the landing obligation.

Legal basis

Article 43(2) of the Treaty on the Functioning of the European Union.

Subsidiarity principle

The proposal falls under exclusive competence of the European Union.

Proportionality principle

This proposal is amending measures which already exist; therefore no concern on the proportionality principle arises.

[13] SEC(2011) 891

Choice of instrument

Proposed instrument: Regulation of the European Parliament and of the Council.

Other means would not be adequate for the following reason: Regulations must be amended by a Regulation.

4. BUDGETARY IMPLICATION

This measure does not involve any additional Union expenditure

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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[14],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) Regulation (EU) No [xxxx] has a central objective of the progressive elimination of discards in all EU fisheries through the introduction of a landing obligation for catches of species subject to catch limits and species covered by minimum sizes in the Mediterranean. In order to make this landing obligation operational certain provisions within the current technical measures and control regulations run contrary to the landing obligation and oblige fishermen to discard fish and should be removed or amended.

(2) A new technical measures framework is awaited pending the reform of the Common Fisheries Policy (CFP). The unlikelihood that such a new framework will be in place by the start of 2015 when the landing obligation will be first introduced justifies the amendment or removal of certain elements of the current technical measures regulations to remove the incompatibility between these regulations and the landing obligation.

(3) In particular, in order to ensure the implementation of the landing obligation Council Regulation (EC) No 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms should be amended by requiring all unintended catches of marine organisms subject to the landing obligation caught in excess of catch composition rules should be landed and counted against

[14] OJ C , , p. .

quotas; by replacing minimum landing sizes for marine organisms subject to the landing obligation with minimum conservation reference sizes; and by requiring all unintended catches of marine organisms caught in excess of bycatch provisions in specific areas, at specific times and for specified gear types to be landed and counted against quotas.

(4) In addition, in order to ensure legal certainty, provisions relating to an area closure for the protection of juvenile haddock in ICES division VIb should be amended.

(5) In order to ensure the implementation of the landing obligation Council Regulation (EC) No 2187/2005 for the conservation of fishery resources through technical measures in the Baltic Sea, the Belts and the Sound, amending Regulation (EC) No 1434/98 and repealing Regulation (EC) No 88/98 should be amended by requiring all unintended catches of marine organisms subject to the landing obligation in the Baltic Sea caught in excess of catch composition rules to be landed and counted against quotas; by replacing minimum landing sizes for marine organisms subject to the landing obligation with conservation reference sizes; and by prohibiting the catching of salmon and sea trout at specific times and in specific areas except with trap-nets.

(6) In order to ensure the implementation of the landing obligation Council Regulation (EC) No 1967/2006 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 1624/94 should be amended by replacing minimum sizes for marine organisms subject to the landing obligation with minimum conservation reference sizes without undermining the concept and implementation of existing minimum catching sizes and by deleting the rules governing the fishing for sardine fry which no longer are relevant with the implementation of the landing obligation because all such catches shall be avoided where possible and in the case of unintended catches shall be landed but no longer used for human consumption.

(7) In order to ensure the implementation of the landing obligation Council Regulation (EC) No 1098/2007 establishing a multiannual plan for the cod stocks in the Baltic Sea and the fisheries exploiting those stocks should be amended by requiring that when fishing with drifting lines and with gillnets, entangling nets and trammel nets in specified areas and at specified times all unintended catches of cod should be landed and counted against quotas.

(8) In order to ensure the implementation of the landing obligation Council Regulation (EC) No 254/2002 establishing measures to be applicable in 2002 for the recovery of the stocks of cod in the Irish Sea (ICES division VIIa should be amended by requiring that in the trawl fishery for queen scallop that all unintentional catches of marine organisms subject to the landing obligation caught in excess of permitted bycatch percentages should be landed and counted against quotas.

(9) In order to ensure the implementation of the landing obligation Council Regulation (EC) No 2347/2002 establishing specific access requirements and associated conditions applicable to fishing for deep-sea stocks should be amended by requiring all catches of deep-sea species should be landed and counted against quotas.

(10) In order to ensure the implementation of the landing obligation Control Regulation (EC) 1224/2009 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 should be amended to ensure monitoring of the landing obligation. For this purpose fishing authorisations should apply to fisheries subject to a landing obligation ; data on catches of all species shall be recorded irrespective of a weight threshold; data on catches below minimum conservation reference sizes should be recorded separately; in view of the difficulty to establish the exact quantity of small catches on board a fishing vessel a higher margin of tolerance should apply for estimates of small catches in logbooks and transhipment declarations; rules for remote electronic monitoring (REM) should be established for the recording of data for monitoring the landing obligation at sea; rules on a separate stowage of catches and control of marketing of catches below minimum conservation reference sizes should be set up; and the conditions for the use of control observers for monitoring purposes should be defined.

(11) As discards constitute a substantial waste and affect negatively the sustainable exploitation of marine biological resources and marine ecosystems and as a general observance of the landing obligation by operators is essential for its success a violation of the landing obligation should be defined as a serious infringement. The introduction of the landing obligation in combination with certain new inter-annual quota flexibility rules, requires adjustment of the rules on the deduction of quotas and effort.

(12) Council Regulations (EC) No 850/98, (EC) No 2187/2005, (EC) No 1967/2006, (EC) No 1098/2007, (EC) No 254/2002, (EC) No 2347/2002 and (EC) No 1224/2009 should therefore be amended accordingly.

(13) Council Regulation (EC) No 1434/1998 specifying conditions under which herring may be landed for industrial purposes other than direct human consumption should be repealed as the catch composition rules and associated restrictions on the use of herring contained in this regulation are no longer relevant under the landing obligation as all herring caught should be landed and counted against quotas and any herring below the minimum conservation reference size should be used for purposes other than human consumption,

HAVE ADOPTED THIS REGULATION:

CHAPTER 1

Technical Measures

Article 1

Amendments to Regulation (EC) No 850/98

Regulation (EC) No 850/98 is amended as follows

(1) In Article 3, the following point (i) is added:

"(i) Unintended catches shall mean incidental catches of marine organisms the fishing for which is prohibited in the relevant circumstances."

(2) Article 4 is amended as follows:

(a) In paragraph 1, the following subparagraph is added:

"Fishing for any species listed in Annexes I to V using a mesh size not provided for in those Annexes for that species shall be prohibited."

(b) In paragraph 4(a) the following subparagraph is added:

"By way of derogation from the first subparagraph, landings shall not be prohibited where the conditions established in Annex X cannot be complied with because of unintended catches of marine organisms subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx]. Those unintended catches shall be landed and counted against quotas."

(c) In paragraph 4(b) the following subparagraph is added:

"By way of derogation from the first subparagraph, landings shall not be prohibited where the conditions established in Annexes I to V cannot be complied with because of unintended catches of marine organisms subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx]. Those unintended catches shall be landed and counted against quotas."

(d) Paragraph 5(a) the following subparagraph is added:

"In the case of marine organisms subject to the landing obligation set out in in Article 15 of Regulation (EU) [xxxx], the quantities retained on board or transhipped, as referred to in the first subparagraph, shall include all marine organisms caught."

(3) In Article 5(1) the following subparagraph is added:

"In the case of marine organisms subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx], the quantities on board after sorting or on landing, as referred to in the first subparagraph, shall include all marine organisms caught."

(4) In Article 7(5) the following subparagraph is added:

"The first subparagraph shall not apply where the crustaceans of the species *Pandalus* are subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx]. However, it shall be prohibited to fish for those crustaceans with nets referred to in the first subparagraph which are not equipped in accordance with that subparagraph. Unintended catches taken with such nets shall be landed and counted against quotas."

(5) In Article 10, the following subparagraph is added:

"By way of derogation from point (b) of the first subparagraph, the retention on board and landing shall not be prohibited where the minimum percentage of bivalve molluscs cannot be achieved because of unintended catches of marine organisms subject to the landing obligation

set out in Article 15 of Regulation (EU) [xxxx]. Those unintended catches shall be landed and counted against quotas."

(6) Article 11 is amended as follows:

In paragraph (1) (a), the following subparagraph is added:

"By way of derogation from point (a) of the first subparagraph, the use or keeping on board of bottom set gillnets, entangling nets or trammel nets shall not be prohibited where the conditions established in that point (a) cannot be complied with because of unintended catches of marine organisms subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx]. Those unintended catches shall be landed and counted against quotas."

(7) Article 12(1), the following subparagraph is added:

"In the case of marine organisms subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx], the marine organisms retained on board after sorting or on landing, as referred to in the first subparagraph, shall include all marine organisms caught."

(8) Article 15 is replaced by the following:

"Article 15

1. Marine organisms caught in excess of permitted percentages specified in Articles 20(2), 21(2), 22(2b), 27(2), 29d(5d), 29d(6d), 29d(7c), 29g(2), 34b(3c) and 34b(11) and Annexes I to VII, X and XI and which are not subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx] shall not be landed but shall be returned to the sea prior to each landing.

2. Marine organisms caught in excess of permitted percentages specified in Articles 20(2), 21(2), 22(2b), 27(2), 29d(5d), 29d(6d), 29d(7c), 29g(2), 34b(3c) and 34b(11) and Annexes I to VII, X and XI and which are subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx] shall be landed and counted against quotas.

3. Before they start fishing in any management area on a specific fishing trip, masters of fishing vessels shall ensure they have quotas for stocks subject to catch limits that are sufficient to cover their likely catch composition and the permitted percentages during that trip."

(9) Article 17 is amended as follows:

"A marine organism is undersized if its dimensions are smaller than the minimum conservation reference size specified in Annex XII for the relevant species and the relevant geographical area."

(10) Article 19 is replaced by the following:

"Article 19

1. Undersized marine organisms, which belong to a species not subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx] shall not be retained on board, or be

transhipped, landed, transported, stored, sold, displayed or offered for sale, but shall be returned immediately to the sea.

2. Undersized marine organisms which belong to a species subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx] shall be retained on board, landed and counted against quotas. They shall not be sold, displayed or offered for sale for human consumption."

(11) In Article 20 the following paragraph 4 is added:

"4. Where herring is subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx], the prohibition to retain on board established in paragraph 1 of this Article shall not apply. However, it shall be prohibited to fish for that species within the geographical areas and during the periods referred to in that paragraph. Unintended catches of herring shall be landed and counted against quotas."

(12) In Article 20a, the following subparagraph is added:

"Where herring is subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx], the prohibition to land or retain on board established in the first subparagraph of this Article shall not apply. However, it shall be prohibited to fish for that species within the geographical area and during the periods referred to in that first subparagraph. Unintended catches of herring shall be landed and counted against quotas."

(13) In Article 21 the following paragraph 3 is added:

"3. Where sprat is subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx], the prohibition to retain on board established in paragraph 1 of this Article shall not apply. However, it shall be prohibited to fish for that species within the geographical areas and during the periods referred to in that paragraph. Unintended catches of sprat shall be landed and counted against quotas."

(14) In Article 22(1), the following subparagraph is added:

"Where mackerel is subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx], the prohibition to retain on board established in the first subparagraph of this paragraph shall not apply. However, it shall be prohibited to fish for that species within the geographical area referred to in that subparagraph. Unintended catches of mackerel shall be landed and counted against quotas."

(15) In Article 23(1) the following subparagraph is added:

"Where anchovy is subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx], the prohibition to retain on board established in the first subparagraph of this paragraph shall not apply. However, it shall be prohibited to fish for that species with the fishing gear and within the geographical areas referred to in that subparagraph. Unintended catches of anchovy shall be landed and counted against quotas."

(16) In Article 27, the following paragraph 3 is added:

"3. Where Norway pout is subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx], the prohibition to retain on board established in paragraph 1 of this Article shall

not apply. However, it shall be prohibited to fish for that species with the fishing gear and within the geographical area referred to in that paragraph. Unintended catches of Norway pout shall be landed and counted against quotas."

(17) In Article 29a(1), the following subparagraph is added:

"Where sand eel is subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx], the prohibition to land or retain on board established in the first subparagraph of this paragraph shall not apply. However, it shall be prohibited to fish for that species within the geographical area referred to in that subparagraph. Unintended catches of sand eel shall be landed and counted against quotas."

(18) Article 29c is replaced by the following:

"Article 29c

Rockall haddock box in ICES sub-area VI

1. All fishing, except with longlines, shall be prohibited in the areas enclosed by sequentially joining with rhumb lines the following coordinates, which shall be measured according to the WGS84 system:

– 57°00' N, 15°00' W

– 57°00' N, 14°00' W

– 56°30' N, 14°00' W

– 56°30' N, 15°00' W

– 57°00' N, 15°00' W."

(19) Article 29d is amended as follows:

(a) In paragraph 3, the following subparagraph is added:

"Where the fish or shellfish referred to in point (b) of the first subparagraph is subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx], the condition laid down in that point (b) shall be replaced by the condition that such fish or shellfish is not targeted. Unintended catches of such fish or shellfish shall be landed and counted against quotas."

(b) In paragraph 4 the following subparagraph is added:

Where the fish referred to in point (b) of the first subparagraph is subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx], the condition laid down in that point (b) shall be replaced by the condition that such fish is not targeted. Unintended catches of such fish shall be landed and counted against quotas."

(20) Article 29e(2), the following subparagraph is added:

"Where the fish referred to in point (b) of the first subparagraph is subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx], the condition laid down in that point (b) shall be replaced by the condition that such fish is not targeted. Unintended catches of such fish shall be landed and counted against quotas."

(21) In Article 29f, the following paragraph 1a shall be inserted:

"1a.Where blue ling is subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx], the prohibition to retain on board established in paragraph 1 of this Article shall not apply. However, in the period and within the areas referred to in that paragraph, it shall be prohibited to fish for that species. Unintended catches of blue ling shall be landed and counted against quotas."

(22) In Article 32(2) the following subparagraph is added:

"In the case of marine organisms subject to the landing obligation referred to in Article 15 of Regulation (EU) [xxxx], the catch which may be lawfully retained on board, as referred to in point (b)(i) of the first subparagraph of this Article, shall include all marine organisms caught."

(23) Article 35 is deleted.

(24) The Annexes are amended in accordance with Annex I to this Regulation.

Article 2

Amendments to Regulation (EC) No 2187/2005

Regulation (EC) No 2187/2005 is hereby amended as follows:

(1) In Article 2, the following point (p) is added:

"(o) 'Unintended catches' means incidental catches of marine organisms the fishing for which is prohibited in the relevant circumstances."

(2) Article 3 is amended as follows:

(a) In paragraph 1, the following subparagraph is added:

"Fishing for any species listed in Annexes I to V using a mesh size not provided for in those Annexes for that species shall be prohibited."

(b) In paragraph 3, the following subparagraph is added:

"By way of derogation from the first subparagraph, the retention on board and the landing shall not be prohibited if the conditions established in that subparagraph cannot be complied with because of unintended catches of marine organisms subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx]. Those unintended catches shall be landed and counted against quotas."

(c) In paragraph 6, the following subparagraph is added:

"By way of derogation from the first subparagraph, landings shall not be prohibited if the conditions established in that subparagraph cannot be complied with because of unintended catches of marine organisms subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx]. Those unintended catches shall be landed and counted against quotas. "

(3) Article 4 is amended as follows:

(a) In paragraph 1, the following subparagraph is added:

"In the case of marine organisms subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx], the quantities retained on board after sorting or landed as referred to in the first subparagraph, shall include all marine organisms caught."

(b) In paragraph 2, the following subparagraph is added:

"In the case of marine organisms subject to the landing obligation referred to in Article 15 of Regulation (EU) [xxxx], the quantities retained on board, as referred to in the first subparagraph, shall include all marine organisms caught."

(4) Article 12 is replaced by the following:

"Article 12
Reaching of required catch percentages

"1. Unintended catches of marine organism in excess of permitted percentages specified in Annexes II and III and which are subject to the landing obligation set out in Article 15 of Regulation EU [xxxx] shall be landed and counted against quotas. 2. Before they start fishing in any management area on a specific fishing trip, masters of all fishing vessels shall ensure they have quotas for stocks subject to catch limits that are sufficient to cover their likely catch composition and the percentages contained in Annexes II and III.

3. Catches of marine organisms caught in excess of percentages permitted pursuant to Annexes II and III and which are not subject to the landing obligation set out in Article 15 of Regulation [xxxx] may not be landed but shall be returned to the sea prior to each landing."

(5) Article 14(1) is amended as follows:

"1. A marine organism shall be regarded as undersized if its dimensions are smaller than the minimum conservation reference size specified in Annex IV for the relevant species and the relevant geographical area."

(6) Article 15 is amended as following:

(a) Paragraph 1 is replaced by the following:

"1. Undersized marine organisms, which belong to a species not subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx,] shall not be retained on board, nor be transhipped, landed, transported, stored, sold, displayed or offered for sale, but shall be returned immediately to the sea."

(b) The following paragraph 3 is added.

"3. Undersized marine organisms, which do belong to a species subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx] shall be retained on board, landed and counted against quotas. They shall not be sold, displayed or offered for sale for human consumption."

(7) Article 17 is amended as follows:

(a) In paragraph 1, the following subparagraph is added:

"Where salmon (*Salmo salar*) or sea trout (*Salmo trutta*) are subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx], the prohibition to retain those species on board, as established in the first subparagraph of this Article, shall not apply. However, it shall be prohibited to fish for those species within the geographical areas and during the periods referred to in that subparagraph. Unintended catches of salmon (*Salmo salar*) or sea trout (*Salmo trutta*) shall be landed and counted against quotas."

(b) In paragraph 3, the following subparagraph is added:

"3. By way of derogation from paragraphs 1 and 3, the retention on board of, and the fishing for, salmon (*Salmo salar)* and sea trout (*Salmo trutta)* with trap-nets shall be permitted."

(8) The Annexes are amended in accordance with Annex II to this Regulation.

Article 3

Amendments to Regulation (EC) No 1967/2006

Regulation (EC) No 1967/2006 is amended as follows:

(1) In Article 2, the following point (18) is added:

"(18) 'Unintended catches' means incidental catches of marine organisms the fishing for which is prohibited in the relevant circumstances."

(2) Article 15 is amended as follows:

(a) Paragraph 1 is replaced by the following

"1. It shall be prohibited to fish for marine organisms, belonging to a species listed in Annex III, which are smaller than the minimum conservation reference size specified in that Annex for the relevant species (hereinafter 'undersized marine organisms')

Unintended catches of undersized marine organisms which are subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx] shall be retained on board, and landed. They shall not be sold, displayed or offered for sale for human consumption.

Unintended catches of undersized marine organisms which are not subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx] shall not be retained on board, transhipped, landed, transferred, stored, sold, displayed or offered for sale."

(b) Paragraph 3 is deleted.

(3) Article 16(1) is replaced by the following:

"1. By way of derogation from Article 15(1) undersized marine organisms may be fished for, retained on board, transhipped, landed, transferred, stored, sold, displayed or offered for sale live for the purpose of direct restocking or transplantation with the permission and under the authority of the Member State where those activities take place."

(4) The Annexes are amended in accordance with Annex III to this Regulation.

Article 4

Amendments to Regulation (EC) No 1098/2007

Regulation (EC) No 1098/2007 is amended as follows:

(1) In Article 3, the following point (g) is added:

"(g) Unintended catches means incidental catches of marine organisms the fishing for which is prohibited in the relevant circumstances."

(2) In Article 8(2), the following subparagraph is added:

"Where cod is subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx], the prohibition to retain on board, as established in the first subparagraph, shall not apply. However, it shall be prohibited to fish for that species with drifting lines, within the geographical areas and during the periods referred to in paragraph 1. Unintended catches of cod shall be landed and counted against quotas."

(3) In Article 9(3), the following subparagraph is added:

"Where cod is subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx], the prohibition to retain on board, as established in the first subparagraph, shall not apply. However, it shall be prohibited to fish for that species with the gear types referred to in paragraph 2, within the geographical areas and during the period referred to in paragraph 1. Unintended catches of cod shall be landed and counted against quotas."

Article 5

Amendments to Regulation (EC) No 254/2002

Regulation (EC) No 254/2002 is amended as follows:

(1) In Article 3(1), the following subparagraph is added:

"By way of derogation from the first subparagraph, landings shall not be prohibited if the conditions established in that subparagraph cannot be complied with because of unintended catches of marine organisms subject to the landing obligation set out in Article 15 of

Regulation (EU) [xxxx]. Those unintended catches shall be landed and counted against quotas."

(2) In Article 4, the following subparagraph is added:

"By way of derogation from the first subparagraph, landings shall not be prohibited if the conditions established in that subparagraph cannot be complied with because of unintended catches of marine organisms subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx]. Those unintended catches shall be landed and counted against quotas."

Article 6

Amendments to Regulation (EC) No 2347/2002

Regulation (EC) No 2347/2002 is amended as follows:

(1) In Article 2, the following point (f) is added:

"(f) 'Unintended catches' means incidental catches of marine organisms the fishing for which is prohibited in the relevant circumstances."

(2) In Article 3(1), the second subparagraph is replaced by the following:

"Fishing vessels not holding a deep-sea permit shall be prohibited from fishing for deep-sea species in excess of 100 kg in each sea trip. Deep-sea species caught in excess of 100 kg by such vessels shall not be retained on board, transhipped or landed.

By way of derogation from the second subparagraph, the retention on board, transhipment and landing shall not be prohibited if the 100 kg limit established in that subparagraph is exceeded because of unintended catches of deep-sea species subject to the landing obligation set out in Article 15 of Regulation (EU) [xxxx]. Those unintended catches shall be landed and counted against quotas."

CHAPTER 2

Control Measures

Article 7

Amendments to Regulation (EC) No 1224/2009

Regulation (EC) No 1224/2009 is hereby amended as follows:

(1) Article 7(1) is amended as follows:

(a) Point (e) is replaced by the following:

"(e) a landing obligation in part of the fisheries or in all fisheries as referred to in Article 15 of Regulation (EU) [xxxx]."

(b) The following point (f) is inserted:

"(f) other cases laid down in Union legislation."

(2) Article 14 is amended as following:

(a) Paragraph 1 is replaced by the following:

"1. Without prejudice to specific provisions contained in multiannual plans, masters of Union fishing vessels of 10 metres' length overall or more shall keep a fishing logbook of their operations, indicating specifically all quantities of each species caught and kept on board."

(b) In paragraph 2, the point (f) is replaced by the following:

"(f) the estimated quantities of each species in kilograms live weight, or, where appropriate, the number of individuals, including, as a separate entry, the quantities or individuals below a the applicable minimum conservation reference size;"

(c) Paragraph 3 is replaced by the following:

"The permitted margin of tolerance in estimates recorded in the fishing logbook of the quantities in kilograms of fish retained on board shall be 10 % for all species. Where for one or more species, the respective total catch is below 50 kilograms, the permitted margin of tolerance shall be 20%."

(d) Paragraph 4 is replaced by the following:

"4. Masters of Union fishing vessels shall also record in their fishing logbook all estimated discards in volume for any species."

(3) In Article 17(1), points (e) and (f) are replaced by the following:

"(e) the quantities of each species recorded in the fishing logbook, including, as a separate item of information, those below the applicable minimum conservation reference size;

(f) the quantities of each species to be landed or transhipped, including, as a separate item of information, those below the applicable minimum conservation reference size."

(4) Article 21 is amended as follows:

(a) Paragraph 1 is replaced by the following:

"1. Without prejudice to specific provisions contained in multiannual plans, masters of Union vessels of 10 metres' length overall or more involved in a transhipment operation shall complete a transhipment declaration indicating sepcifcally all quantities of each species transhipped or received."

(b) In paragraph 2, point (c) is replaced by the following:

"(c) the estimated quantities of each species in kilograms in product weight broken down by type of product presentation, or, where appropriate, the number of individuals including, as a separate entry, the quantites or individuals below the applicable minimum conservation reference size;"

(c) Paragraph 3 is replaced by the following:

"The permitted margin of tolerance in estimates recorded in the transhipment declaration of the quantities in kilograms of fish transhipped on board shall be 10 % for all species. Where for one or more species, the respective total catch is below 50 kilograms, the permitted margin of tolerance shall be 20%."

(5) In Article 23, paragraph 2 (c) is replaced by the following:

"(c) the quantities of each species in kilograms in product weight broken down by type of product presentation or, where appropriate, the number of individuals, including, as a separate entry, the quantities or individuals below the applicable minimum conservation reference size,;"

(6) The following Article 25a is inserted after Article 25:

"Article 25a

Remote electronic monitoring

1.
Fishing vessels that, in accordance with Union legislation or a decision of a Member State, are subject to the utilisation of remote electronic monitoring for the purpose of monitoring of the landing obligation as established in Article 15 of Regulation (EU) [xxxx], shall have installed the devices of a remote electronic monitoring system. That system shall ensure the recording at all times of data of fishing activities and activities related to them by cameras, including the processing of the catch.

2. The fishing vessels referred to in paragraph 1 shall also be equipped with:

(a) removable data storage devices approved by the competent authorities where all images of the fishing activities shall be saved at all times; and

(b) sensors attached to the systems operating the fishing gear and to the winch or the net drum, recording all movements related to the setting and hauling of the fishing gear.

3. The remote electronic monitoring systems installed on board fishing vessels shall operate fully automatically, shall not permit the input or output of false positions and shall not be capable of being manually over-ridden.
4. Member States shall ensure that they have the technical capacity to analyse and make effective use of the information provided by the remote electronic monitoring system.
5. The Commission shall be empowered to adopt delegated acts in accordance with the Article 119a concerning:

(a) the data to be recorded and processed by the remote electronic monitoring systems;

(b) the responsibilities of masters concerning the remote electronic monitoring systems;

(c) the measures to be taken in case of a technical failure or non-functioning of the remote electronic monitoring systems;

(d) reporting obligations of Member States on the use of remote electronic monitoring systems.

6. The Commission shall, by means of implementing acts, lay down detailed rules on:

(a) the requirements of remote electronic monitoring systems;

(b) the specifications of remote electronic monitoring systems;

(c) the control measures to be adopted by the flag Member State;

(d) the access of the Commission to data of the remote electronic monitoring systems.

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 119(2)."

(7) Article 33 is amended as follows:

(a) In paragraph 2, point (a) is replaced by the following:

"(a) for the quantities of each stock or group of stocks subject to TACs or quotas landed during the preceding month, including, as a separate information, those below the applicable minimum conservation reference size; and"

(b) Paragraph 6 is replaced by the following:

"6. Catches taken in the framework of scientific research which are marketed and sold, including, where appropriate, those below the applicable minimum conservation reference size, shall be counted against the quota applicable to the flag Member State insofar as they exceed 2 % of the quotas concerned. Article 12(2) of Council Regulation (EC) No 199/2008 of 25 February 2008 establishing a Communityframework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the Common Fisheries Policy[15] shall not apply to scientific research voyages during which such catches are taken."

(8) The following Articles 49a, 49b and 49c are inserted:

"Article 49a

Separate stowage of catches below the minimum conservation reference sizes

1. All catches below the applicable minimum conservation reference size retained on board a Union fishing vessel shall be placed in boxes, compartments or containers separately

[15] OJ L 60, 5.3.2008, p. 1

for each stock in such a way that they are identifiable from other boxes, compartments or containers.

2. It shall be prohibited to retain on board a Union fishing vessel in any box, compartment or container any quantity of catches below the applicable minimum conservation reference size mixed with any other fisheries product.

3. Paragraphs 2 and 3 shall not apply:

- where the catches contain more than 80% of Norway pout and sandeel caught for non-human consumption purposes or of one or more of the following species:
  - mackerel;
  - herring;
  - horse mackerel;
  - blue whiting;
  - boarfish;
  - anchovy;
  - argentine;
  - sardine;
  - sprat.
- to fishing vessels of less than 12 metres' length overall where catches below the minimum conservation reference size have been sorted, weighed and recorded in the logbook.

4. For the cases referred to in paragraph 3, Member States shall monitor the catch composition by way of sampling."

"Article 49b

De minimis rule

Member States shall ensure that catches falling under the de minimis exemption referred to in Article 15(5)(c) of Regulation (EU) [xxxx] do not exceed the percentage of the exemption as established in the relevant Union measure."

"Article 49c

Landing of catches below the minimum conservation reference sizes

Where catches below the applicable minimum conservation reference size are landed the competent authorities shall ensure that these catches are stored in such a way to make them distinguishable from fisheries products destined for human consumption."

(9) In Article 56, paragraph 1 is replaced by the following:

"1. Each Member State shall be responsible for controlling on its territory the application of the rules of the common fisheries policy at all stages of the marketing of fisheries and aquaculture products, from the first sale to the retail sale, including transport. Member States shall in particular ensure that the use of fisheries products below the applicable minimum conservation reference size that are subject to a landing obligation as referred to in Article 15 of Regulation (EU) [xxxx] is restricted to purposes other than direct human consumption."

(10) In Article 58(5), point (e) is replaced by the following:

"(e) the quantities of each species in kilograms expressed in net weight, or, where appropriate, the number of individuals, including, as a separate information, the quantities or individuals below the applicable minimum conservation reference size;"

(11) In Article 64, paragraph 1 is amended as follows:

(a) Point (f) is replaced by the following:

"(f) the quantities of each species in kilograms in product weight broken down by type of product presentation, or, where appropriate, the number of individuals including, as a separate entry, the quantities or individuals below the applicable minimum conservation reference size;"

(b) The following new point (ha) is inserted:

"(ha) where appropriate, the destination of fishery products below the applicable minimum conservation reference size the use of which is restricted in accordance with Article 15 of Regulation (EU) [xxxx] to purposes other than direct human consumption."

(12) In Article 66(3), point (e) is replaced by the following:

"(e) the quantities of each species in kilograms in product weight broken down by type of product presentation or, where appropriate, the number of individuals, including, as a separate entry, the quantities or individuals below the applicable minimum conservation reference size;"

(13) In Article 68(5) point (d) is replaced by the following:

"(d) the quantities of each species transported in kilograms in product weight, broken down by type of product presentation or, where appropriate, the number of individuals, including, as a separate entry, the quantities or individuals below the applicable minimum conservation reference size;"

(14) The following Article 73a is inserted:

"Article 73a

Control observers for the monitoring of the landing obligation

Without prejudice to Article 73(1), Member States may deploy control observers on board fishing vessels flying their flag for the monitoring of fisheries to which the landing obligation as referred to in Article 15 of Regulation (EU) [xxxx] applies. Article 73(2) to (9) shall apply to those control observers."

(15) In Article 90(1) point (c) replaced by the following:

"(c) the failure to bring and retain on board the fishing vessel and to land any catches of species subject to quota or subject to the landing obligation as referred to in Article 15 of Regulation (EU) [xxxx], unless the bringing and retention on board and the landing of such catches would be contrary to obligations provided for in the rules of the common fisheries policy in fisheries or fishing zones where such rules apply."

(16) In Article 92 paragraph 1 is replaced by the following:

"1. Member States shall apply a point system for serious infringments as referred to in Article 42(1)(a) of Regulation (EC) No 1005/2008 and for a violation of the obligation to bring and retain on board a fishing vessel and to land any catches of species subject to a quota or subject the landing obligation as referred to in Article 15 of Regulation (EU) [xxxx], on the basis of which the holder of a fishing licence is assigned the appropriate number of points as a result of an infringement of the rules of the common fisheries policy."

(17) Article 105 is amended as follows:

(a) In paragraph 2 the table is replaced by the following:

"

Extent of overfishing relative to the permitted landings	Multiplying factor
Up to 10 %	Overfishing *1.0
Over 10% up to 20 %	Overfishing *1.2
Over 20% up to 40 %	Overfishing *1.4
Over 40% up to 50 %	Overfishing *1.8
Any further overfishing greater than 50%	Overfishing *2.0

"

(b) Paragraph 3 is replaced by the following:

"3. In addition to the multiplying factors referred to in paragraph 2 and provided that the extent of overfishing relative to the permitted landings exceeds 10 %, a multiplying factor of 1.5 shall apply if:

(1) a Member State has repeatedly overfished its quota, allocation or share of the stock or group of stocks over the previous two years and these overfishings have been the subject of deductions as referred to in paragraph 2;

(2) the available scientific, technical and economic advice and in particular the reports drawn up by STECF have established that overfishing constitutes a serious threat to the conservation of the stock concerned; or

(3) the stock is subject to a management plan."

(c) Paragraph 3a is deleted.

(18) Article 106 is amended as follows:

(a) In paragraph 2 the table is replaced by the following:

"

Extent of excess of available fishing effort	Multiplying factor
Up to 10 %	Excess * 1.0
Over 10 % up to 20 %	Excess * 1.2
Over 20 % up to 40 %	Excess * 1.4
Over 40 % up to 50 %	Excess * 1.8
Any further excess greater than 50 %	Excess * 2.0

"

(19) The following Article 119a is inserted:

"Article 119a

Exercise of the delegation

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

2. The delegation of powers referred to in Article 25a(5) shall be conferred for an indeterminate period of time.

3. The delegation of powers referred to in Article25a(5) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the

publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Article 25a(5) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council."

CHAPTER 3

FINAL PROVISIONS

Article 8

Repeals

Regulation (EC) No 14234/98 shall be repealed.

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

Article 9

Entry into force

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

It shall apply from …

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

Done at Brussels,

For the European Parliament	*For the Council*
The President	*The President*