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Subject: Proposal for a Regulation of the European Parliament and of the Council on the
Common Fisheries Policy
- *General approach*

Delegations will please find attached a revised version of the Presidency suggestions for updates to Articles 5, 12, 15 and 16, as well as to the recitals.

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the Common Fisheries Policy

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 Commission¹,

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

Having regard to the opinion of the European and Social Committee²,

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

Whereas: †

- (1) Council Regulation (EC) No 2371/2002³ established a Community system for the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy.

¹ OJ

² OJ

† ~~[Recitals will have to be adapted to the compromise on the enacting part]~~

³ OJ L 358, 31.12.2002, p. 59

- (2) The scope of the Common Fisheries Policy extends to conservation, management and exploitation of marine biological resources. In addition, the Common Fisheries Policy's scope extends in relation to market measures and financial measures in support of its objectives, to fresh water biological resources and aquaculture, as well as to the processing and marketing of fishery and aquaculture products, where such activities take place on the territory of Member States, or in Union waters, including by fishing vessels flying the flag of, and registered in, third countries, or by Union fishing vessels, or by nationals of Member States, without prejudice to the primary responsibility of the flag State, bearing in mind the provisions of Article 117 of the United Nations Convention on the Law of the Sea.
- (3) The Common Fisheries Policy should ensure that fishing and aquaculture activities contribute to long-term sustainable environmental, economic, and social conditions. It should contribute moreover to increased productivity, a fair standard of living for the fisheries sector *including small scale fisheries*, stable markets, ensure the availability of resources and that supplies reach consumers at reasonable prices. **The Common Fisheries Policy should contribute to the Europe 2020 Strategy for smart, sustainable and inclusive growth, and help achieve the objectives set out in that strategy⁴.**

⁴ **COM(2010) 2020 final**

(4) The Union is a Contracting Party to the United Nations Convention on the Law of the Sea of 10 December 1982 (UNCLOS)⁵ and it has ratified the United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 August 1995 (UN Fish Stocks Agreement)⁶. It has also accepted the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas of 24 November 1993 of the Food and Agriculture Organisation of the United Nations (FAO Compliance Agreement)⁷. These international instruments predominantly foresee conservation obligations, including among other things obligations to take conservation and management measures designed to maintain or restore marine resources at levels which can produce the maximum sustainable yield both within sea areas under national jurisdiction and on the high seas, and to cooperate with other States to this end, obligations to apply the precautionary approach widely to conservation, management and exploitation of fish stocks, obligations to ensure compatibility of conservation and management measures where marine resources occur in sea areas of different jurisdictional status and obligations to have due regard to other legitimate uses of the seas. The Common Fisheries Policy should, *therefore*, contribute to the Union's **implementation** ~~proper discharge~~ of its international obligations under these international instruments. Where Member States adopt conservation and management measures, for which they have been empowered in the framework of the Common Fisheries Policy, they should also act in a manner which is fully consistent with the international conservation and cooperation obligations under the said international instruments.

⁵ OJ L 179, 23.06.1998, p. 1

⁶ OJ L 189, 3.7.1998, p. 14

⁷ OJ L 177, 16.7.1996, p. 24

- (5) At the World Summit on Sustainable Development at Johannesburg in 2002, the Union and its Member States committed to act against the continued decline of many fish stocks. Therefore, the Union should improve its Common Fisheries Policy to ensure that the exploitation of marine biological resources restores and maintains populations of harvested stocks at least at levels that can produce the maximum sustainable yield and that these exploitation rates are achieved as a matter of priority, not later than by 2015 where possible and by 2020 at the latest, the exploitation levels of marine biological resource stocks are restored and maintained to levels capable of producing maximum sustainable yields from the harvested stocks as a matter of priority ~~exploitation levels of marine biological resources stocks are restored and maintained at levels capable of producing maximum sustainable yields from the populations of harvested stocks by 2015. Where less scientific information is~~ insufficient to determine this level available, this may require approximative parameters may be considered ~~applying proxies to maximum sustainable yield.~~
- (6) The Common Fisheries Policy should ensure coherence with the Fisheries targets were laid down in the Decision by the Conference of the Parties to the Convention on Biological Diversity on the Strategic Plan for Biodiversity 2011 – 2020⁸, ~~the Common Fisheries Policy should ensure coherence with~~ and with the biodiversity targets adopted by the European Council⁹ ~~with the targets laid down of in Commission Communication "Our life insurance, our natural capital: an EU Biodiversity Strategy to 2020"~~¹⁰, ~~in particular to achieve maximum sustainable yield by 2015.~~
- (7) Sustainable exploitation of marine biological resources should be based on the precautionary approach, which is to be derived from the precautionary principle referred to in the first subparagraph of Article 191(2) of the Treaty.

⁸ COP Decision X/2

⁹ EU CO 7/10 of 26 March 2010.

¹⁰ COM(2011) 244

- (8) The Common Fisheries Policy should contribute to the protection of the marine environment and in particular to the achievement of good environmental status by 2020 the latest as set out in Article 1(1) of Directive 2008/56/EC of the European Parliament and the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive)¹¹.
- (9) An ecosystem based approach to fisheries management needs to be implemented, environmental impacts of fishing activities should be limited and unwanted catches should be ~~minimised and progressively eliminated~~ **reduced**.
- (10) It is important that the management of the Common Fisheries Policy is guided by principles of good governance. Those principles include decision-making based on best available scientific advice, broad stakeholder involvement and a long-term perspective. The successful management of the Common Fisheries Policy also depends on a clear definition of responsibilities at Union, **regional**, national, ~~regional~~ and local levels and on the mutual compatibility **of the measures taken and their** ~~and consistency of the measures taken~~ with other Union policies.
- (11) The Common Fisheries Policy should pay full regard, where relevant, to animal health, animal welfare, food and feed safety.
- (12) Implementation of the Common Fisheries Policy should take into account interactions with other maritime affairs as addressed by the Integrated Maritime Policy¹², recognizing that all matters related to Europe's oceans and seas are interlinked, ~~including maritime spatial planning~~. Coherence ~~and integration~~ should be ensured in the management of different sectoral policies within the Baltic Sea, North Sea, Celtic Seas, Bay of Biscay and the Iberian Coast, Mediterranean and Black Sea sea basins.

¹¹ OJ L 164, 25.6.2008, p. 19.

¹² ~~Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on an Integrated Maritime Policy for the European Union, COM(2007)575 final.~~

- (13) Union fishing vessels should have equal access to Union waters and resources subject to the rules of the CFP.
- (14) Rules in place restricting access to resources within the 12 nautical mile zones of Member States have operated satisfactorily benefiting conservation by restricting fishing effort in the most sensitive part of Union waters. Those rules have also preserved traditional fishing activities on which the social and economic development of certain coastal communities is highly dependent. Those rules should therefore continue to apply.
- (15) Marine biological resources around the *Union outermost regions referred to in Article 349(1) of the Treaty* ~~Azores, Madeira and the Canary Islands~~ should continue to be especially protected since they contribute to the preservation of the local economy of these islands, having regard to the structural, social and economic situation of those islands. *Certain fishing activities in those waters should therefore be limited* ~~The limitation of certain fishing activities in those waters to fishing vessels registered in the ports of these islands~~ *Azores, Madeira and the Canary Islands should therefore be maintained.*
- (16) The objective of sustainable exploitation of marine biological resources is more effectively achieved through a multi-annual approach to fisheries management, establishing as a priority multi-annual plans reflecting the specificities of different fisheries.
- (17) Multi-annual plans should where possible cover multiple stocks where those stocks are jointly exploited. The multiannual plans should establish the *framework* basis for *fixing fishing opportunities and quantifiable targets for* the sustainable exploitation of stocks and marine ecosystems concerned, defining clear timeframes and safeguard mechanisms for unforeseen developments.

(18) Measures are needed to reduce ~~and eliminate~~ the current high levels of unwanted catches and gradually eliminate discards. Indeed, unwanted catches and discards constitute a substantial waste and affect negatively the sustainable exploitation of marine biological resources and marine ecosystems as well as the financial viability of fisheries. An obligation to land all catches of species which are subject to catch quotas or, in the Mediterranean Sea, rules on minimum landing sizes ~~and managed stocks~~ caught during fishing activities in Union waters or by Union fishing vessels should be established and gradually implemented.

(19) *[Within the management of the landing obligation, Member States must do their utmost to reduce unwanted catches. To this end, improvements of selective fishing techniques to avoid unwanted catches must have a high priority. It is important that Member States distribute quotas between vessels in a mix reflecting as much as possible the expected composition of species in the fisheries. Mismatch between available quotas and actual fishing pattern could be adjusted through quota swaps with other Member States. Vessel owners could also consider pooling individual quotas for example in producer organisations or in groups of vessel owners. Furthermore, Member States can make use of year-to-year flexibility. To this end, year-to-year flexibility should be applicable to all stocks subject to the landing obligation. After using all these possibilities, ultimate options should consist in counting by-catch species against the quota of the target species and [either:][undertaking permanent quota exchanges] [or alternatively:] [reserving specific by-catch fishing opportunities] [or] [other solutions to be examined]]*

(20) Landings of unwanted catches should not result in full economic advantages for the operator. For landings of catches of fish under the minimum conservation reference size, the destination of such catches should be limited and exclude sale for human consumption.

~~(21) For stocks for which no multi-annual plan has been established, exploitation rates delivering maximum sustainable yield should be ensured by setting catch and/or fishing effort limits.~~

~~(22) For the sake of conservation of stocks clear objectives should be applied with respect to certain technical measures.~~

(21) In view of the precarious economic state of the fishing industry and the dependence of certain coastal communities on fishing activities, it is necessary to ensure the relative stability of fishing activities by allocating fishing opportunities among Member States, based on a predictable share of **the** stocks for each Member State. ~~(22) ***In other respects, that***~~ ~~Such~~ relative stability of fishing activities, given the temporary biological situation of stocks, should safeguard the particular needs of regions where local **populations** communities are especially dependent on fisheries and related activities as decided by the Council in its Resolution of 3 November 1976, on certain external aspects of the creation of a 200-mile fishing zone in the Community¹³ with effect from 1 January 1977, and in particular Annex VII thereto. Therefore, it is in this sense that the concept of relative stability aimed at should be understood.

(22) ***[Subject to scientific advice and without jeopardising the objectives of MSY and without increasing fishing mortality, when a landing obligation including documentation of catches is in operation, an increase of related fishing opportunities is foreseen, since discards will no longer take place. It should also be considered whether such a change in the management system may lead to the abolition of certain control measures and technical measures.]***

¹³ OJ C 105, 7.5.1981, p.1.

(23) ~~Council Directive 2009/147/EC of 30 November 2009 on the conservation of wild birds¹⁴ , Council Directive 92/43 of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora¹⁵ and Directive 2008/56 of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive)¹⁶ impose certain obligations on the Member States as regards special protection areas, special areas of conservation and marine protected areas ~~protection measures and spatial protection measures~~, respectively. Such measures might require adoption of measures falling under the Common Fisheries Policy. It is, therefore, appropriate to authorise the Member States to adopt, in the waters under their sovereignty or jurisdiction, such conservation measures that are necessary to comply with their obligations under these Union acts where such measures do not affect fisheries interests of other Member States. Where such measures might affect fisheries interests of other Member States, the power to adopt such measures ~~by means of [delegated acts/or implementing acts]~~ should be granted to the Commission and a recourse should be made to regional cooperation among the Member States concerned.~~

¹⁴ OJ L 103, 25.04.1979, p. 1.

¹⁵ OJ L 206, 22.07.1992, p. 7.

¹⁶ OJ L 164, 25.06.2008, p. 19

~~Member States should be in a position to present substantiated requests to the Commission to draw up measures under the Common Fisheries Policy for measures identified by Member States as necessary to comply with obligations as regards Special Protection Areas pursuant to Article 4 of Council Directive 2009/147/EC of 30 November 2009 on the conservation of wild birds¹⁷, Special Areas of Conservation pursuant to Article 6 of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora¹⁸ and marine protected areas pursuant to Article 13(4) of Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive)¹⁹.~~

- (24) The Commission should be **authorised** ~~able~~ to adopt temporary measures in the event of a serious threat, requiring immediate action, to the conservation of marine biological resources or to the marine ecosystem resulting from fishing activities.
- (25) Member States should **cooperate regionally in order to adopt joint recommendations and other instruments for the development and implementation of conservation measures and measures affecting fishing activity in areas protected under environmental law. [In the framework of regional cooperation, the Commission should only adopt conservation measures through implementing acts or delegated acts where all Member States concerned in a region agree on a joint recommendation. In the absence of a joint recommendation ~~an~~ agreement, the Commission should submit ~~put forward~~ a proposal for the relevant measures in the ordinary legislative procedure or, where relevant, under Article 43(3) TFUE.]** ~~be able to adopt conservation measures and technical measures for the implementation of the Common Fisheries Policy to allow for the policy to better address the realities and specificities of individual fisheries and to increase the adherence to the policy.~~

¹⁷ — OJ L 103, 25.04.1979, p. 1.

¹⁸ — OJ L 206, 22.07.1992, p. 7.

¹⁹ — OJ L 164, 25.06.2008, p. 19.

(26) **Member States should be empowered to adopt conservation and management measures for stocks in Union waters applicable solely to Union fishing vessels flying their flag.**

(27) In their 12 nautical mile zone, Member States should be **empowered** allowed to adopt conservation and management measures applicable to all Union fishing vessels, provided that, where such measures apply to Union fishing vessels from other Member States, the measures adopted are non-discriminatory, prior consultation of other **interested** Member States **concerned** has taken place and that the Union has not adopted measures specifically addressing conservation and management within that 12 nautical mile zone.

~~(29) Member States should be allowed to adopt conservation and management measures for stocks in Union waters applicable solely to Union fishing vessels flying their flag.~~

(28) **Dialogue with stakeholders has proven to be essential for the achievement of the objectives of the Common Fisheries Policy. Taking into account the diverse conditions throughout Union waters and increased regionalisation of the Common Fisheries Policy, Advisory Councils should enable the Common Fisheries Policy to benefit from the knowledge and experience of all stakeholders.**

(29) **Member States may introduce** ~~a~~^A system of transferable fishing concessions ~~for the majority of managed stocks under the Common Fisheries Policy should be implemented no later than 31 December 2013 for all vessels of 12 meters' length or over and all other vessels fishing with towed gears. Member States may exclude vessels up to 12 meters' length other than vessels using towed gear from transferable fishing concessions. Such a system should~~ **could** contribute to industry-induced fleet reductions and improved economic performance while at the same time creating legally secure and exclusive transferable fishing concession of a Member State's annual fishing opportunities. ~~Since marine biological resources are a common good, transferable fishing concessions should only establish user entitlements to a Member State's part of annual fishing opportunities which may be recalled according to established rules.~~

~~(32) Fishing concessions should be transferable and leasable in order to decentralise management of fishing opportunities towards the fishing industry and ensuring that fishers leaving the industry will not need to rely on public financial assistance under the Common Fisheries Policy.~~

~~(33) Specific characteristics and socio-economic vulnerability of some small-scale fleets justify the limitation of the mandatory system of transferable fishing concessions to large vessels. The system of transferable fishing concessions should apply to stocks for which fishing opportunities are allocated.~~

(30) For Union fishing vessels not operating under a system of transferable fishing concessions, **Member States should take** specific measures ~~may be taken~~ to align the number of Union fishing vessels with available resources, **based on their reports on the balance between the fishing capacity of their vessels and the fishing opportunities available to them.** Such measures should set **In addition,** compulsory maximum fleet capacity ceilings and establish national entry/exit schemes in relation to decommissioning funding ~~granted under the European Fisheries Fund~~ **shall should be maintained for the purpose of management and adjustment of fishing capacity.**

(31) Member States should record the minimum information on characteristics and activities of Union fishing vessels flying their flag. Those records should be made available to the Commission for the purpose of monitoring the size of Member States' fleets.

(32) Fisheries management based on the best available scientific advice requires harmonised, reliable and accurate data sets. Therefore Member States should collect data on fleets and their fishing activities, in particular biological data on catches, including discards, survey information on fish stocks and on the potential environmental impact of fishing activities on the marine ecosystem.

(33) Data collection should include data which facilitate the economic assessment of undertakings active in the fisheries sector, in aquaculture and in the processing of fisheries and aquaculture products and of employment trends in these industries.

- (34) Member States should manage and make available to end-users of scientific-data the collected data, on the basis of a multi-annual Union program. Member States should also cooperate with each other **and with the Commission** to coordinate data collection activities. Where relevant, Member States should also cooperate with third countries within the same sea basin regarding data collection.
- (35) Policy-oriented fisheries science should be reinforced by means of nationally-adopted fisheries scientific data collection, research and innovation programs in coordination with other Member States as well as **within** Union research and innovation frameworks ~~tools~~ **and better cooperation between industry and scientists should be fostered.**
- (36) The Union should promote the objectives of the Common Fisheries Policy internationally, **ensuring that Union fishing activities outside Union waters are based on the same principles and standards as applicable Union law, and promoting a level playing field for EU operators and third-country operators.** To this end, the Union should **seek to lead the process of strengthening the performance of regional and international organisations to better enable them to conserve and manage marine living resources under their purview. The Union should cooperate with third countries and international organisations for the purpose of improving compliance with international measures. The positions of the Union should be based on the best available scientific advice.** ~~strive to improve the performance of regional and international organisations in conservation and management of international fish stocks, by promoting decision making based on science and improved compliance, increased transparency and stakeholder participation, and by combating illegal, unreported and unregulated (IUU) fishing activities.~~

- (37) Sustainable fisheries agreements concluded **Fisheries partnership agreements** with third countries should ensure that Union fishing activities in third country waters are based on the best available scientific advice **and relevant information exchange**, ensuring a sustainable exploitation of the marine biological resources, **transparency as regards the determination of the surplus and, consequently, a management of the resources that is consistent with the objectives of the Common Fisheries Policy**. Those agreements, which provide for access rights **to resources commensurate with the Union fleet's interests** in exchange for a financial contribution from the Union, should contribute to the establishment of a high quality governance framework to ensure in particular efficient monitoring, control and surveillance measures.
- ~~(39) The introduction of a human rights clause in sustainable fisheries agreements should be fully consistent with the overall Union development policy objectives.~~
- (38) Respect for democratic principles and human rights, as laid down in the Universal Declaration of Human Rights and other relevant international human rights instruments, and for the principle of the rule of law, should constitute an essential element of **fisheries partnership agreements** Sustainable Fisheries Agreements and be subject to a specific human rights clause. **The introduction of a human rights clause in fisheries partnership agreements should be fully consistent with the overall Union development policy objectives.**
- (39) Aquaculture should contribute to the preservation of the food production potential on a sustainable basis throughout the Union so as to guarantee long-term food security for European citizens and to contribute to the growing world aquatic food demand.
- (40) The Commission's Strategy for the Sustainable Development of European Aquaculture²⁰ adopted in 2009, which was welcomed and endorsed by the Council and welcomed by the European Parliament, noted the need for the creation and promotion of a level-playing field for aquaculture as the basis for its sustainable development.

²⁰ COM(2009)162final

~~(43) The Common Fisheries Policy should contribute to Europe 2020 Strategy for smart, sustainable and inclusive growth, and help achieve the objectives set out in that strategy²¹.~~

(41) Aquaculture activities in the Union are influenced by different conditions across national borders, including as regards authorisations for the operators. ***Therefore*** Union strategic guidelines for national strategic plans should be developed to improve the competitiveness of the aquaculture industry, supporting its development and innovation, and encouraging economic activity, diversification and improving the quality of life in coastal and ~~rural~~ ***inland*** areas, as well as mechanisms to exchange among Member States information and best practices through an open method of coordination of national measures concerning business security, access to Union waters and space, and administrative simplification of licensing.

(42) The specific nature of aquaculture requires an Advisory Council for stakeholder consultation on elements of Union policies which could affect aquaculture.

(43) There is a need to strengthen the competitiveness of the Union fishery and aquaculture sector, and a call for simplification in support of better management of production and marketing activities of the sector; the Common Market Organisation for fishery and aquaculture products should ensure a level-playing field for all fishing and aquaculture products marketed in the Union, should enable consumers to make better informed choices and support responsible consumption, and should improve the economic knowledge and understanding of the Union markets along the supply chain.

(44) The Common Market Organisation should be implemented in compliance with international commitments of the Union, in particular with regard to the provisions of the World Trade Organisation. ***In order to ensure compliance with the rules of the*** ~~The success of the e~~ ***Common Fisheries Policy, requires*** an effective system of control, inspection and enforcement, including the fight against IUU fishing activities, ***should be established***. ~~A Union system for control, inspection, and enforcement should be established so as to ensure compliance with the Common Fisheries Policy's rules.~~

²¹ ~~COM(2010) 2020final~~

- (45) The use of modern technologies should be promoted in the framework of the Union system for control, inspection and enforcement. Member States and ~~or~~ the Commission should have the possibility to conduct pilot projects on new control technologies and data management systems.
- (46) To ensure the involvement of concerned operators in the Union system for control, inspection, and enforcement, Member States should be able to require the holders of a fishing licence of Union fishing vessels of 12 meters length over all or more flying their flag to contribute proportionally to the costs of that system.
- (47) The objectives of the Common Fisheries Policy cannot be sufficiently achieved by Member States alone given the problems encountered in the development of the fishing industry and its management, and the limits on the financial resources of the Member States. Therefore, multiannual Union financial assistance focused on the priorities of the Common Fisheries Policy should be granted to contribute to the achievement of those objectives.
- (48) Union financial assistance should be made conditional upon compliance by Member States and operators with the rules of the Common Fisheries Policy. Subject to specific rules to be adopted, Union ~~Thus such~~ financial assistance should be interrupted, suspended or corrected in cases of a non-compliance with a specific obligation under the rules of Common Fisheries Policy by a Member States ~~and~~ or a serious infringements of those rules by an operators, where the obligation concerned is designed to ensure that the financial assistance is used for the purpose for which it is intended.
- ~~(51) Dialogue with stakeholders has proven essential for the achievement of the objectives of the Common Fisheries Policy. Taking into account the diverse conditions throughout Union waters and increased regionalisation of the Common Fisheries Policy, Advisory Councils should enable the Common Fisheries Policy to benefit from the knowledge and experience of all stakeholders.~~
- ~~(52) It appears appropriate that the Commission be empowered by delegated acts to create a new Advisory Council and to modify areas of competence of existing ones, in particular considering the specificities of the Black Sea.~~

- (49) ~~To achieve the objectives of the Common Fisheries Policy, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission~~ For the purpose of the following aspects: [...] specifying fishing related measures to alleviate the impact of fishing activities in special areas of conservation, adaptation of the obligation to land all catches for the purpose of complying with the Union's international obligations, default conservation measures in the framework of multiannual plans or technical measures, the recalculation of fleet capacity ceilings, definition of information on characteristics and activity for Union fishing vessels, rules for carrying out pilot projects on new control technologies and data management systems, amendments to Annex III in relation to the areas of competence for Advisory Councils and the compositioning and functioning of Advisory Councils, ***the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission.***
- (50) It is of particular importance that the Commission carry out appropriate consultations during its preparatory work for the adoption of delegated acts, including at expert level.
- (51) The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.
- (52) ~~In order to ensure uniform conditions for the implementation of technical operational requirements for the modalities for transmission of information related to fishing fleet registers and to data requirements for fisheries management~~ Implementing powers ***in respect of [...]*** should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council 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 powers²².

²² OJ L 55, 28.2.2011, p. 13.

~~(55) To achieve the basic objective of the Common Fisheries Policy, namely to provide long term sustainable environmental, economic and social conditions for the fishing and aquaculture sectors, and to contribute to the availability of food supplies, it is necessary and appropriate to lay down rules on the conservation and exploitation of marine biological resources.~~

(53) In accordance with the principle of proportionality as set out in Article 5 of the Treaty on European Union, this Regulation does not go beyond what is necessary to achieve *its objectives* ~~that objective~~.

(54) Council Decision No 2004/585/EC of 19 July 2004 establishing Regional Advisory Councils under the Common Fisheries Policy²³ should be repealed upon entry in force of the corresponding rules pursuant to this Regulation.

(55) Regulation (EC) 199/2008 of 25 February 2008 concerning the establishment of a Community framework for the collection, management and use of data in the fisheries sector and support scientific advice regarding the common fisheries policy²⁴ should be repealed, but should continue to apply to the national programmes adopted for the collection and management of data for the years 2011 – 2013.

(56) By reason of the number and importance of the amendments to be made, Council Regulation (EC) No 2371/2002 should be repealed,

²³ OJ L 256, 3.8.2004, p. 17.

²⁴ OJ L 60, 5.3.2008, p. 1.

Article 5
Definitions [‡]

For the purpose of this Regulation the following definitions shall apply:

- (1) 'Union waters' means the waters under the sovereignty or jurisdiction of the Member States with the exception of the waters adjacent to the territories listed in Annex II to the Treaty;
- (2) 'marine biological resources' means available and accessible living marine aquatic species, including anadromous and catadromous species *during their marine life*;
- (3) 'fresh water biological resources' means available and accessible living fresh water aquatic species;
- (4) 'fishing vessel' means any vessel equipped for commercial ~~fishing~~ **exploitation** of marine biological resources;
- (5) 'Union fishing vessel' means a fishing vessel flying the flag of a Member State and registered in the Union;
- (6) 'maximum sustainable yield' means the **highest theoretical equilibrium yield that can be continuously taken on average from a stock under existing average environmental conditions without affecting significantly the reproduction process** ~~maximum catch that may be taken from a fish stock indefinitely~~;
- (7) 'precautionary approach to fisheries management' means an approach according to which the absence of adequate scientific information should not justify postponing or failing to take management measures to conserve target species, associated or dependent species and non-target species and their environment;

[†] ~~*Definitions are only rudimentarily covered by this compromise and will have to be adapted to final compromise on the main parts*~~

- (8) 'ecosystem-based approach to fisheries management' means an integrated approach to managing fisheries within ecologically meaningful boundaries which seeks to manage the satisfy human needs through the use of natural resources while preserving both the biological wealth and the biological processes necessary to safeguard the composition, structure and functioning of the habitats of the ecosystem affected, by taking into account the knowledge and uncertainties about biotic, abiotic and human components of ecosystems; while preserving both the biological wealth and the biological processes necessary to safeguard the composition, structure and functioning of the habitats of the ecosystem affected ensuring that benefits from living aquatic resources are high while the direct and indirect impacts of fishing operations on marine ecosystems are low and not detrimental to the future functioning, diversity and integrity of those ecosystems;
- (9) 'fishing mortality rate' means the catches of a stock over a given period as a proportion of the average stock available to the fishery in that period;
- (10) 'stock' means a marine biological resource with distinctive characteristics that occurs in a given management area;
- (11) 'catch limit' means, as appropriate, either a quantitative limit on *catches* of a fish stock or group of fish stocks over a given period where such fish stocks or group of fish stocks are subject to an obligation to land, or ~~and~~ a quantitative limit on landings of a fish stock or group of fish stocks over a given period for which an obligation to land does not apply;
- ~~(12) 'unwanted catches' means catches of species below minimum conservation reference size or minimum landing size, or of prohibited species, or of species subject to catch limits for which a Member State and/or a fisherman does not or does no longer have a quota;~~
- (12) 'minimum conservation reference size' means the size of a living marine aquatic species, established by EU law, below which restrictions or incentives apply that aim at avoiding capture through fishing activity; such size replaces, where relevant, the minimum landing size;

(13) **'discards' means catches of commercial species and unwanted catches that are returned to the sea;**

'conservation reference point' means values of fish stock population parameters (such as biomass or fishing mortality rate) used in fisheries management, for example with respect to an acceptable level of biological risk or a desired level of yield;

(14) 'safeguard' means a precautionary measure designed to protect or prevent something undesirable occurring;

(15) **~~'vulnerable marine resource' means a marine biological resource which can be easily overexploited, due to its relatively low productivity and/or its high susceptibility of being impacted by the fishing activity;~~**

~~'technical measures' means the measures that regulate the species composition, size composition of catches and impacts on components of the ecosystems resulting from fishing activities through conditioning the use and structure of fishing gear and restriction of access to fishing areas;~~

(16) 'fishing opportunities' **~~shall include means~~** a ~~quantified~~ legal entitlement to ***carry out specific fishing activities***, expressed ***in particular*** in terms of catches and/or fishing effort ~~or similar quantifications of the fishing activity~~, and ***shall include, including*** conditions functionally linked ***to such legal entitlement*** ~~thereto~~ which are necessary to quantify ~~them~~ ***it*** at a certain level ***or otherwise necessary for the fishing opportunities it to be effective and workable;***

(17) 'fishing effort' means the product of the capacity and the activity of a fishing vessel; for a group of fishing vessels it is the sum of the fishing effort of all vessels in the group;

(18) 'transferable fishing concessions' means revocable user entitlements to a specific part of fishing opportunities allocated to a Member State or established in management plans adopted by a Member State in accordance with Article 19 of Regulation (EC) No 1967/2006²⁵, which the holder may transfer ~~to other eligible holders of such transferable fishing concessions;~~

²⁵ OJ L 409, 30.12.2006, p. 11.

- (19) ~~'individual fishing opportunities' means annual fishing opportunities allocated to holders of transferable fishing concessions in a Member State on the basis of the proportion of fishing opportunities pertaining to that Member State;~~
- (20) 'fishing capacity' means a vessel's tonnage in GT (Gross Tonnage) and its power in kW (Kilowatt) as defined in Articles 4 and 5 of Council Regulation (EEC) No 2930/86²⁶;
- (21) 'aquaculture' means the rearing or cultivation of aquatic organisms using techniques designed to increase the production of the organisms in question beyond the natural capacity of the environment, where the organisms remain the property of a natural or legal person throughout the rearing and culture stage, up to and including harvesting;
- (22) 'fishing licence' means *an official document conferring on its holder the right, as determined by national rules, to use a certain fishing capacity for the commercial exploitation of ~~living aquatic marine biological~~ resources. It contains minimum requirements concerning the identification, technical characteristics and fitting out of a Union fishing vessel* a licence as referred to in Article 4(9) of Regulation (EC) No 1224/2009;
- (23) 'fishing authorisation' means *an official document ~~fishing authorisation~~ issued in respect of a Union fishing vessel in addition to its fishing licence, entitling it to carry out specific fishing activities during a specified period, in a given area or for a given fishery under specific conditions* an authorisation as referred to in Article 4(10) of Regulation (EC) No 1224/2009;
- (24) 'fishing *activity*' means *searching for fish, shooting, setting, towing, hauling of a fishing gear, taking catch on board, transshipping, retaining on board, processing on board, transferring, caging, fattening and landing of fish and fisheries products* ~~the collection or capture of aquatic organisms living in their natural environment, or the intentional use of any means allowing such collection or capture;~~

²⁶ OJ L 274, 25.9.1986, p. 1.

- (25) 'fishery products' means ~~the~~ aquatic organisms resulting from any fishing activity or products derived therefrom;
- (26) 'operator' means the natural or legal person who operates or holds any undertaking enterprise carrying out any of the activities related to any stage of production, processing, marketing, distribution and retail chains of fisheries and aquaculture products;
- (27) 'serious infringement' means an infringement ~~as set out that is designated defined as such~~ in relevant EU law, including defined in Article 42(1) of Council Regulation (EC) No 1005/2008 and in Article 90(1) of Council Regulation (EC) No 1224/2009;
- (28) 'end-user of scientific data' means a body with a research or management interest in the scientific analysis of data in the fisheries sector;
- (29) 'surplus of allowable catch' means that part of the allowable catch which a coastal State does not ~~have the capacity to~~ harvest;
- (30) 'aquaculture products' means ~~the~~ aquatic organisms at any stage of their life cycle resulting from any aquaculture activity or products derived therefrom;
- (31) 'spawning stock biomass' means an estimate of the mass of the mature fish of a particular resource ~~that reproduces at a defined time, including both males and females and including fish that reproduce viviparously~~;
- (32) 'mixed fisheries' means fisheries in which ~~where~~ more than one species is ~~are~~ present and is likely to be caught together with other species in the same fishing operation ~~area being fished and are vulnerable to being caught in the fishing gear~~;
- (33) 'fisheries *partnership* agreements' mean international agreements concluded with another state for the purpose of obtaining access to *waters and resources* in exchange for financial compensation from the Union;

- (34) ***'Member State having a direct management interest'*** means ***a Member State which has an interest qualified by either fishing opportunities or by a fishery taking place in the exclusive economic zone of the Member State concerned, or, in the Mediterranean Sea, by a traditional fishery on the High Seas;***
- (35) ***For the purposes of this Regulation, the following geographical definitions of geographical areas shall apply:***
- (a) ***'North Sea'*** means ***ICES zones IV and IIIa;***
 - (b) ***'Baltic Sea'*** means ***ICES zones IIIb, IIIc and IIId;***
 - (c) ***'North Western waters'*** means ***ICES zones V (excluding Va and only Union waters of Vb), VI and VII;***
 - (d) ***'South Western waters'*** means ***ICES zones VIII, IX and X (waters around Azores), and CECAF zones 34.1.1, 34.1.2 and 34.2.0 (waters around Madeira and the Canary Islands);***
 - (e) ***'Mediterranean Sea'*** means ***Maritime Waters of the Mediterranean of the East of line 5°36' West;***
 - (f) ***'Black Sea'*** means ***the GFCM geographical sub-area as defined in resolution GFCM/33/2009/2.***

Article 12

Compliance with *Member State* obligations under Union environmental legislation

1. Member States are authorised, subject to paragraph 2, to adopt conservation measures not affecting fishing vessels of other Member States that are applicable to waters under their sovereignty ~~and~~ **or** jurisdiction and that are necessary for the purpose of complying with their obligations under:
- (a) *Article 13(4) of the MSF Directive;*
 - (b) *Article 4 of the Birds Directive; and/or*
 - (c) *Article 6 of the Habitat Directive; ~~and/or~~*
 - (d) ~~*[to be further considered].*~~
2. *The measure envisaged shall be:*
- (a) *compatible with the objectives set out in Article 2;*
 - (b) *meet the objective of the relevant Union legislation that it intends to implement; and*
 - (c) *not be less stringent than measures existing in Union legislation.*
3. *Where a Member State considers that Union measures defined in paragraph 1 need to be adopted and other Member States have a direct management interest in the fishery to be affected by such measures, ~~the Member State concerned may request that~~ the Commission shall be requested to ~~adopt~~ such measures. For this purpose, Article 17(1) - (6) shall apply mutatis mutandis.*

The **initiating** Member State ~~concerned~~ shall provide the Commission and the other Member States having a direct management interest with relevant information on the measures required, including rationale, scientific evidence and detail on practical implementation and enforcement. The initiating Member State and the other Member States with a direct management interest may submit a joint recommendation referred to in Article 17(1) within [six months] from the provision of sufficient information. The Commission shall adopt the measures taking into account any available scientific advice within three months from receipt of a complete request. In the absence of a joint recommendation as specified in Article 17(1), the Commission may propose the measures in the ordinary legislative procedure.

4. *The Commission shall facilitate the cooperation between the Member State concerned and the other Member States having a direct management interest in the fishery concerned in the process of implementation and enforcement of the measures concerned.*

Article 15

Obligation to land all catches

1. All catches *subject to catch limits, and in the Mediterranean also catches subject to minimum landing sizes as defined in the Annex to Regulation (EC) No. 1967/2006*, caught during fishing activities in Union waters or by Union fishing vessels outside Union waters in waters not subject to third countries' *sovereignty or* jurisdiction, in the fisheries and *geographical areas* listed below shall be brought and retained on board the fishing vessels, recorded, landed, *and counted against the quotas where applicable*, except when used as live bait, in accordance with the following timeframe:
 - (a) At the latest from 1 January [2014]:
 - *small pelagic fisheries i.e. fisheries for* mackerel, herring, horse mackerel, blue whiting, boarfish, anchovy, argentine, *sardine, sprat; large pelagic fisheries i.e. fisheries for* bluefin tuna, swordfish, albacore tuna, bigeye tuna, other billfish;

- *fisheries for industrial purposes i.a. fisheries for capelin, sandeel and Norway pout;*
- *salmon in the Baltic Sea.*

(b) *At the latest from 1 January [2015] for species defining the fisheries and not later than [2018] for all other species in:*

- *the following fisheries in Union waters of the Northern Atlantic:*

- **(i) The North Sea**

- ~~fisheries for cod, haddock, whiting, saithe;~~
- *fisheries for Norway lobster;*
- *fisheries for common sole and plaice;*
- *fisheries for hake;*
- *fisheries for Northern prawn;*

~~other fisheries to be further analysed;~~

- **(ii) fisheries in the Baltic Sea for species subject to catch limits other than those covered by point (a);**

~~other than for salmon;~~

- **(iii) North Western waters**

- ~~fisheries for cod, haddock, whiting, saithe;~~
- *fisheries for Norway lobster;*
- *fisheries for common sole and plaice;*
- *fisheries for hake;*

~~other fisheries to be further analysed;~~

(iv) South Western waters

- ~~f~~fisheries for cod, haddock, whiting, saithe;
- fisheries for Norway lobster;
- fisheries for common sole and plaice;
- fisheries for hake;

~~other fisheries to be further analysed;~~

(v) other fisheries for species subject to catch limits

- (c) *At the latest from 1 January [2016] for species defining the fisheries and not later than [2019] for all other species in ~~the~~ fisheries not covered by paragraph 1(a) in the Mediterranean, in the Black Sea and in all other Union waters and in non-Union waters not subject to third countries' sovereignty or jurisdiction*

Ibis Paragraph 1 shall be without prejudice to international obligations.

2. The following shall be exempted from the landing obligation laid down in paragraph 1:

- (a) *Species in respect of which fishing is prohibited and that are identified as such in a Union act adopted in the area of the Common Fisheries Policy;*
- (b) *Species for which scientific evidence demonstrates high survival rates, taking into account the characteristics of the gear, of the fishing practices and of the ecosystem;*
- (c) *Catches falling under de minimis exemptions*

(d) Catches of blue whiting and of boarfish caught in trawl fisheries targeting demersal species.

3. *Details of the implementation of the obligation to land catches from fisheries in paragraph 1 shall be specified in multiannual plans referred to in Articles 9 to 11 and where relevant specified in accordance with Title III, including:*

- (a) specific provisions regarding fisheries or species covered by the obligation to land all catches of regulated species as set out in paragraph 1 of this Article;*
- (b) specification of exemptions to the landing obligation for species mentioned in paragraph 2 point (b) of this Article;*
- (c) provisions for de minimis exemptions of up to a total of ~~15-7%~~ of the total annual catches of species from the obligation set out in paragraph 1 in situations such as
 - i) where scientific evidence indicates that increases in selectivity are very difficult to achieve; or*
 - ii) to avoid disproportionate costs of handling unwanted catches, for those fishing gears where unwanted catches per fishing gear do not represent more than a certain percentage, to be established in the plan, of total annual catch of that gear;**

Catches under this provision shall not be counted against the relevant quotas but all such catches must be fully recorded.

- (d) provisions on documentation of catches;*
- (e) fixing of minimum conservation reference sizes, where appropriate, in accordance with paragraph 5.*

Where no multiannual plan for the fishery in question is adopted, Member States may cooperate in accordance with Article 17 with a view to the Commission adopting a specific plan on the landing obligation and specifications in (a)-(e), in accordance with the procedure in Article 56 [or in the ordinary legislative procedure], on a provisional basis, pending a multiannual plan to be adopted.

4. **(a)** *As a derogation from the obligation to count catches against the relevant quotas in accordance with paragraph 1, ~~unwanted~~ catches subject to an obligation to land in excess of quotas of the stocks in question may be deducted from the quota of the target species not exceeding ~~[10 %]~~ of the quota of the target species.[†]*

- ~~4a.~~ **(b)** *For stocks subject to a landing obligation, Member States may use a year-to-year flexibility of up to 10% of their permitted landings.*

~~*The above mentioned rules shall be complemented by one of the following options:*~~

~~*[either:]*~~

[†] ~~*[A new recital is added as follows: "Within the management of the landing obligation, Member States must do their utmost to reduce unwanted catches. To this end, improvements of selective fishing techniques to avoid unwanted catches must have a high priority. It is important that Member States distribute quotas between vessels in a mix reflecting as much as possible the expected composition of species in the fisheries. Mismatch between available quotas and actual fishing pattern could be adjusted through quota swaps with other Member States. Vessel owners could also consider pooling individual quotas for example in producer organisations or in groups of vessel owners. Furthermore, Member States can make use of year to year flexibility. To this end, year to year flexibility should be applicable to all stocks subject to the landing obligation. After using all these possibilities, ultimate options should consist in counting by catch species against the quota of the target species and [either:] [undertaking permanent quota exchanges] [or alternatively:] [reserving specific by catch fishing opportunities] [or] [other solutions to be examined]."]*~~

(c) Where a Member State has made full use of any options available to it under paragraph 4(a) and (b), that Member State may allow that catches of species that are subject to the landing obligation and that are caught in excess of the quota available to that Member State are permitted during a transitional period of [3] years from the date of application of the relevant landing obligation provided that such catches are used exclusively in accordance with paragraph 6 ~~unwanted catches subject to an obligation to land in excess of quotas for the stocks in question may, during a transitional period of 3 years from the date of the obligation to land, be used according to paragraph 6. This provision shall only apply to vessels targeting demersal species and shall not exceed an amount equivalent to [5%] of the catch of the main targeted stock for any fishing trip. Catches under this provision shall not be counted against the relevant quotas but all such catches must be fully recorded.~~

~~Member States may before the end of the transitional period agree on permanent exchanges of quota shares with other Member States to adapt fishing opportunities to actual fishing patterns. A balance in exchanges of quota shares shall be calculated in cod equivalents. The Commission shall facilitate the exchanges of quota shares.~~

~~for alternatively:]~~

~~[Unwanted catches subject to an obligation to land in excess of quotas for the stocks in question may be deducted from a specific by-catch quota within a maximum to be fixed by the Council, on a stock-by-stock basis, based on information provided by the relevant Member States, including information on all initiatives to reduce unwanted catches in excess of the relevant quotas.]~~

~~[other solutions to be examined.]~~

5. *With the aim to ensure the protection of juveniles of marine organisms, minimum conservation reference sizes may be established.*

6. *For the species subject to an obligation to land as specified in paragraph 1, the use of catches of species below the minimum conservation reference size ~~for of catches in excess of catch limits quotas~~ in the transitional period in accordance with paragraph 4(c)] shall be restricted to purposes other than direct human consumption, including fish meal, fish oil, pet food, food additives, pharmaceuticals and cosmetics.*
7. *For the species not subject to an obligation to land as mentioned in paragraph 1, the catches of species below the minimum conservation reference size shall not be retained on board, but shall be returned immediately to the sea.*
8. Member States shall ensure *adequate capacity and means for the purpose of monitoring compliance with the obligation to land all catches, inter alia such means as observers, CCTV and other.*
9. The Commission shall be empowered to adopt delegated acts in accordance with Article 55 to specify the measures set out in paragraph 1 for the purpose of complying with the Union's international obligations.[†]

Article 16

Fishing opportunities

1. Fishing opportunities allocated to Member States *in accordance with Art. 43(3) of the Treaty* shall ensure each Member State relative stability of fishing activities for each fish stock or fishery. The interests of each Member State shall be taken into account when new fishing opportunities are allocated.

Ibis When a landing obligation for a fish stock is being introduced, fishing opportunities shall be set taking account of the change from setting fishing opportunities to reflect landings to setting fishing opportunities to reflect catches on the basis that for the first and subsequent years, discarding of that stock will no longer be allowed.

[†] *[The need for delegated acts will be discussed at a later stage]*

2. ~~/By catch fishing opportunities may be reserved under the total fishing opportunities./~~ To support compliance with the landing obligation set out in Article 15, where fishing opportunities are set in accordance with paragraph 1bis above, fishing opportunities of no more than 5% may be reserved to Member States on the basis of relative stability and will only be available to be exchanged for other stocks with other Member States. Member States may use a year-to-year flexibility in respect of these fishing opportunities.
3. Fishing opportunities shall comply with quantifiable targets, time frames and margins established in accordance with Article 9(2) and *points (b) and (c) of Article 11(1)*.
4. *Measures on the fixing and allocation of fishing opportunities available to third countries in EU waters shall be established and allocated in accordance with Art. 43(3) of the Treaty.*
5. Member States may, after notifying the Commission, exchange all or part of the fishing opportunities allocated to them.

Article 59

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 2014 ~~2013~~.~~

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

Done at Brussels,

For the European Parliament

For the Council

The President

The President