

Official Journal

of the European Union

L 83



English edition

Legislation

Volume 62

25 March 2019

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I

(Legislative acts)

REGULATIONS

**REGULATION (EU) 2019/472 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 19 March 2019**

establishing a multiannual plan for stocks fished in the Western Waters and adjacent waters, and for fisheries exploiting those stocks, amending Regulations (EU) 2016/1139 and (EU) 2018/973, and repealing Council Regulations (EC) No 811/2004, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007 and (EC) No 1300/2008

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 ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) The United Nations Convention of 10 December 1982 on the Law of the Sea, to which the Union is a contracting party, provides for conservation obligations, including the maintaining or restoring of populations of harvested species at levels which can produce the maximum sustainable yield (MSY).
- (2) At the United Nations Summit on Sustainable Development held in New York in 2015, the Union and its Member States committed themselves, by 2020, to effectively regulate harvesting, to end overfishing, illegal, unreported and unregulated fishing and destructive fishing practices, and to implement science-based management plans, in order to restore fish stocks, in the shortest time feasible, at least to levels that can produce MSY as determined by their biological characteristics.
- (3) Regulation (EU) No 1380/2013 of the European Parliament and of the Council ⁽³⁾ establishes the rules of the Common Fisheries Policy (CFP) in line with the international obligations of the Union. The CFP is to contribute to the protection of the marine environment, to the sustainable management of all commercially exploited species, and in particular to the achievement of good environmental status by 2020, as set out in Article 1(1) of Directive 2008/56/EC of the European Parliament and of the Council ⁽⁴⁾.
- (4) The objectives of the CFP are, inter alia, to ensure that fishing and aquaculture are environmentally sustainable in the long term, to apply the precautionary approach to fisheries management and to implement the ecosystem-based approach to fisheries management.

⁽¹⁾ OJ C 440, 6.12.2018, p. 171.

⁽²⁾ Position of the European Parliament of 12 February 2019 (not yet published in the Official Journal) and decision of the Council of 5 March 2019.

⁽³⁾ Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

⁽⁴⁾ 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) (OJ L 164, 25.6.2008, p. 19).

- (5) To achieve the objectives of the CFP, a number of conservation measures are to be adopted, as appropriate, in any combination thereof, such as multiannual plans, technical measures, and the fixing and allocation of fishing opportunities.
- (6) Pursuant to Articles 9 and 10 of Regulation (EU) No 1380/2013, multiannual plans are to be based on scientific, technical and economic advice. In accordance with those provisions, the multiannual plan established by this Regulation ('the plan') should contain objectives, quantifiable targets with clear timeframes, conservation reference points, safeguards and technical measures designed to avoid and reduce unwanted catches and to minimise the impact on the marine environment, in particular on vulnerable habitats and protected species.
- (7) This Regulation should take into account the constraints related to the size of artisanal and coastal fishing vessels used in the outermost regions.
- (8) 'Best available scientific advice' should be understood to refer to publicly available scientific advice that is supported by the most up-to-date scientific data and methods and that has either been issued or reviewed by an independent scientific body that is recognised at Union or international level.
- (9) The Commission should obtain the best available scientific advice for the stocks within the scope of the plan. In order to do so, it concludes Memoranda of Understanding with the International Council for the Exploration of the Sea (ICES). The scientific advice issued in particular by ICES or a similar independent scientific body recognised at Union or international level should be based on the plan and should indicate, in particular, ranges of F_{MSY} and biomass reference points, i.e. $MSY B_{trigger}$ and B_{lim} . Those values should be indicated in the relevant stock advice and, where appropriate, in any other publicly-available scientific advice, including, for example, in mixed fisheries advice issued in particular by ICES or a similar independent scientific body recognised at Union or international level.
- (10) Council Regulations (EC) No 811/2004 ⁽⁵⁾, (EC) No 2166/2005 ⁽⁶⁾, (EC) No 388/2006 ⁽⁷⁾, (EC) No 509/2007 ⁽⁸⁾ and (EC) No 1300/2008 ⁽⁹⁾ set out the rules for the exploitation of the northern stock of hake, hake and Norway lobster stocks in the Cantabrian Sea and by the Western Iberian Peninsula, sole in the Bay of Biscay, sole in the Western Channel, herring in the West of Scotland and cod in the Kattegat, the North Sea, the West of Scotland and the Irish Sea. Those and other demersal stocks are taken in mixed fisheries. Therefore, it is appropriate to establish a single multiannual plan taking into account such technical interactions.
- (11) In addition, such a multiannual plan should apply to demersal stocks and their fisheries in the Western Waters, comprising the North Western Waters and the South Western Waters. Those are roundfish, flatfish, cartilaginous fish species and Norway lobster (*Nephrops norvegicus*) that live at or near the bottom of the water column.
- (12) Some demersal stocks are exploited both in the Western Waters and in their adjacent waters. Therefore the scope of the provisions of the plan relating to targets and safeguards for stocks that are mainly exploited in the Western Waters should be extended for those areas outside the Western Waters. In addition, for stocks also present in the Western Waters that are mainly exploited outside the Western Waters, it is necessary to establish the targets and safeguards in multiannual plans for areas outside the Western Waters where those stocks are mainly exploited, extending the scope of those multiannual plans so that they also cover the Western Waters.
- (13) The geographical scope of the plan should be based on the geographical distribution of stocks indicated in the latest scientific stock advice provided in particular by ICES or a similar independent scientific body recognised at Union or international level. Future changes to the geographical distribution of stocks as set out in the plan may be needed either due to improved scientific information or to migration of stocks. Therefore, the Commission

⁽⁵⁾ Council Regulation (EC) No 811/2004 of 21 April 2004 establishing measures for the recovery of the Northern hake stock (OJ L 150, 30.4.2004, p. 1).

⁽⁶⁾ Council Regulation (EC) No 2166/2005 of 20 December 2005 establishing measures for the recovery of the Southern hake and Norway lobster stocks in the Cantabrian Sea and Western Iberian peninsula and amending Regulation (EC) No 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (OJ L 345, 28.12.2005, p. 5).

⁽⁷⁾ Council Regulation (EC) No 388/2006 of 23 February 2006 establishing a multiannual plan for the sustainable exploitation of the stock of sole in the Bay of Biscay (OJ L 65, 7.3.2006, p. 1).

⁽⁸⁾ Council Regulation (EC) No 509/2007 of 7 May 2007 establishing a multi-annual plan for the sustainable exploitation of the stock of sole in the Western Channel (OJ L 122, 11.5.2007, p. 7).

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

should be empowered to adopt delegated acts adjusting the geographical distribution of stocks set out in the plan if the scientific advice provided in particular by ICES or a similar independent scientific body recognised at Union or international level indicates a change in the geographical distribution of the relevant stocks.

- (14) Where stocks of common interest are also exploited by third countries, the Union should engage with those third countries with a view to ensuring that those stocks are managed in a sustainable manner that is consistent with the objectives of Regulation (EU) No 1380/2013, in particular Article 2(2) thereof, and of this Regulation. Where no formal agreement is reached, the Union should make every effort to reach common arrangements for fishing of such stocks with a view to making the sustainable management possible thereby promoting the level-playing field for Union operators.
- (15) The objective of the plan should be to contribute to the achievement of the objectives of the CFP and, in particular, to reaching and maintaining MSY for the target stocks, to implementing the landing obligation for demersal stocks subject to catch limits, and to promoting a fair standard of living for those who depend on fishing activities, bearing in mind coastal fisheries and socioeconomic aspects. It should also implement the ecosystem-based approach to fisheries management in order to minimise negative impacts of fishing activities on the marine ecosystem. It should be coherent with the Union's environmental legislation, in particular the objective of achieving good environmental status by 2020 (in accordance with Directive 2008/56/EC) and the objectives of Directive 2009/147/EC of the European Parliament and of the Council⁽¹⁰⁾ and Council Directive 92/43/EEC⁽¹¹⁾. The plan should also specify details for the implementation of the landing obligation in Union waters of the Western Waters for all stocks of species to which the landing obligation applies under Article 15 of Regulation (EU) No 1380/2013.
- (16) Article 16(4) of Regulation (EU) No 1380/2013 requires that fishing opportunities be fixed in accordance with the objectives set out in Article 2(2) thereof and comply with the targets, time frames and margins established in the multiannual plans.
- (17) It is appropriate to establish the target fishing mortality (F) that corresponds to the objective of reaching and maintaining MSY as ranges of values which are consistent with achieving $MSY(F_{MSY})$. Those ranges, based on best available scientific advice, are necessary in order to provide flexibility to take account of developments in the scientific advice, to contribute to the implementation of the landing obligation and to take into account the characteristics of mixed fisheries. The F_{MSY} ranges should be calculated, in particular by ICES, especially in its periodic catch advice, or by a similar independent scientific body recognised at Union or international level. Based on the plan they should be derived to deliver no more than a 5 % reduction in long-term yield compared to MSY. The upper limit of the range should be capped, so that the probability of the stock falling below B_{lim} is no more than 5 %. That upper limit should also conform to the ICES 'advice rule', which indicates that when the spawning biomass or abundance is in a poor state, F is to be reduced to a value that does not exceed an upper limit equal to the F_{MSY} point value multiplied by the spawning biomass or abundance in the total allowable catch (TAC) year divided by $MSY B_{trigger}$. ICES uses these considerations and the advice rule in its provision of scientific advice on fishing mortality and catch options.
- (18) For the purposes of fixing fishing opportunities, there should be an upper threshold for F_{MSY} ranges in normal use and, provided that the stock concerned is considered to be in a good state, an upper limit for certain cases. It should be possible to fix fishing opportunities at the upper limit only if, on the basis of scientific advice or evidence, it is necessary for the achievement of the objectives laid down in this Regulation in mixed fisheries or necessary to avoid harm to a stock caused by intra- or inter-species stock dynamics, or in order to limit the year-to-year variations in fishing opportunities.
- (19) It should be possible for a relevant Advisory Council to recommend to the Commission a management approach that seeks to limit year-to-year variations in the fishing opportunities for a particular stock listed in this Regulation. It should be possible for the Council to take any such recommendations into account when fixing fishing opportunities provided that these fishing opportunities comply with the targets and safeguards under the plan.
- (20) For stocks for which targets relating to MSY are available, and for the purpose of the application of safeguard measures, it is necessary to establish conservation reference points expressed as trigger spawning biomass levels for fish stocks, and trigger abundance levels for Norway lobster.

⁽¹⁰⁾ Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7).

⁽¹¹⁾ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7).

- (21) Appropriate safeguard measures should be provided for in case the stock size falls below these levels. Safeguard measures should include the reduction of fishing opportunities and specific conservation measures when scientific advice states that remedial measures are needed. Those measures should be supplemented by all other appropriate measures such as Commission measures in accordance with Article 12 of Regulation (EU) No 1380/2013 or Member State measures in accordance with Article 13 of that Regulation.
- (22) It should be possible to set the TAC for Norway lobster in four specific management areas as the sum of the catch limits established for each functional unit and of the statistical rectangles outside the functional units within each management area. However, this should not preclude the adoption of measures to protect specific functional units.
- (23) In order to apply a regional approach to conservation and sustainable exploitation of marine biological resources, it is appropriate to provide for a possibility to take technical measures in the Western Waters regarding all stocks.
- (24) The effort limitation regime for sole in the Western Channel has proven to be an efficient management tool complementary to the fixing of fishing possibilities. Such effort limitation should therefore be maintained within the framework of the plan.
- (25) When mortality caused by recreational fishing has a significant impact on a stock managed on the basis of MSY, the Council should be able to set non-discriminatory limits for recreational fishermen. The Council should refer to transparent and objective criteria when setting such limits. Where appropriate, Member States should take the necessary and proportionate measures for the monitoring and collection of data for a reliable estimation of actual recreational catch levels.
- (26) In order to comply with the landing obligation provided for in Article 15(1) of Regulation (EU) No 1380/2013, the plan should provide for additional management measures to be further specified in accordance with Article 18 of that Regulation.
- (27) The deadline for submitting joint recommendations from Member States having direct management interest should be established, as required by Regulation (EU) No 1380/2013.
- (28) In accordance with Article 10(3) of Regulation (EU) No 1380/2013, provisions should be established for the periodical assessment by the Commission of the adequacy and effectiveness of the application of this Regulation based on scientific advice. The plan should be evaluated by 27 March 2024, and every five years thereafter. That period allows for the full implementation of the landing obligation, and for regionalised measures to be adopted, implemented and to show effects on the stocks and fishery. It is also the minimum period required by scientific bodies.
- (29) In order to adapt to the technical and scientific progress in a timely and proportionate fashion and to ensure flexibility and allow evolution of certain measures, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending or supplementing this Regulation as regards adjustments concerning the stocks covered by this Regulation following changes in the geographical distribution of the stocks, remedial measures, implementation of the landing obligation and limits regarding the total capacity of the fleets of Member States concerned. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making ⁽¹²⁾. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (30) In order to provide legal certainty, it is appropriate to clarify that temporary cessation measures that have been adopted in order to attain the objectives of the plan can be deemed eligible for support under Regulation (EU) No 508/2014 of the European Parliament and of the Council ⁽¹³⁾.

⁽¹²⁾ OJL 123, 12.5.2016, p. 1.

⁽¹³⁾ Regulation (EU) No 508/2014 of the European Parliament and of the Council of 15 May 2014 on the European Maritime and Fisheries Fund and repealing Council Regulations (EC) No 2328/2003, (EC) No 861/2006, (EC) No 1198/2006 and (EC) No 791/2007 and Regulation (EU) No 1255/2011 of the European Parliament and of the Council (OJL 149, 20.5.2014, p. 1).

- (31) Applying dynamic references to ranges of F_{MSY} and to conservation reference points ensures that those parameters, which are essential for setting fishing opportunities, do not become outdated and that the Council is always able to use the best available scientific advice. Moreover, the approach consisting of providing dynamic references to the best available scientific advice should be followed for managing stocks in the Baltic Sea. It should also be specified that the landing obligation does not apply to recreational fishing in the areas covered by the multiannual plan for Baltic Sea fisheries. Regulation (EU) 2016/1139 of the European Parliament and of the Council ⁽¹⁴⁾ should therefore be amended.
- (32) The minimum conservation reference size for Norway lobster in the Skagerrak and Kattegat should be reviewed. It should also be specified that the landing obligation does not apply to recreational fishing in the areas covered by the multiannual plan for North Sea fisheries. Regulation (EU) 2018/973 of the European Parliament and of the Council ⁽¹⁵⁾ should therefore be amended.
- (33) Council Regulations (EC) No 811/2004, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007 and (EC) No 1300/2008 should be repealed.
- (34) The likely economic and social impact of the plan was duly assessed before its finalisation in accordance with Article 9(4) of Regulation (EU) No 1380/2013,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

Subject-matter and scope

1. This Regulation establishes a multiannual plan ('the plan') for the demersal stocks listed below, including deep-sea stocks, in the Western Waters, and, where those stocks extend beyond the Western Waters, in their adjacent waters, and for the fisheries exploiting those stocks:

- (1) black scabbardfish (*Aphanopus carbo*) in ICES subareas 1, 2, 4, 6–8, 10 and 14 and divisions 3a, 5a, 5b, 9a and 12b;
- (2) roundnose grenadier (*Coryphaenoides rupestris*) in ICES subareas 6 and 7 and division 5b;
- (3) seabass (*Dicentrarchus labrax*) in ICES divisions 4b, 4c, 7a, 7d–h, 8a and 8b;
- (4) seabass (*Dicentrarchus labrax*) in ICES divisions 6a, 7b and 7j;
- (5) seabass (*Dicentrarchus labrax*) in ICES divisions 8c and 9a;
- (6) cod (*Gadus morhua*) in ICES division 7a;
- (7) cod (*Gadus morhua*) in ICES divisions 7e–k;
- (8) megrims (*Lepidorhombus* spp.) in ICES divisions 4a and 6a;
- (9) megrims (*Lepidorhombus* spp.) in ICES division 6b;
- (10) megrims (*Lepidorhombus* spp.) in ICES divisions 7b–k, 8a, 8b and 8d;
- (11) megrims (*Lepidorhombus* spp.) in ICES divisions 8c and 9a;
- (12) anglerfish (*Lophiidae*) in ICES divisions 7b–k, 8a, 8b and 8d;
- (13) anglerfish (*Lophiidae*) in ICES divisions 8c and 9a;
- (14) haddock (*Melanogrammus aeglefinus*) in ICES division 6b;
- (15) haddock (*Melanogrammus aeglefinus*) in ICES division 7a;
- (16) haddock (*Melanogrammus aeglefinus*) in ICES divisions 7b–k;
- (17) whiting (*Merlangius merlangus*) in ICES divisions 7b, 7c and 7e–k;

⁽¹⁴⁾ Regulation (EU) 2016/1139 of the European Parliament and of the Council of 6 July 2016 establishing a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea and the fisheries exploiting those stocks, amending Council Regulation (EC) No 2187/2005 and repealing Council Regulation (EC) No 1098/2007 (OJ L 191, 15.7.2016, p. 1).

⁽¹⁵⁾ Regulation (EU) 2018/973 of the European Parliament and of the Council of 4 July 2018 establishing a multiannual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks, specifying details of the implementation of the landing obligation in the North Sea and repealing Council Regulations (EC) No 676/2007 and (EC) No 1342/2008 (OJ L 179, 16.7.2018, p. 1).

- (18) whiting (*Merlangius merlangus*) in ICES subarea 8 and division 9a;
- (19) hake (*Merluccius merluccius*) in ICES subareas 4, 6 and 7 and divisions 3a, 8a, 8b and 8d;
- (20) hake (*Merluccius merluccius*) in ICES divisions 8c and 9a;
- (21) blue ling (*Molva dypterygia*) in ICES subareas 6 and 7 and division 5b;
- (22) Norway lobster (*Nephrops norvegicus*) by functional unit in ICES subarea 6 and division 5b:
- in North Minch (FU 11);
 - in South Minch (FU 12);
 - in Firth of Clyde (FU 13);
 - in division 6a, outside the functional units (West of Scotland);
- (23) Norway lobster (*Nephrops norvegicus*) by functional unit in ICES subarea 7:
- in Irish Sea East (FU 14);
 - in Irish Sea West (FU 15);
 - in Porcupine Banks (FU 16);
 - in Aran grounds (FU 17);
 - in the Irish Sea (FU 19);
 - in the Celtic Sea (FU 20-21);
 - in the Bristol Channel (FU 22);
 - outside the functional units (Southern Celtic Sea, Southwest of Ireland);
- (24) Norway lobster (*Nephrops norvegicus*) by functional unit in ICES divisions 8a, 8b, 8d and 8e:
- in Northern and Central Bay of Biscay (FU 23-24);
- (25) Norway lobster (*Nephrops norvegicus*) by functional unit in ICES subareas 9 and 10, and CECAF zone 34.1.1:
- in Atlantic Iberian waters East, Western Galicia and Northern Portugal (FU 26-27);
 - in Atlantic Iberian waters East and Southwestern and Southern Portugal (FU 28-29);
 - in Atlantic Iberian waters East and the Gulf of Cádiz (FU 30);
- (26) red seabream (*Pagellus bogaraveo*) in ICES subarea 9;
- (27) plaice (*Pleuronectes platessa*) in ICES division 7d;
- (28) plaice (*Pleuronectes platessa*) in ICES division 7e;
- (29) pollack (*Pollachius pollachius*) in ICES subareas 6 and 7;
- (30) common sole (*Solea solea*) in ICES subareas 5, 12 and 14 and division 6b;
- (31) common sole (*Solea solea*) in ICES division 7d;
- (32) common sole (*Solea solea*) in ICES division 7e;
- (33) common sole (*Solea solea*) in ICES divisions 7f and 7g;
- (34) common sole (*Solea solea*) in ICES divisions 7h, 7j and 7k;
- (35) common sole (*Solea solea*) in ICES divisions 8a and 8b;
- (36) common sole (*Solea solea*) in ICES divisions 8c and 9a.

Where scientific advice, in particular that of ICES or a similar independent scientific body recognised at Union or international level, indicates a change in the geographical distribution of the stocks listed in the first subparagraph of this paragraph, the Commission may adopt delegated acts in accordance with Article 18 amending this Regulation by adjusting the areas specified in the first subparagraph of this paragraph in order to reflect that change. Such adjustments shall not extend the stock areas beyond Union waters of ICES subareas 4 to 10, and the CECAF zones 34.1.1, 34.1.2 and 34.2.0.

2. Where, on the basis of scientific advice, the Commission considers that the list of stocks set out in the first subparagraph of paragraph 1 needs to be amended, the Commission may submit a proposal for the amendment of that list.
3. With respect to adjacent waters covered in paragraph 1 of this Article, only Articles 4 and 7 and the measures related to fishing opportunities under Article 8 of this Regulation shall apply.
4. This Regulation also applies to by-catches caught in the Western Waters when fishing for the stocks listed in paragraph 1. However, where ranges of F_{MSY} and safeguards linked to biomass for those stocks are established under other Union legal acts establishing multiannual plans, those ranges and safeguards shall apply.
5. This Regulation also specifies details for the implementation of the landing obligation in Union waters of the Western Waters for all stocks of species to which the landing obligation applies under Article 15 of Regulation (EU) No 1380/2013.
6. This Regulation provides for technical measures, as set out in Article 9, applicable in the Western Waters in respect of any stock.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply in addition to those laid down in Article 4 of Regulation (EU) No 1380/2013, Article 4 of Council Regulation (EC) No 1224/2009 ⁽¹⁶⁾ and Article 3 of Council Regulation (EC) No 850/98 ⁽¹⁷⁾:

- (1) 'Western Waters' means the North Western Waters (ICES subareas 5 (excluding division 5a and only Union waters of division 5b), 6 and 7) and the South Western Waters (ICES subareas 8, 9 and 10 (waters around Azores), and CECAF zones 34.1.1, 34.1.2 and 34.2.0 (waters around Madeira and the Canary Islands));
- (2) 'range of F_{MSY} ' means a range of values provided in the best available scientific advice, in particular from ICES or a similar independent scientific body recognised at Union or international level, where all levels of fishing mortality within that range result in maximum sustainable yield (MSY) in the long term with a given fishing pattern and under current average environmental conditions without significantly affecting the reproduction process for the stock in question. It is derived to deliver no more than a 5 % reduction in long-term yield compared to the MSY. It is capped so that the probability of the stock falling below the limit spawning stock biomass reference point (B_{lim}) is no more than 5 %;
- (3) 'MSY F_{lower} ' mean the lowest value within the range of F_{MSY} ;
- (4) 'MSY F_{upper} ' mean the highest value within the range of F_{MSY} ;
- (5) ' F_{MSY} point value' is the value of the estimated fishing mortality that with a given fishing pattern and under current average environmental conditions gives the long-term maximum yield;
- (6) 'lower range of F_{MSY} ' means a range that contains values from MSY F_{lower} to F_{MSY} point value;
- (7) 'upper range of F_{MSY} ' means a range that contains values from F_{MSY} point value up to MSY F_{upper} ;
- (8) ' B_{lim} ' means the spawning stock biomass reference point provided for in the best available scientific advice, in particular by ICES or a similar independent scientific body recognised at Union or international level, below which there may be reduced reproductive capacity;
- (9) 'MSY $B_{trigger}$ ' means the spawning stock biomass reference point, or, in the case of Norway lobster, abundance reference point provided for in the best available scientific advice, in particular from ICES or a similar independent scientific body recognised at Union or international level, below which specific and appropriate management action is to be taken to ensure that exploitation rates in combination with natural variations rebuild stocks above levels capable of producing MSY in the long term.

⁽¹⁶⁾ Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).

⁽¹⁷⁾ Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (OJ L 125, 27.4.1998, p. 1).

CHAPTER II

OBJECTIVES*Article 3***Objectives**

1. The plan shall contribute to the achievement of the objectives of the common fisheries policy listed in Article 2 of Regulation (EU) No 1380/2013, in particular by applying the precautionary approach to fisheries management, and shall aim to ensure that exploitation of living marine biological resources restores and maintains populations of harvested species above levels which can produce MSY.
2. The plan shall contribute to the elimination of discards, by avoiding and reducing, as far as possible, unwanted catches, and to the implementation of the landing obligation established in Article 15 of Regulation (EU) No 1380/2013 for the species which are subject to catch limits and to which this Regulation applies.
3. The plan shall implement the ecosystem-based approach to fisheries management in order to ensure that negative impacts of fishing activities on the marine ecosystem are minimised. It shall be coherent with Union environmental legislation, in particular with the objective of achieving good environmental status by 2020 as set out in Article 1(1) of Directive 2008/56/EC.
4. In particular, the plan shall aim to:
 - (a) ensure that the conditions described in descriptor 3 contained in Annex I to Directive 2008/56/EC are fulfilled;
 - (b) contribute to the fulfilment of other relevant descriptors contained in Annex I to Directive 2008/56/EC in proportion to the role played by fisheries in their fulfilment; and
 - (c) contribute to the achievement of the objectives set out in Articles 4 and 5 of Directive 2009/147/EC and Articles 6 and 12 of Directive 92/43/EEC, in particular to minimise the negative impact of fishing activities on vulnerable habitats and protected species.
5. Measures under the plan shall be taken in accordance with the best available scientific advice. Where there is insufficient data, a comparable degree of conservation of the relevant stocks shall be pursued.

CHAPTER III

TARGETS*Article 4***Targets**

1. The target fishing mortality, in line with the ranges of F_{MSY} defined in Article 2, shall be achieved as soon as possible, and on a progressive, incremental basis by 2020 for the stocks listed in Article 1(1), and shall be maintained thereafter within the ranges of F_{MSY} in accordance with this Article.
2. The ranges of F_{MSY} based on the plan shall be requested in particular from ICES or a similar independent scientific body recognised at Union or international level.
3. In accordance with Article 16(4) of Regulation (EU) No 1380/2013, when the Council fixes fishing opportunities for a stock, it shall establish those opportunities within the lower range of F_{MSY} available at that time for that stock.
4. Notwithstanding paragraphs 1 and 3, fishing opportunities for a stock may be fixed at levels that are lower than the ranges of F_{MSY} .
5. Notwithstanding paragraphs 3 and 4, fishing opportunities for a stock may be fixed in accordance with the upper range of F_{MSY} available at that time for that stock, provided that the stock referred to in Article 1(1) is above MSY $B_{trigger}$:
 - (a) if, on the basis of scientific advice or evidence, it is necessary for the achievement of the objectives laid down in Article 3 in the case of mixed fisheries;
 - (b) if, on the basis of scientific advice or evidence, it is necessary to avoid serious harm to a stock caused by intra- or inter-species stock dynamics; or
 - (c) in order to limit variations in fishing opportunities between consecutive years to not more than 20 %.

6. Where ranges of F_{MSY} cannot be determined for a stock listed in Article 1(1) because of a lack of adequate scientific information, that stock shall be managed in accordance with Article 5 until ranges of F_{MSY} are available pursuant to paragraph 2 of this Article.

7. Fishing opportunities shall in any event be fixed in such a way as to ensure that there is less than a 5 % probability of the spawning stock biomass falling below B_{lim} .

Article 5

Management of by-catch stocks

1. Management measures for the stocks referred to in Article 1(4) including, where appropriate, fishing opportunities shall be set taking into account the best available scientific advice and shall be consistent with the objectives laid down in Article 3.

2. The stocks referred to in Article 1(4) shall be managed under the precautionary approach to fisheries management as defined in point 8 of Article 4(1) of Regulation (EU) No 1380/2013 when no adequate scientific information is available, and in accordance with Article 3(5) of this Regulation.

3. In accordance with Article 9(5) of Regulation (EU) No 1380/2013, the management of mixed fisheries with regard to stocks referred to in Article 1(4) of this Regulation shall take into account the difficulty of fishing all stocks at MSY at the same time, especially in situations where that leads to a premature closure of the fishery.

Article 6

Limitation of variations in fishing opportunities for a stock

A relevant Advisory Council may recommend to the Commission a management approach that seeks to limit year-to-year variations in the fishing opportunities for a particular stock listed in Article 1(1).

The Council may take any such recommendations into account when fixing fishing opportunities provided that these fishing opportunities comply with Articles 4 and 8.

CHAPTER IV

SAFEGUARDS

Article 7

Conservation reference points

The following conservation reference points to safeguard the full reproductive capacity of the stocks referred to in Article 1(1) shall, based on the plan, be requested in particular from ICES or a similar independent scientific body recognised at Union or international level:

- (a) $MSY B_{trigger}$ for stocks referred to in Article 1(1);
- (b) B_{lim} for stocks referred to in Article 1(1).

Article 8

Safeguards

1. When scientific advice indicates that for a given year the spawning stock biomass and, in the case of Norway lobster stocks, abundance of any of the stocks referred to in Article 1(1) is below the $MSY B_{trigger}$, all appropriate remedial measures shall be adopted to ensure rapid return of the stock or functional unit concerned to levels above those capable of producing MSY. In particular, notwithstanding Article 4(3), fishing opportunities shall be set at levels consistent with a fishing mortality that is reduced below the upper range of F_{MSY} , taking into account the decrease in biomass.

2. When scientific advice indicates that the spawning stock biomass and, in the case of Norway lobster stocks, abundance of any of the stocks referred to in Article 1(1) is below the B_{lim} , further remedial measures shall be taken to ensure rapid return of the stock or functional unit concerned to levels above the level capable of producing MSY. In particular, those remedial measures may include, notwithstanding Article 4(3), suspending the targeted fishery for the stock or functional unit concerned and the adequate reduction of fishing opportunities.

3. Remedial measures referred to in this Article may include:
 - (a) emergency measures in accordance with Articles 12 and 13 of Regulation (EU) No 1380/2013;
 - (b) measures pursuant to Article 9 of this Regulation.

4. The choice of measures referred to in this Article shall be made in accordance with the nature, seriousness, duration and repetition of the situation where the spawning stock biomass and, in the case of Norway lobster stocks, abundance is below the levels referred to in Article 7.

CHAPTER V

TECHNICAL MEASURES

Article 9

Technical measures

1. The Commission is empowered to adopt delegated acts in accordance with Article 18 of this Regulation and Article 18 of Regulation (EU) No 1380/2013 in order to supplement this Regulation regarding the following technical measures:
 - (a) specifications of characteristics of fishing gears and rules governing their use, to ensure or improve selectivity, to reduce unwanted catches or to minimise the negative impact on the ecosystem;
 - (b) specifications of modifications or additional devices to the fishing gears, to ensure or improve selectivity, to reduce unwanted catches or to minimise the negative impact on the ecosystem;
 - (c) limitations or prohibitions on the use of certain fishing gears and on fishing activities in certain areas or periods to protect spawning fish, fish below the minimum conservation reference size or non-target fish species, or to minimise the negative impact on the ecosystem; and
 - (d) the fixing of minimum conservation reference sizes for any of the stocks to which this Regulation applies, to ensure the protection of juveniles of marine organisms.
2. The measures referred to in paragraph 1 of this Article shall contribute to the achievement of the objectives set out in Article 3.

CHAPTER VI

FISHING OPPORTUNITIES

Article 10

Fishing opportunities

1. When allocating fishing opportunities available to them in accordance with Article 17 of Regulation (EU) No 1380/2013, Member States shall take account of the likely catch composition of vessels participating in mixed fisheries.
2. Member States may, after notifying the Commission, exchange all or part of the fishing opportunities allocated to them pursuant to Article 16(8) of Regulation (EU) No 1380/2013.
3. Without prejudice to Article 8, the TAC for the stocks of Norway lobster in the Western Waters may be established for management areas corresponding to each of the areas defined under points 22 to 25 of the first subparagraph of Article 1(1). In such cases, the TAC for a management area may be the sum of the catch limits of those functional units and of the statistical rectangles outside the functional units.

Article 11

Recreational fisheries

1. When scientific advice indicates that recreational fishing is having a significant impact on the fishing mortality of a stock referred to in Article 1(1), the Council may set non-discriminatory limits for recreational fishermen.
2. When setting the limits referred to in paragraph 1, the Council shall refer to transparent and objective criteria, including those of environmental, social and economic nature. The criteria used may include, in particular, the impact of recreational fishing on the environment, the societal importance of that activity and its contribution to the economy in coastal areas.
3. Where appropriate, Member States shall take the necessary and proportionate measures for the monitoring and collection of data for a reliable estimation of the actual recreational catch levels.

*Article 12***Effort limitation for sole in the Western Channel**

1. The TACs for sole in the Western Channel (ICES division 7e) under the plan shall be complemented by fishing effort limitations.
2. When fixing the fishing opportunities, the Council shall decide annually on the maximum number of days at sea for vessels present in the Western Channel and deploying beam trawls of mesh size equal to or greater than 80 mm and for vessels in the Western Channel deploying static nets with mesh size equal to or less than 220 mm.
3. The maximum number of days at sea referred to in paragraph 2 shall be adjusted in the same proportion as the adjustment in fishing mortality corresponding to the variation in the TACs.

CHAPTER VII

PROVISIONS LINKED TO THE LANDING OBLIGATION*Article 13***Provisions linked to the landing obligation in Union waters of the Western Waters**

1. For all stocks of species in the Western Waters to which the landing obligation applies under Article 15(1) of Regulation (EU) No 1380/2013, the Commission is empowered to adopt delegated acts in accordance with Article 18 of this Regulation and Article 18 of Regulation (EU) No 1380/2013 in order to supplement this Regulation by specifying details of that obligation as provided for in points (a) to (e) of Article 15(5) of Regulation (EU) No 1380/2013.
2. The landing obligation provided for in Article 15(1) of Regulation (EU) No 1380/2013 shall not apply to recreational fishing, including in cases where the Council sets limits in accordance with Article 11 of this Regulation.

CHAPTER VIII

ACCESS TO WATERS AND RESOURCES*Article 14***Fishing authorisations and capacity ceilings**

1. For each of the ICES zones referred to in Article 1(1) of this Regulation, each Member State shall issue fishing authorisations in accordance with Article 7 of Regulation (EC) No 1224/2009 for vessels flying its flag and which engage in fishing activities in that area. In such fishing authorisations, Member States may also limit the total capacity of such vessels using a specific gear.
2. The Commission shall be empowered to adopt delegated acts in accordance with Article 18 of this Regulation and Article 18 of Regulation (EU) No 1380/2013 supplementing this Regulation by setting limits regarding the total capacity of the fleets of the Member States concerned so as to facilitate achievement of the objectives set out in Article 3 of this Regulation.
3. Each Member State shall establish and maintain a list of vessels holding the fishing authorisation referred to in paragraph 1 and make it available on its official website to the Commission and the other Member States.

CHAPTER IX

MANAGEMENT OF STOCKS OF COMMON INTEREST*Article 15***Principles and objectives of management of stocks of common interest to the Union and third countries**

1. Where stocks of common interest are also exploited by third countries, the Union shall engage with those third countries with a view to ensuring that those stocks are managed in a sustainable manner that is consistent with the objectives of Regulation (EU) No 1380/2013, in particular Article 2(2) thereof, and of this Regulation. Where no formal agreement is reached, the Union shall make every effort to reach common arrangements for fishing of such stocks with a view to making the sustainable management possible thereby promoting a level-playing field for Union operators.
2. In the context of the joint management of stocks with third countries, the Union may exchange fishing opportunities with third countries pursuant to Article 33(2) of Regulation (EU) No 1380/2013.

CHAPTER X

REGIONALISATION*Article 16***Regional cooperation**

1. Article 18(1) to (6) of Regulation (EU) No 1380/2013 shall apply to measures referred to in Articles 9 and 13 and Article 14(2) of this Regulation.
2. For the purpose of paragraph 1 of this Article, Member States having a direct management interest in the North Western waters may submit joint recommendations for the North Western Waters and Member States having direct management interest in the South Western Waters may submit joint recommendations for the South Western Waters. Those Member States may also together submit joint recommendations for the whole of those waters. Those recommendations shall be submitted in accordance with Article 18(1) of Regulation (EU) No 1380/2013 for the first time not later than 27 March 2020 and thereafter 12 months after each submission of the evaluation of the plan in accordance with Article 17 of this Regulation. The Member States concerned may also submit such recommendations when necessary, in particular in the event of a change in the situation of any of the stocks to which this Regulation applies, or to tackle emergency situations identified by the latest scientific advice. Joint recommendations in respect of measures concerning a given calendar year shall be submitted not later than 1 July of the previous year.
3. The empowerments granted under Articles 9 and 13 and Article 14(2) of this Regulation shall be without prejudice to powers conferred to the Commission under other provisions of Union law, including under Regulation (EU) No 1380/2013.

CHAPTER XI

EVALUATION AND PROCEDURAL PROVISIONS*Article 17***Evaluation of the plan**

By 27 March 2024, and every five years thereafter, the Commission shall report to the European Parliament and to the Council on the results and impact of the plan on the stocks to which this Regulation applies and on the fisheries exploiting those stocks, in particular as regards the achievement of the objectives set out in Article 3.

*Article 18***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 power to adopt delegated acts referred to in Article 1(1), Articles 9 and 13 and Article 14(2) shall be conferred on the Commission for a period of five years from 26 March 2019. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 1(1), Articles 9 and 13 and Article 14(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 1(1), Articles 9 and 13 and Article 14(2) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

CHAPTER XII

SUPPORT FROM THE EUROPEAN MARITIME AND FISHERIES FUND

Article 19

Support from the European Maritime and Fisheries Fund

Temporary cessation measures adopted in order to achieve the objectives of the plan shall be deemed as temporary cessation of fishing activities for the purposes of points (a) and (c) of Article 33(1) of Regulation (EU) No 508/2014.

CHAPTER XIII

AMENDMENTS TO REGULATIONS (EU) 2016/1139 AND (EU) 2018/973

Article 20

Amendments to Regulation (EU) 2016/1139

Regulation (EU) 2016/1139 is amended as follows:

(1) Article 2 is replaced by the following:

'Article 2

Definitions

For the purposes of this Regulation, the definitions referred to in Article 4 of Regulation (EU) No 1380/2013, Article 4 of Regulation (EC) No 1224/2009 and Article 2 of Regulation (EC) No 2187/2005 apply. In addition, the following definitions apply:

- (1) 'pelagic stocks' means the stocks listed in points (c) to (h) of Article 1(1) of this Regulation and any combination thereof;
 - (2) 'range of F_{MSY} ' means a range of values provided in the best available scientific advice, in particular from ICES or a similar independent scientific body recognised at Union or international level, where all levels of fishing mortality within that range result in maximum sustainable yield (MSY) in the long term with a given fishing pattern and under current average environmental conditions without significantly affecting the reproduction process for the stock in question. It is derived to deliver no more than a 5 % reduction in long-term yield compared to the MSY. It is capped so that the probability of the stock falling below the limit spawning stock biomass reference point (B_{lim}) is no more than 5 %;
 - (3) ' $MSY F_{lower}$ ' means the lowest value within the range of F_{MSY} ;
 - (4) ' $MSY F_{upper}$ ' means the highest value within the range of F_{MSY} ;
 - (5) ' F_{MSY} point value' is the value of the estimated fishing mortality that with a given fishing pattern and under current average environmental conditions gives the long-term maximum yield;
 - (6) 'lower range of F_{MSY} ' means a range that contains values from $MSY F_{lower}$ to F_{MSY} point value;
 - (7) 'upper range of F_{MSY} ' means a range that contains values from F_{MSY} point value up to $MSY F_{upper}$;
 - (8) ' B_{lim} ' means the spawning stock biomass reference point provided in the best available scientific advice, in particular by ICES or a similar independent scientific body recognised at Union or international level, below which there may be reduced reproductive capacity;
 - (9) ' $MSY B_{trigger}$ ' means the spawning stock biomass reference point provided for in the best available scientific advice, in particular from ICES or a similar independent scientific body recognised at Union or international level, below which specific and appropriate management action is to be taken to ensure that exploitation rates in combination with natural variations rebuild stocks above levels capable of producing MSY in the long term;
 - (10) 'Member States concerned' means Member States having a direct management interest, namely Denmark, Germany, Estonia, Latvia, Lithuania, Poland, Finland and Sweden.;
- (2) Article 4 is replaced by the following:

'Article 4

Targets

1. The target fishing mortality in line with the ranges of F_{MSY} defined in Article 2 shall be achieved as soon as possible, and on a progressive, incremental basis by 2020 for the stocks listed in Article 1(1), and shall be maintained thereafter within the ranges of F_{MSY} in accordance with this Article.

2. The ranges of F_{MSY} based on the plan shall be requested in particular from ICES or a similar independent scientific body recognised at Union or international level.

3. In accordance with Article 16(4) of Regulation (EU) No 1380/2013, when the Council fixes fishing opportunities for a stock, it shall establish those opportunities within the lower range of F_{MSY} available at that time for that stock.

4. Notwithstanding paragraphs 1 and 3, fishing opportunities may be fixed at levels that are lower than the ranges of F_{MSY} .

5. Notwithstanding paragraphs 3 and 4, fishing opportunities for a stock may be fixed in accordance with the upper range of F_{MSY} available at that time for that stock, provided that the stock referred to in Article 1(1) is above $MSY B_{trigger}$:

(a) if, on the basis of scientific advice or evidence, it is necessary for the achievement of the objectives laid down in Article 3 in the case of mixed fisheries;

(b) if, on the basis of scientific advice or evidence, it is necessary to avoid serious harm to a stock caused by intra- or inter-species stock dynamics; or

(c) in order to limit variations in fishing opportunities between consecutive years to not more than 20 %.

6. Fishing opportunities shall in any event be fixed in such a way as to ensure that there is less than a 5 % probability of the spawning stock biomass falling below B_{lim} ;

(3) In Chapter III, the following Article is inserted after Article 4:

'Article 4a

Conservation reference points

The following conservation reference points to safeguard the full reproductive capacity of the stocks referred to in Article 1(1) shall, based on the plan, be requested in particular from ICES or a similar independent scientific body recognised at Union or international level:

(a) $MSY B_{trigger}$ for stocks referred to in Article 1(1);

(b) B_{lim} for stocks referred to in Article 1(1).';

(4) Article 5 is replaced by the following:

'Article 5

Safeguards

1. When scientific advice indicates that for a given year the spawning biomass of any of the stocks referred to in Article 1(1) is below the $MSY B_{trigger}$, all appropriate remedial measures shall be adopted to ensure rapid return of the stock concerned to levels above those capable of producing MSY . In particular, notwithstanding Article 4(3), fishing opportunities shall be set at levels consistent with a fishing mortality that is reduced below the upper range of F_{MSY} , taking into account the decrease in biomass.

2. When scientific advice indicates that the spawning stock biomass of any of the stocks referred to in Article 1(1) is below the B_{lim} , further remedial measures shall be taken to ensure rapid return of the stock concerned to levels above the level capable of producing MSY . In particular, those remedial measures may include, notwithstanding Article 4(3), suspending the targeted fishery for the stock and the adequate reduction of fishing opportunities.

3. Remedial measures referred to in this Article may include:

(a) emergency measures in accordance with Articles 12 and 13 of Regulation (EU) No 1380/2013;

(b) measures pursuant to Articles 7 and 8 of this Regulation.

4. The choice of measures referred to in this Article shall be made in accordance with the nature, seriousness, duration and repetition of the situation where the spawning stock biomass is below the levels referred to in Article 4a.;

(5) In Article 7, the following paragraph is added:

‘3. The landing obligation provided for in Article 15(1) of Regulation (EU) No 1380/2013 shall not apply to recreational fishing, including in cases where the Council sets limits for recreational fishermen.’;

(6) Annexes I and II are deleted.

Article 21

Amendments to Regulation (EU) 2018/973

Regulation (EU) 2018/973 is amended as follows:

(1) In Article 9, the following paragraph is added:

‘3. By way of derogation from Annex XII to Regulation (EC) No 850/98, the minimum conservation reference size for Norway lobster (*Nephrops norvegicus*) in ICES division 3a is set at 105 mm.

This paragraph shall apply until the date on which Annex XII to Regulation (EC) No 850/98 ceases to apply.’;

(2) Article 11 is replaced by the following:

‘Article 11

Provisions linked to the landing obligation in Union waters of the North Sea

1. For all stocks of species in the North Sea to which the landing obligation applies under Article 15(1) of Regulation (EU) No 1380/2013, the Commission is empowered to adopt delegated acts in accordance with Article 16 of this Regulation and Article 18 of Regulation (EU) No 1380/2013 in order to supplement this Regulation by specifying details of that obligation as provided for in points (a) to (e) of Article 15(5) of Regulation (EU) No 1380/2013.

2. The landing obligation provided for in Article 15(1) of Regulation (EU) No 1380/2013 shall not apply to recreational fishing, including in cases where the Council sets limits on recreational fisheries in accordance with Article 10(4) of this Regulation.’.

CHAPTER XIV

FINAL PROVISIONS

Article 22

Repeals

1. The following Regulations are repealed:

- (a) Regulation (EC) No 811/2004;
- (b) Regulation (EC) No 2166/2005;
- (c) Regulation (EC) No 388/2006;
- (d) Regulation (EC) No 509/2007;
- (e) Regulation (EC) No 1300/2008.

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

Article 23

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*.

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

Done at Brussels, 19 March 2019.

For the European Parliament

The President

A. TAJANI

For the Council

The President

G. CIAMBA

Joint statement by the European Parliament and the Council

The European Parliament and the Council intend to repeal the empowerments to adopt technical measures by means of delegated acts under Article 8 of this Regulation when they adopt a new regulation on technical measures which includes an empowerment covering the same measures.

REGULATION (EU) 2019/473 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 19 March 2019
on the European Fisheries Control Agency
(codification)

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 ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) Council Regulation (EC) No 768/2005 ⁽³⁾ has been substantially amended several times ⁽⁴⁾. In the interests of clarity and rationality, that Regulation should be codified.
- (2) Regulation (EU) No 1380/2013 of the European Parliament and of the Council ⁽⁵⁾ requires Member States to ensure the effective control, inspection and enforcement of the rules of the common fisheries policy and to cooperate with each other and with third countries to that end.
- (3) To fulfil those obligations, it is necessary for the Member States to coordinate their control and inspection activities within their land territory and in Union and international waters, in accordance with international law and, in particular, the obligations of the Union in the framework of regional fisheries organisations and under agreements with third countries.
- (4) No inspection scheme can be cost effective without providing for inspections on land. It is for that reason that land territory should be covered by joint deployment plans.
- (5) Such cooperation, through the operational coordination of control and inspection activities, should contribute to the sustainable exploitation of living aquatic resources as well as ensuring a level playing field for the fishing industry involved in this exploitation, thus reducing distortions in competition.
- (6) Effective fisheries control and inspection is considered to be essential for combatting illegal, unreported and unregulated fishing.
- (7) Without prejudice to the responsibilities of Member States under Regulation (EU) No 1380/2013, there is a need for a technical and administrative Union body to organise cooperation and coordination between Member States regarding fisheries control and inspection.
- (8) The European Fisheries Control Agency ('the Agency') should be able to support the uniform implementation of the control system of the common fisheries policy, to ensure the organisation of operational cooperation, to provide assistance to Member States and to set up an emergency unit where a serious risk to the common fisheries policy is identified. It should also be able to provide itself with the necessary equipment to carry out joint deployment plans and to cooperate in the implementation of the EU Integrated Maritime Policy.
- (9) It is necessary for the Agency, at the Commission's request, to be able to assist the Union and the Member States in their relations with third countries or regional fisheries organisations or both, and to cooperate with their competent authorities within the framework of the international obligations of the Union.

⁽¹⁾ Not yet published in the Official Journal.

⁽²⁾ Position of the European Parliament of 13 February 2019 (not yet published in the Official Journal) and decision of the Council of 5 March 2019.

⁽³⁾ Council Regulation (EC) No 768/2005 of 26 April 2005 establishing a European Fisheries Control Agency and amending Regulation (EEC) No 2847/93 establishing a control system applicable to the common fisheries policy (OJ L 128, 21.5.2005, p. 1).

⁽⁴⁾ See Annex I.

⁽⁵⁾ Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

- (10) Moreover, there is a need to work towards the effective application of Union inspection procedures. The Agency could over time become a reference source for scientific and technical assistance for fisheries control and inspection.
- (11) In order to meet the objectives of the common fisheries policy, which is to provide for a sustainable exploitation of living aquatic resources in the context of sustainable development, the Union adopts measures concerning conservation, management and the exploitation of living aquatic resources.
- (12) To ensure the proper enforcement of such measures, adequate control and enforcement means need to be deployed by the Member States. In order to make such control and enforcement more effective and efficient, it is appropriate for the Commission, in accordance with the procedure referred to in Article 47(2) of Regulation (EU) No 1380/2013, and in concert with the Member States concerned, to adopt specific control and inspection programmes.
- (13) Coordination by the Agency of operational cooperation between Member States should be undertaken on the basis of joint deployment plans, which organise the use of the available means of control and inspection of the Member States concerned so as to give effect to control and inspection programmes. Fisheries control and inspection activities undertaken by the Member States should be carried out in accordance with common criteria, priorities, benchmarks and procedures regarding control and inspection activities on the basis of such programmes.
- (14) The adoption of a control and inspection programme obliges Member States to effectively provide the resources necessary to carry out the programme. It is necessary for the Member States to promptly notify the Agency of the means of control and inspection with which they intend to execute any such programme. No additional obligations in terms of control, inspection and enforcement or in relation to making available the resources necessary in this context should be created by the joint deployment plans.
- (15) A joint deployment plan should only be prepared by the Agency if it is provided for in the work programme.
- (16) The work programme should be adopted by the Administrative Board, which ensures that sufficient consensus is reached, including on the matching of tasks intended for the Agency in the work programme and resources available to the Agency, based on the information to be provided by Member States.
- (17) The key task of the Executive Director should be to ensure in his or her consultations with Members of the Board and Member States that the ambitions set out in the work programme for each year are matched by sufficient resources made available to the Agency by Member States to fulfil the work programme.
- (18) The Executive Director should, in particular, draft precise deployment plans, using the resources notified by Member States, for the fulfilment of each control and inspection programme and respecting the rules and aims set out in the specific control and inspection programme on which the joint deployment plan is based, as well as other relevant rules, such as those relating to Union Inspectors.
- (19) In this context, it is necessary that the Executive Director manages the timing in such a manner as to give Member States sufficient time to provide their comments, building on their operational expertise, while staying within the work plan of the Agency and the time limits provided for in this Regulation. It is necessary for the Executive Director to take account of the interest of the Member States concerned in the fisheries covered by each plan. In order to ensure the efficient and timely coordination of the joint control and inspection activities, it is necessary to provide for a procedure to allow for decisions on the adoption of the plans when an agreement cannot be reached between the Member States concerned.
- (20) The procedure for the drafting and the adoption of joint deployment plans outside Union waters should be similar to that concerning Union waters. The basis for such joint deployment plans should be an international control and inspection programme that gives effect to international obligations relating to control and inspection which are binding upon the Union.
- (21) For the implementation of joint deployment plans, the Member States concerned should pool and deploy the means of control and inspection that they have committed to such plans. The Agency should assess whether the available means of control and inspection suffice and, where appropriate, inform the Member States concerned and the Commission that the means are not sufficient to perform the tasks required under the control and inspection programme.
- (22) While Member States should respect their obligations relating to inspection and control, in particular under the specific control and inspection programme adopted pursuant to Regulation (EU) No 1380/2013, the Agency should not have the power to impose additional obligations through joint deployment plans or to sanction Member States.

- (23) The Agency should review periodically the effectiveness of joint deployment plans.
- (24) It is appropriate to provide for the possibility to adopt specific implementing rules for the adoption and approval of joint deployment plans. It may be useful to use this possibility once the Agency has started operating and if the Executive Director considers that such rules should be laid down in Union law.
- (25) The Agency should be entitled, where so requested, to provide contractual services relating to the means of control and inspection to be used for joint deployment by the Member States concerned.
- (26) For the purpose of fulfilling the Agency's tasks, the Commission, the Member States and the Agency should exchange relevant information on control and inspection through an information network.
- (27) The status and structure of the Agency should correspond to the objective character of the results it is intended to produce and allow it to carry out its functions in close cooperation with the Member States and with the Commission. Consequently, the Agency should be granted legal, financial and administrative autonomy while at the same time maintaining close links with the Union institutions and the Member States. To that end, it is necessary and appropriate that the Agency should be a Union body having legal personality and exercising the powers which are conferred on it by this Regulation.
- (28) For the contractual liability of the Agency, which is governed by the law applicable to the contracts concluded by the Agency, the Court of Justice of the European Union should have jurisdiction pursuant to any arbitration clause contained in the contract. The Court of Justice should also have jurisdiction in disputes relating to compensation for any damage arising from the non-contractual liability of the Agency in accordance with the general principles common to the laws of the Member States.
- (29) The Commission and the Member States should be represented within an administrative board that would be entrusted with ensuring the correct and effective functioning of the Agency.
- (30) Given that the Agency has to fulfil Union obligations and, at the Commission's request, to cooperate with third countries and regional fisheries organisations within the framework of the international obligations of the Union, it is appropriate that the Chair of the Administrative Board should be elected from among the Commission representatives.
- (31) Voting arrangements in the Administrative Board should take into account the interests of the Member States and the Commission in the effective operation of the Agency.
- (32) An Advisory Board should be created in order to advise the Executive Director and to ensure close cooperation with stakeholders.
- (33) It is appropriate to provide for the participation in the deliberations of the Administrative Board of a representative of the Advisory Board with no voting rights.
- (34) It is necessary to provide for the appointment and dismissal of the Executive Director of the Agency, as well as for the rules governing the exercise of his or her functions.
- (35) In order to promote the transparent functioning of the Agency, Regulation (EC) No 1049/2001 of the European Parliament and of the Council ⁽⁶⁾ should apply without restriction to the Agency.
- (36) In the interest of the protection of the privacy of individuals, Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽⁷⁾ should apply to this Regulation.
- (37) In order to guarantee the functional autonomy and independence of the Agency, it should be granted an autonomous budget the revenue of which comes from a contribution from the Union as well as from payments for contractual services rendered by the Agency. The Union budgetary procedure should apply as far as the Union contribution and any other subsidies chargeable to the general budget of the European Union are concerned. The auditing of accounts should be undertaken by the Court of Auditors.

⁽⁶⁾ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).

⁽⁷⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

- (38) In order to combat fraud, corruption, and other unlawful activities, the provisions of Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council ⁽⁸⁾ should apply without restriction to the Agency, which should accede to the Interinstitutional Agreement of 25 May 1999 between the European Parliament, the Council of the European Union and the Commission of the European Communities concerning internal investigations by the European Anti-Fraud Office (OLAF) ⁽⁹⁾.
- (39) The measures necessary for the implementation of this Regulation should be adopted in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council ⁽¹⁰⁾,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

OBJECTIVE AND DEFINITIONS

Article 1

Objective

This Regulation makes provision for a European Fisheries Control Agency ('the Agency'), the objective of which is to organise the operational coordination of fisheries control and inspection activities by the Member States and to assist them to cooperate so as to comply with the rules of the common fisheries policy in order to ensure its effective and uniform application.

Article 2

Definitions

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

- (a) 'control and inspection' means any measures taken by Member States, in particular pursuant to Articles 5, 11, 71, 91 and 117 and Title VII of Council Regulation (EC) No 1224/2009 ⁽¹¹⁾, to control and inspect fishing activities within the scope of the common fisheries policy, including surveillance and monitoring activities, such as satellite-based vessel monitoring systems and observer schemes;
- (b) 'means of control and inspection' means surveillance vessels, aircraft, vehicles and other material resources as well as inspectors, observers and other human resources used by Member States for control and inspection;
- (c) 'joint deployment plan' means a plan setting out operational arrangements for the deployment of available means of control and inspection;
- (d) 'international control and inspection programme' means a programme that sets objectives, common priorities and procedures for control and inspection activities to implement international obligations of the Union relating to control and inspection;
- (e) 'specific control and inspection programme' means a programme that sets objectives, common priorities and procedures for control and inspection activities established in accordance with Article 95 of Regulation (EC) No 1224/2009;
- (f) 'fishery' means fishing activities as defined in point (28) of Article 4(1) of Regulation (EU) No 1380/2013;
- (g) 'Union inspectors' means the inspectors included in the list referred to in Article 79 of Regulation (EC) No 1224/2009.

⁽⁸⁾ Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999 of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013, p. 1).

⁽⁹⁾ OJ L 136, 31.5.1999, p. 15.

⁽¹⁰⁾ 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 the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

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

CHAPTER II

MISSION AND TASKS OF THE AGENCY

Article 3

Mission

The mission of the Agency shall be:

- (a) to coordinate control and inspection by Member States related to the control and inspection obligations of the Union;
- (b) to coordinate the deployment of the national means of control and inspection pooled by the Member States concerned in accordance with this Regulation;
- (c) to assist Member States in reporting information on fishing activities and control and inspection activities to the Commission and third parties;
- (d) in the field of its competences, to assist Member States to fulfil their tasks and obligations pursuant to the rules of the common fisheries policy;
- (e) to assist Member States and the Commission in harmonising the application of the common fisheries policy throughout the Union;
- (f) to contribute to the work of Member States and the Commission on research into and development of control and inspection techniques;
- (g) to contribute to the coordination of the training of inspectors and the exchange of experience between Member States;
- (h) to coordinate the operations to combat illegal, unreported and unregulated (IUU) fishing in conformity with Union rules;
- (i) to assist in the uniform implementation of the control system of the common fisheries policy, including in particular:
 - the organisation of the operational coordination of control activities by Member States for the implementation of specific control and inspection programmes, control programmes related to IUU fishing and international control and inspection programmes,
 - inspections as necessary to fulfil the Agency's tasks in accordance with Article 19;
- (j) to cooperate with the European Border and Coast Guard Agency, established by Regulation (EU) 2016/1624 of the European Parliament and of the Council ⁽¹²⁾, and the European Maritime Safety Agency, established by Regulation (EC) No 1406/2002 of the European Parliament and of the Council ⁽¹³⁾, each within its mandate, to support the national authorities carrying out coast guard functions as set out in Article 8 of this Regulation, by providing services, information, equipment and training as well as by coordinating multipurpose operations.

Article 4

Tasks relating to the international obligations of the Union relating to control and inspection

1. The Agency shall, at the Commission's request:
 - (a) assist the Union and Member States in their relations with third countries and regional international fisheries organisations of which the Union is a member;
 - (b) cooperate with the competent authorities of regional international fisheries organisations regarding the control and inspection obligations of the Union in the framework of working arrangements concluded with such bodies.
2. The Agency may, at the Commission's request, cooperate with the competent authorities of third countries in matters relating to control and inspection in the framework of agreements concluded between the Union and such third countries.
3. The Agency may, within its field of competence, carry out, on behalf of Member States, tasks under international fisheries agreements to which the Union is a party.

⁽¹²⁾ Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1).

⁽¹³⁾ Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002 establishing a European Maritime Safety Agency (OJ L 208, 5.8.2002, p. 1).

*Article 5***Tasks relating to operational coordination**

1. Operational coordination by the Agency shall cover control of all activities covered by the common fisheries policy.
2. For the purpose of operational coordination, the Agency shall establish joint deployment plans and organise the operational coordination of control and inspection by Member States in accordance with Chapter III.
3. For the purpose of enhanced operational coordination between Member States, the Agency may establish operational plans with the Member States concerned and coordinate their implementation.

*Article 6***Provision of contractual services to Member States**

The Agency may provide contractual services to Member States, at their request, relating to control and inspection in connection with their obligations concerning fisheries in Union and/or international waters, including the chartering, operating and staffing of control and inspection platforms and the provision of observers for joint operations by the Member States concerned.

*Article 7***Assistance to the Commission and the Member States**

The Agency shall assist the Commission and the Member States for the purpose of ensuring a high level of uniform and effective fulfilment of their obligations under the rules of the common fisheries policy, including as regards the fight against IUU fishing, and assist them in their relations with third countries. The Agency shall in particular:

- (a) establish and develop a core curriculum for the training of the instructors of the fisheries inspectorate of the Member States and provide additional training courses and seminars to those officials and other personnel involved in control and inspection activities;
- (b) establish and develop a core curriculum for the training of Union inspectors before their first deployment and provide updated additional training and seminars on a regular basis to those officials;
- (c) at the request of Member States, undertake the joint procurement of goods and services relating to control and inspection activities by Member States as well as the preparation for and the coordination of the implementation by Member States of joint pilot projects;
- (d) draw up joint operational procedures in relation to joint control and inspection activities undertaken by two or more Member States;
- (e) elaborate criteria for the exchange of means of control and inspection between Member States and between Member States and third countries, and for the provision of such means by the Member States;
- (f) conduct risk analysis on the basis of fisheries data on catches, landings and fisheries effort, as well as risk analysis of unreported landings including, inter alia, a comparison of data on catches and imports with data on exports and on national consumption;
- (g) at the request of the Commission or of Member States, develop common inspection methodologies and procedures;
- (h) assist Member States, at their request, to comply with their Union and international obligations, including the fight against IUU fishing, and those arising in the framework of regional fisheries management organisations;
- (i) promote and coordinate the development of uniform risk management methodologies in the field of its competence;
- (j) coordinate and promote cooperation between Member States, and common standards for the development of sampling plans provided for in Regulation (EC) No 1224/2009.

*Article 8***European cooperation on coast guard functions**

1. The Agency shall, in cooperation with the European Border and Coast Guard Agency and the European Maritime Safety Agency, support national authorities carrying out coast guard functions at national and Union level, and, where appropriate, at international level, by:
 - (a) sharing, fusing and analysing information available in ship reporting systems and other information systems hosted by or accessible to those agencies, in accordance with their respective legal bases and without prejudice to the ownership of data by Member States;

- (b) providing surveillance and communication services based on state-of-the-art technology, including space-based and ground infrastructure, and sensors mounted on any kind of platform;
- (c) building capacity by drawing up guidelines and recommendations and by establishing best practices as well as by providing training and exchange of staff;
- (d) enhancing the exchange of information and cooperation on coast guard functions, including by analysing operational challenges and emerging risks in the maritime domain;
- (e) sharing capacity by planning and implementing multipurpose operations and by sharing assets and other capabilities, to the extent that those activities are coordinated by those agencies and are agreed to by the competent authorities of the Member States concerned.

2. The precise forms of cooperation on coast guard functions between the Agency, the European Border and Coast Guard Agency and the European Maritime Safety Agency shall be determined in a working arrangement, in accordance with their respective mandates and the financial rules applicable to those agencies. Such arrangement shall be approved by the Administrative Board of the Agency, the Management Board of the European Border and Coast Guard Agency and the Administrative Board of the European Maritime Safety Agency.

3. The Commission shall, in close cooperation with the Member States, the Agency, the European Border and Coast Guard Agency and the European Maritime Safety Agency, make available a practical handbook on European cooperation on coast guard functions. That handbook shall contain guidelines, recommendations and best practices for the exchange of information. The Commission shall adopt the handbook in the form of a recommendation.

CHAPTER III

OPERATIONAL COORDINATION

Article 9

Implementation of Union obligations relating to control and inspection

- 1. The Agency shall, at the Commission's request, coordinate control and inspection activities by Member States on the basis of international control and inspection programmes by establishing joint deployment plans.
- 2. The Agency may acquire, rent or charter the equipment that is necessary for the implementation of the joint deployment plans referred to in paragraph 1.

Article 10

Implementation of specific control and inspection programmes

- 1. The Agency shall coordinate the implementation of specific control and inspection programmes established in accordance with Article 95 of Regulation (EC) No 1224/2009 through joint deployment plans.
- 2. The Agency may acquire, rent or charter the equipment that is necessary for the implementation of the joint deployment plans referred to in paragraph 1.

Article 11

Content of joint deployment plans

Each joint deployment plan shall:

- (a) fulfil the requirements of the relevant control and inspection programme;
- (b) apply the criteria, benchmarks, priorities and common inspection procedures determined by the Commission in control and inspection programmes;
- (c) seek to match the existing national means of control and inspection, communicated in accordance with Article 12(2), with needs, and organise their deployment;
- (d) organise the use of human and material resources, with regard to the periods and zones in which they have to be deployed, including the operation of teams of Union inspectors from more than one Member State;
- (e) take account of the existing obligations of the Member States concerned in respect of other joint deployment plans, as well as any specific regional or local constraints;
- (f) lay down the conditions under which the means of control and inspection of a Member State may enter waters under the sovereignty and jurisdiction of another Member State.

*Article 12***Notification of means of control and inspection**

1. Each year before 15 October, Member States shall notify the Agency of the means of control and inspection that they have available for the purpose of control and inspection in the following year.
2. Each Member State shall notify the Agency of the means with which it intends to execute the international control and inspection programme or specific control and inspection programme which concern it, no later than one month from the notification to the Member States of the Decision establishing any such programme.

*Article 13***Procedure for the adoption of joint deployment plans**

1. On the basis of the notifications provided for in Article 12(2) and within three months of the receipt of such notifications, the Executive Director of the Agency shall establish a draft joint deployment plan in consultation with the Member States concerned.
2. The draft joint deployment plan shall identify the means of control and inspection which could be pooled in order to implement the control and inspection programme that the plan relates to, on the basis of the interest of the Member States concerned in the relevant fishery.

The interest of a Member State in a fishery shall be assessed by reference to the following criteria whose relative weighting shall depend on the specific features of each plan:

- (a) the relative extent of the waters subject to its sovereignty or jurisdiction, if any, that are covered by the joint deployment plan;
 - (b) the quantity of fish landed on its territory in a given reference period as a proportion of the total landings from the fishery that is subject to the joint deployment plan;
 - (c) the relative number of Union fishing vessels flying its flag (engine power and gross tonnage) that are involved in the fishery that is subject to the joint deployment plan in relation to the total number of vessels that are involved in that fishery;
 - (d) the relative size of its quota allocation or, in the absence of a quota, its catch in a given reference period in respect of that fishery.
3. If, in the course of preparing a draft joint deployment plan, it is apparent that there are insufficient means of control and inspection available to fulfil the requirements of the relevant control and inspection programme, the Executive Director shall promptly notify the Member States concerned and the Commission.

4. The Executive Director shall notify the draft joint deployment plan to the Member States concerned and the Commission. If, within fifteen working days of such notification, the Member States concerned or the Commission have not raised any objection, the Executive Director shall adopt the plan.

5. If one or more of the Member States concerned or the Commission has raised an objection, the Executive Director shall refer the matter to the Commission. The Commission may make any necessary adjustments to the plan and adopt it in accordance with the procedure referred to in Article 47(2) of Regulation (EU) No 1380/2013.

6. Each joint deployment plan shall be subject to an annual review by the Agency in consultation with the Member States concerned to take account of any new control and inspection programmes which the Member States concerned are subject to and any priorities determined by the Commission in the control and inspection programmes.

*Article 14***Implementation of joint deployment plans**

1. Joint control and inspection activities shall be performed on the basis of the joint deployment plans.
2. The Member States concerned by a joint deployment plan shall:
 - (a) make available the means of control and inspection that are committed for the joint deployment plan;
 - (b) appoint a single national point of contact/coordinator, who shall be conferred with sufficient authority to be able to respond in a timely manner to requests from the Agency that relate to the implementation of the joint deployment plan, and notify this to the Agency;
 - (c) deploy their pooled means of control and inspection in accordance with the joint deployment plan and the requirements referred to in paragraph 4;

- (d) provide the Agency with on-line access to the information necessary for the implementation of the joint deployment plan;
 - (e) cooperate with the Agency regarding the implementation of the joint deployment plan;
 - (f) ensure that any means of control and inspection, assigned to a Union joint deployment plan, carry out their activities in accordance with the rules of the common fisheries policy.
3. Without prejudice to Member States' obligations within the framework of a joint deployment plan established under Article 13, the command and control of the means of control and inspection that have been committed to a joint deployment plan shall be the responsibility of the competent national authorities in accordance with national law.
 4. The Executive Director may lay down the requirements for the implementation of a joint deployment plan adopted under Article 13. Such requirements shall remain within the limits of that plan.

Article 15

Assessment of joint deployment plans

The Agency shall undertake an annual assessment of the effectiveness of each joint deployment plan, as well as an analysis, on the basis of the available evidence, of the existence of a risk that fishing activities are not compliant with applicable control measures. Such assessments shall be promptly communicated to the European Parliament, the Commission and the Member States.

Article 16

Fisheries that are not subject to control and inspection programmes

Two or more Member States may request the Agency to coordinate the deployment of their means of control and inspection in relation to a fishery or an area that is not subject to a control and inspection programme. Such coordination shall take place in accordance with control and inspection criteria and priorities agreed between the Member States concerned.

Article 17

Information network

1. The Commission, the Agency and the competent authorities of Member States shall exchange relevant information available to them regarding joint control and inspection activities within Union and international waters.
2. Each national competent authority shall take measures, in accordance with the relevant Union legislation, to ensure appropriate confidentiality of the information received by it pursuant to paragraph 1 of this Article, in accordance with Articles 112 and 113 of Regulation (EC) No 1224/2009.

Article 18

Detailed rules

Detailed rules for the implementation of this Chapter may be adopted in accordance with the procedure referred to in Article 47(2) of Regulation (EU) No 1380/2013.

Those rules may cover, in particular, the procedures for the preparation and adoption of draft joint deployment plans.

CHAPTER IV

COMPETENCES OF THE AGENCY

Article 19

Assignment of Agency officials as Union inspectors

Officials of the Agency may be assigned in international waters as Union inspectors in accordance with Article 79 of Regulation (EC) No 1224/2009.

*Article 20***Agency measures**

The Agency shall, where appropriate:

- (a) issue manuals on harmonised standards of inspections;
- (b) develop guidance material reflecting best practice in relation to control of the common fisheries policy, including on the training of control officials, and update such material on a regular basis;
- (c) provide the Commission with the necessary technical and administrative support to carry out its tasks.

*Article 21***Cooperation**

1. The Member States and the Commission shall cooperate with the Agency and afford it the necessary assistance for the accomplishment of its mission.
2. With due regard to the different legal systems in the individual Member States, the Agency shall facilitate cooperation between Member States and between them and the Commission in the development of harmonised standards for control, in accordance with Union legislation and taking into account best practices in Member States and agreed international standards.

*Article 22***Emergency unit**

1. Where the Commission, on its own initiative or at the request of at least two Member States, identifies a situation involving a direct, indirect or potential serious risk to the common fisheries policy, and that risk cannot be prevented, eliminated or reduced by existing means or cannot be adequately managed, the Agency shall be immediately notified.
2. The Agency acting upon a notification by the Commission or on its own initiative shall immediately set up an emergency unit and inform the Commission thereof.

*Article 23***Tasks of the emergency unit**

1. The emergency unit set up by the Agency shall be responsible for collecting and evaluating all relevant information and identifying the options available to prevent, eliminate or reduce the risk to the common fisheries policy as effectively and rapidly as possible.
2. The emergency unit may request the assistance of any public authority or private person whose expertise it deems necessary to respond to the emergency effectively.
3. The Agency shall ensure the necessary coordination for undertaking an adequate and timely response to the emergency.
4. The emergency unit shall, where appropriate, keep the public informed of the risks involved and the measures taken.

*Article 24***Multiannual work programme**

1. The multiannual work programme of the Agency shall establish its overall objectives, mandate, tasks, performance indicators and the priorities for each action of the Agency over a five-year period. It shall include a presentation of the staff policy plan and an estimation of the budget appropriations to be made available for the achievement of the objectives for that five-year period.
2. The multiannual work programme shall be presented in accordance with the activity-based management system and methodology developed by the Commission. It shall be adopted by the Administrative Board.
3. The work programme referred to in Article 32(2)(c) shall refer to the multiannual work programme. It shall clearly indicate additions, changes or deletions compared with the previous year's work programme, and the progress made in the achievement of the overall objectives and priorities of the multiannual work programme.

*Article 25***Cooperation in maritime affairs**

The Agency shall contribute to the implementation of the EU Integrated Maritime Policy, and, in particular, conclude administrative agreements with other bodies in matters falling within the scope of this Regulation, after approval by the Administrative Board. The Executive Director shall inform the Commission and the Member States thereof at an early stage of the negotiations.

*Article 26***Detailed rules**

Detailed rules for the implementation of this Chapter shall be adopted in accordance with the procedure referred to in Article 47(2) of Regulation (EU) No 1380/2013.

Those rules may cover, in particular, the drawing-up of plans for response to emergencies, the establishment of the emergency unit and the practical procedures to be applied.

CHAPTER V

INTERNAL STRUCTURE AND FUNCTIONING*Article 27***Legal status and principal office**

1. The Agency shall be a Union body and shall have legal personality.
2. In each of the Member States, the Agency shall enjoy the most extensive legal capacity accorded to legal persons under their laws. It may, in particular, acquire or dispose of movable and immovable property, and it may be a party to legal proceedings.
3. The Agency shall be represented by its Executive Director.
4. The seat of the Agency shall be in Vigo, Spain.

*Article 28***Staff**

1. The Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union as laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 ⁽¹⁴⁾ and the rules adopted jointly by the Institutions of the European Union for the purposes of the application of those Staff Regulations and Conditions of Employment shall apply to the staff of the Agency. The Administrative Board, in agreement with the Commission, shall adopt the necessary detailed rules of application.
2. Without prejudice to Article 39, the powers conferred on the appointing authority by the Staff Regulations and the Conditions of Employment of Other Servants shall be exercised by the Agency in respect of its own staff.
3. The Agency's staff shall consist of officials assigned or seconded by the Commission on a temporary basis and of other servants recruited by the Agency as necessary to carry out its tasks.

The Agency may also employ officials seconded by Member States on a temporary basis.

*Article 29***Privileges and immunities**

The Protocol on the Privileges and Immunities of the European Union shall apply to the Agency.

*Article 30***Liability**

1. The contractual liability of the Agency shall be governed by the law applicable to the contract in question.
2. The Court of Justice of the European Union shall have jurisdiction to give judgment pursuant to any arbitration clause contained in a contract concluded by the Agency.

⁽¹⁴⁾ OJ L 56, 4.3.1968, p. 1.

3. In the case of non-contractual liability, the Agency shall, in accordance with the general principles common to the laws of the Member States, make good any damage caused by it or its servants in the performance of their duties. The Court of Justice shall have jurisdiction in any dispute relating to compensation for such damage.

4. The personal liability of its servants towards the Agency shall be governed by the provisions laid down in the Staff Regulations or Conditions of Employment applicable to them.

Article 31

Languages

1. The provisions laid down in Council Regulation No 1 ⁽¹⁵⁾ shall apply to the Agency.
2. The translation services required for the functioning of the Agency shall be provided by the Translation Centre of the bodies of the European Union.

Article 32

Creation and powers of the Administrative Board

1. The Agency shall have an Administrative Board.
2. The Administrative Board shall:
 - (a) appoint and dismiss the Executive Director pursuant to Article 39;
 - (b) adopt, by 30 April each year, the general report of the Agency for the previous year, and submit it to the European Parliament, the Council, the Commission, the Court of Auditors and the Member States. The report shall be made public;
 - (c) adopt, by 31 October each year and taking into account the opinion of the Commission and the Member States, the work programme of the Agency for the coming year and submit it to the European Parliament, the Council, the Commission and the Member States.

The work programme shall contain the priorities of the Agency. It shall give priority to the duties of the Agency relating to control and surveillance programmes. It shall be adopted without prejudice to the annual Union budgetary procedure. Where the Commission expresses, within 30 days of the date of adoption of the work programme, its disagreement with that programme, the Administrative Board shall re-examine the programme and adopt it, possibly amended, within a period of two months, in a second reading;

- (d) adopt the final budget of the Agency before the beginning of the financial year, adjusting it, where necessary, according to the Union contribution and any other revenue of the Agency;
- (e) perform its duties in relation to the Agency's budget in accordance with Articles 44, 45 and 47;
- (f) exercise disciplinary authority over the Executive Director;
- (g) establish its rules of procedure which may provide for the establishment of sub-committees of the Administrative Board as necessary;
- (h) adopt procedures necessary for the performance by the Agency of its tasks.

Article 33

Composition of the Administrative Board

1. The Administrative Board shall be composed of representatives of Member States and six representatives of the Commission. Each Member State shall be entitled to appoint one member. The Member States and the Commission shall appoint one alternate for each member to represent the member in his or her absence.
2. Board members shall be appointed on the basis of their degree of relevant experience and expertise in the field of fisheries control and inspection.
3. The duration of office of each member shall be five years from the date of appointment. The term of office may be renewed.

⁽¹⁵⁾ Council Regulation No 1 of 15 April 1958 determining the languages to be used by the European Economic Community (OJ 17, 6.10.1958, p. 385/58).

*Article 34***Chairing of the Administrative Board**

1. The Administrative Board shall elect a Chair from among the Commission representatives. The Administrative Board shall elect a Deputy Chair from among its members. The Deputy Chair shall automatically take the place of the Chair if he or she is prevented from attending to his or her duties.
2. The terms of office of the Chair and Deputy Chair shall be three years and shall expire when they cease to be members of the Administrative Board. The terms of office shall be renewable once.

*Article 35***Meetings**

1. The meetings of the Administrative Board shall be convened by its Chair. The agenda shall be determined by the Chair, taking into account the proposals of members of the Administrative Board and the Executive Director of the Agency.
2. The Executive Director and the representative appointed by the Advisory Board shall take part in the deliberations without the right to vote.
3. The Administrative Board shall hold an ordinary meeting at least once a year. In addition, it shall meet on the initiative of the Chair or at the request of the Commission or of one third of the Member States represented on the Administrative Board.
4. When there is a matter of confidentiality or conflict of interest, the Administrative Board may decide to examine specific items of its agenda without the presence of the representative appointed by the Advisory Board. Detailed rules for the application of this provision may be laid down in the rules of procedure.
5. The Administrative Board may invite any person whose opinion may be of interest to attend its meetings as an observer.
6. The members of the Administrative Board may, subject to the provisions of its rules of procedure, be assisted by advisers or experts.
7. The secretariat for the Administrative Board shall be provided by the Agency.

*Article 36***Voting**

1. The Administrative Board shall take its decisions by an absolute majority of votes.
2. Each member shall have one vote. In the absence of a member, his or her alternate shall be entitled to exercise his or her right to vote.
3. The rules of procedure shall establish the more detailed voting arrangements, in particular, the conditions for a member to act on behalf of another member as well as any quorum requirements, where appropriate.

*Article 37***Declaration of interests**

The members of the Administrative Board shall make a declaration of interests indicating either the absence of any interests which might be prejudicial to their independence, or any direct or indirect interests which might be considered prejudicial to their independence. Those declarations shall be made annually in writing or whenever a conflict of interests may arise in relation to items on the agenda. In the latter case, the member concerned shall not be entitled to vote on any such items.

*Article 38***Duties and powers of the Executive Director**

1. The Agency shall be managed by its Executive Director. Without prejudice to the respective competencies of the Commission and the Administrative Board, the Executive Director shall neither seek nor take instructions from any government or any other body.
2. The Executive Director shall, in the performance of his or her tasks, give effect to the principles of the common fisheries policy.

3. The Executive Director shall have the following duties and powers:
 - (a) he or she shall prepare the draft work programme and submit it to the Administrative Board after consultation with the Commission and the Member States. He or she shall take the necessary steps for the implementation of the work programme within the limits specified by this Regulation, its implementing rules and any applicable law;
 - (b) he or she shall take all necessary steps, including the adoption of internal administrative instructions and the publication of notices, to ensure the organisation and functioning of the Agency in accordance with the provisions of this Regulation;
 - (c) he or she shall take all necessary steps, including the adoption of decisions concerning the responsibilities of the Agency under Chapters II and III, including chartering and operation of means of control and inspection and the operation of an information network;
 - (d) he or she shall respond to requests from the Commission and to requests for assistance from a Member State pursuant to Articles 6, 7 and 16;
 - (e) he or she shall organise an effective monitoring system in order to be able to compare the Agency's achievements with its operational objectives. On that basis, the Executive Director shall prepare a draft general report each year and submit it to the Administrative Board. He or she shall establish regular evaluation procedures that meet recognised professional standards;
 - (f) he or she shall exercise, in respect of the staff, the powers laid down in Article 28(2);
 - (g) he or she shall draw up estimates of the Agency's revenue and expenditure in accordance with Article 44, and shall implement the budget in accordance with Article 45.
4. The Executive Director shall account for his or her activities to the Administrative Board.

Article 39

Appointment and dismissal of the Executive Director

1. The Executive Director shall be appointed by the Administrative Board, on the grounds of merit and documented relevant experience in the field of the common fisheries policy and fisheries control and inspection, from a list of at least two candidates proposed by the Commission after a selection procedure, following the publication of the post in the *Official Journal of the European Union*, and, elsewhere, of a call for expressions of interest.
2. The power to dismiss the Executive Director shall lie with the Administrative Board. The Board shall deliberate on such item at the request of the Commission or of one third of its members.
3. The Administrative Board shall take the decisions referred to in paragraphs 1 and 2 by a two-thirds majority of members.
4. The term of office of the Executive Director shall be five years. The term of office may be extended once for a further five years on a proposal of the Commission, and that extension shall be approved by a two-thirds majority of members of the Administrative Board.

Article 40

Advisory Board

1. The Advisory Board shall be composed of representatives of the Advisory Councils provided for in Article 43 of Regulation (EU) No 1380/2013, on the basis of one representative designated by each Advisory Council. Representatives may be replaced by alternates, appointed at the same time.

2. Members of the Advisory Board shall not be members of the Administrative Board.

The Advisory Board shall appoint one of its members to take part in the deliberations of the Administrative Board without the right to vote.

3. The Advisory Board shall, at the request of the Executive Director, advise him or her in the performance of his or her duties under this Regulation.
4. The Advisory Board shall be chaired by the Executive Director. It shall meet, at the invitation of the Chair, not less than once per year.
5. The Agency shall provide the logistic support necessary for the Advisory Board and provide a secretariat for its meetings.
6. The members of the Administrative Board may attend the meetings of the Advisory Board.

*Article 41***Transparency and communication**

1. Regulation (EC) No 1049/2001 shall apply to documents held by the Agency.
2. The Administrative Board shall, within six months of the date of its first meeting, adopt the practical arrangements for implementing Regulation (EC) No 1049/2001.
3. The Agency may communicate on its own initiative, in the fields within its mission. It shall ensure, in particular, that the public and any interested party are rapidly given objective, reliable and easily understandable information with regard to its work.
4. The Administrative Board shall lay down the necessary internal rules for the application of paragraph 3.
5. Decisions taken by the Agency pursuant to Article 8 of Regulation (EC) No 1049/2001 may give rise to the lodging of a complaint with the European Ombudsman or form the subject of an action before the Court of Justice, under Articles 228 and 263 of the Treaty on the Functioning of the European Union (TFEU).
6. The information collected by the Commission and the Agency in accordance with this Regulation shall be subject to Regulation (EU) 2018/1725.

*Article 42***Confidentiality**

1. Members of the Administrative Board, the Executive Director and members of the staff of the Agency, even after their duties have ceased, shall be subject to the requirements of confidentiality pursuant to Article 339 TFEU.
2. The Administrative Board shall lay down internal rules regarding the practical arrangements for implementing the confidentiality requirements referred to in paragraph 1.

*Article 43***Access to information**

1. The Commission shall have full access to all information collected by the Agency. The Agency shall furnish any information and an evaluation of that information to the Commission at its request and in the form specified by it.
2. The Member States concerned by any particular operation of the Agency shall have access to the information collected by the Agency in relation to such operation, subject to the conditions which may be established in accordance with the procedure referred to in Article 47(2) of Regulation (EU) No 1380/2013.

CHAPTER VI

FINANCIAL PROVISIONS*Article 44***Budget**

1. The Agency's revenues shall consist of:
 - (a) a contribution from the Union entered in the general budget of the European Union (Commission section);
 - (b) charges for services provided by the Agency to Member States in accordance with Article 6;
 - (c) charges for publications, training and/or any other services provided by the Agency.
2. The Agency's expenditure shall cover staff and administrative, infrastructure and operational expenses.
3. The Executive Director shall draw up a draft statement of estimates of the Agency's revenue and expenditure for the following financial year and shall forward it to the Administrative Board, together with a draft establishment plan.
4. Revenue and expenditure shall be in balance.
5. Each year the Administrative Board, on the basis of a draft statement of estimates of revenue and expenditure, shall produce a statement of estimates of revenue and expenditure for the Agency for the following financial year.
6. The statement of estimates referred to in paragraph 5, which shall include a draft establishment plan, together with the provisional work programme, shall, by 31 March at the latest, be submitted by the Administrative Board to the Commission.

7. The statement of estimates shall be submitted by the Commission to the European Parliament and the Council (the 'budgetary authority') together with the preliminary draft general budget of the European Union.
8. On the basis of the statement of estimates, the Commission shall enter in the preliminary draft general budget of the European Union the estimates it deems necessary for the establishment plan and the amount of the subsidy to be charged to the general budget, which it shall place before the budgetary authority in accordance with Article 314 TFEU.
9. The budgetary authority shall authorise the appropriations for the subsidy to the Agency. The budgetary authority shall adopt the establishment plan for the Agency.
10. The budget shall be adopted by the Administrative Board. It shall become final following the final adoption of the general budget of the European Union. Where appropriate, it shall be adjusted accordingly.
11. The Administrative Board shall, as soon as possible, notify the budgetary authority of its intention to implement any project which may have significant financial implications for the funding of the budget, in particular any projects relating to property, such as the rental or purchase of buildings. It shall inform the Commission thereof.
12. Where a branch of the budgetary authority has notified its intention to deliver an opinion, it shall submit its opinion to the Administrative Board within a period of six weeks of the date of notification of the project.

Article 45

Implementation and control of the budget

1. The Executive Director shall implement the budget of the Agency.
2. By 1 March at the latest following each financial year, the Agency's accounting officer shall communicate the provisional accounts to the Commission's accounting officer together with a report on the budgetary and financial management for that financial year. The Commission's accounting officer shall consolidate the provisional accounts of the institutions and decentralised bodies in accordance with Article 245 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽¹⁶⁾ (the 'Financial Regulation').
3. By 31 March at the latest following each financial year, the Commission's accounting officer shall submit the Agency's provisional accounts to the Court of Auditors, together with a report on the budgetary and financial management for that financial year. The report on the budgetary and financial management for that financial year shall also be submitted to the European Parliament and the Council.
4. On receipt of the Court of Auditors' observations on the Agency's provisional accounts, pursuant to Article 246 of the Financial Regulation, the Executive Director shall draw up the Agency's final accounts under his or her own responsibility and submit them to the Administrative Board for an opinion.
5. The Administrative Board shall deliver an opinion on the Agency's final accounts.
6. By 1 July of the following year at the latest, the Executive Director shall submit the final accounts, together with the opinion of the Administrative Board, to the European Parliament, the Council, the Commission and the Court of Auditors.
7. The final accounts shall be published.
8. The Agency shall establish an internal audit function which shall be performed in compliance with the relevant international standards.
9. The Executive Director shall send the Court of Auditors a reply to its observations by 30 September at the latest. He or she shall also send that reply to the Administrative Board.
10. The Executive Director shall submit to the European Parliament, at the request of the latter, all information necessary for the smooth application of the discharge procedure for the financial year in question, as laid down in Article 261(3) of the Financial Regulation.
11. The European Parliament, upon a recommendation from the Council, shall, before 30 April of the second following year, give a discharge to the Executive Director of the Agency in respect of the implementation of the budget for the year in question.

⁽¹⁶⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

*Article 46***Combating fraud**

1. In order to combat fraud, corruption and other unlawful activities, the provisions of Regulation (EU, Euratom) No 883/2013 shall apply without restriction to the Agency.
2. The Agency shall accede to the Interinstitutional Agreement of 25 May 1999 concerning internal investigations by OLAF and shall issue, without delay, the appropriate provisions to all of its staff.
3. The decisions concerning funding and the implementing agreements and instruments relating to them shall explicitly stipulate that the Court of Auditors and OLAF may carry out, if necessary, on-the-spot checks of the recipients of the Agency's funding and the agents responsible for allocating it.

*Article 47***Financial provisions**

The Administrative Board, having received the agreement of the Commission and the opinion of the Court of Auditors, shall adopt the Agency's financial rules. They shall not depart from Commission Delegated Regulation (EU) No 1271/2013 ⁽¹⁷⁾ unless specifically required for the Agency's operation and with the Commission's prior consent.

CHAPTER VII

FINAL PROVISIONS*Article 48***Evaluation**

1. Within five years of the date of the Agency having taken up its responsibilities, and every five years thereafter, the Administrative Board shall commission an independent external evaluation of the implementation of this Regulation. The Commission shall make available to the Agency any information the Agency considers relevant to the evaluation.
2. Each evaluation shall assess the impact of this Regulation, the utility, relevance and effectiveness of the Agency and its working practices and the extent to which it contributes to the achievement of a high level of compliance with rules made under the common fisheries policy. The Administrative Board shall issue specific terms of reference in agreement with the Commission, following consultations with the parties involved.
3. The Administrative Board shall receive the evaluation and issue recommendations regarding changes to this Regulation, the Agency and its working practices to the Commission. Both the evaluation findings and recommendations shall be submitted by the Commission to the European Parliament and the Council and shall be made public.

*Article 49***Repeal**

Regulation (EC) No 768/2005 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex II.

*Article 50***Entry into force**

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

⁽¹⁷⁾ Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council (OJ L 328, 7.12.2013, p. 42).

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

Done at Brussels, 19 March 2019.

For the European Parliament

The President

A. TAJANI

For the Council

The President

G. CIAMBA

ANNEX I

Repealed Regulation with list of the successive amendments thereto

Council Regulation (EC) No 768/2005

(OJ L 128, 21.5.2005, p. 1).

Council Regulation (EC) No 1224/2009

(OJ L 343, 22.11.2009, p. 1).

Only Article 120

Regulation (EU) 2016/1626 of the European Parliament and of the Council

(OJ L 251, 16.9.2016, p. 80).

ANNEX II

Correlation table

Regulation (EC) No 768/2005	This Regulation
Articles 1 to 7	Articles 1 to 7
Article 7a	Article 8
Article 8	Article 9
Article 9	Article 10
Article 10	Article 11
Article 11	Article 12
Article 12	Article 13
Article 13	Article 14
Article 14	Article 15
Article 15	Article 16
Article 16	Article 17
Article 17	Article 18
Article 17a	Article 19
Article 17b	Article 20
Article 17c	Article 21
Article 17d	Article 22
Article 17e	Article 23
Article 17f	Article 24
Article 17g	Article 25
Article 17h	Article 26
Article 18	Article 27
Article 19	Article 28
Article 20	Article 29
Article 21	Article 30
Article 22	Article 31
Article 23	Article 32
Article 24	Article 33
Article 25	Article 34
Article 26	Article 35
Article 27	Article 36
Article 28	Article 37
Article 29	Article 38
Article 30	Article 39
Article 31	Article 40
Article 32	Article 41
Article 33	Article 42
Article 34	Article 43
Article 35	Article 44
Article 36	Article 45
Article 37	Article 46
Article 38	Article 47
Article 39	Article 48
Article 40	—
Article 41	—
—	Article 49
Article 42	Article 50
—	Annex I
—	Annex II

REGULATION (EU) 2019/474 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
of 19 March 2019
amending Regulation (EU) No 952/2013 laying down the Union Customs Code

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 Articles 33, 114 and 207 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 ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) Regulation (EU) No 952/2013 of the European Parliament and of the Council ⁽³⁾ establishes the Union Customs Code (the Code) and lays down general rules and procedures applicable to goods brought into or taken out of the customs territory of the Union.
- (2) The Italian municipality of Campione d'Italia, an Italian exclave in the territory of Switzerland, and the Italian waters of Lake Lugano should be included in the customs territory of the Union because the historical reasons justifying the exclusion of those territories, such as their isolation and economic disadvantages, no longer apply. For the same reasons, those territories should be included in the general arrangements for excise duty while continuing to be excluded from the common system of value added tax. In order to ensure that these changes apply consistently from the same point in time, the inclusion of those territories in the customs territory of the Union should apply from 1 January 2020.
- (3) The Code should be amended in order to clarify that a holder of a binding tariff information (BTI) decision can use that decision for up to six months after the BTI decision has been revoked if the revocation results from the fact that that decision does not comply with customs legislation or that the conditions laid down for taking BTI decisions have not been, or are no longer, fulfilled.
- (4) Temporary storage should be added to the list of customs formalities covered by the provision of the Code that provides for the extinguishment of a customs debt due to non-compliance where the failure had no significant effect on the correct operation of the procedure concerned, did not constitute an attempt at deception, and the situation was subsequently regularised. For the purposes of the extinguishment of a customs debt in those cases, temporary storage should not be treated differently to a customs procedure. The delegation of power to the Commission to supplement that provision of the Code should also be amended to include temporary storage.
- (5) Where customs authorities are required to invalidate an entry summary declaration due to the fact that the goods covered by the declaration have not been brought into the customs territory of the Union, the entry summary declaration should be invalidated without delay 200 days after the declaration was lodged rather than within 200 days, since that is the period within which the goods must be brought into the customs territory of the Union.
- (6) In order to enable the customs authorities to carry out proper risk analysis and appropriate risk-based controls, it is necessary to ensure that economic operators provide them with pre-arrival data and information concerning non-Union goods in the form of an entry summary declaration. Where an entry summary declaration was not lodged before the goods were brought into the customs territory of the Union and the obligation to lodge it has not been waived, economic operators should submit the data and information normally included in entry

⁽¹⁾ OJ C 367, 10.10.2018, p. 39.

⁽²⁾ Position of the European Parliament of 31 January 2019 (not yet published in the Official Journal) and decision of the Council of 18 February 2019.

⁽³⁾ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

summary declarations in their customs declarations or temporary storage declarations. For those purposes, the possibility to lodge a customs declaration or a temporary storage declaration instead of an entry summary declaration should be available only if the customs authorities where the goods are being presented so allow. Where customs authorities are required to invalidate a temporary storage declaration due to the fact that the goods covered by the declaration have not been presented to customs, that declaration should be invalidated without delay after 30 days have elapsed since the declaration was lodged rather than within 30 days, since that is the period within which the goods must be presented to customs.

- (7) Total relief from import duty should be provided for goods that have been repaired or altered under the outward processing procedure in a country or territory with which the Union has concluded an international agreement providing for such relief, in order to ensure that the Union fulfils its international commitments in this respect. Since the scope of that relief is limited to the import of the products that have actually been repaired or altered in the country or territory concerned, it should not be extended to the import of repaired or altered products obtained from equivalent goods or of replacement products under the standard exchange system. The relief from import duty should therefore not apply to those goods and products.
- (8) Where customs authorities are required to invalidate an exit summary declaration or a re-export notification due to the fact that the relevant goods have not been taken out of the customs territory of the Union, the declaration or notification should be invalidated without delay after 150 days have elapsed since it was lodged rather than within 150 days, since that is the period within which the goods must be taken out of the customs territory of the Union.
- (9) In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objectives of enabling the customs union to function effectively and of implementing the common commercial policy to address a number of technical issues that have been detected in the implementation of the Code since its entry into force, to bring two territories of a Member State within the scope of the customs territory of the Union and to align the Code with international agreements not in force at the time of its adoption. This Regulation does not go beyond what is necessary in order to achieve the objectives pursued, in accordance with Article 5(4) of the Treaty on European Union.
- (10) Regulation (EU) No 952/2013 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Regulation (EU) No 952/2013 is amended as follows:

- (1) in Article 4(1), the twelfth indent is replaced by the following:

‘— the territory of the Italian Republic, except the municipality of Livigno;’

- (2) in Article 34(9), the first subparagraph is replaced by the following:

‘9. Where a BTI or BOI decision ceases to be valid in accordance with point (b) of paragraph 1 or with paragraph 2, or is revoked in accordance with paragraph 5, 7 or 8, the BTI or BOI decision may still be used in respect of binding contracts which were based upon that decision and were concluded before it ceased to be valid or was revoked. That extended use shall not apply where a BOI decision is taken for goods to be exported.’;

- (3) in Article 124(1), point (h)(i) is replaced by the following:

‘(i) the failure which led to the incurrence of a customs debt had no significant effect on the correct operation of the temporary storage or of the customs procedure concerned and did not constitute an attempt at deception;’;

- (4) Article 126 is replaced by the following:

‘*Article 126*

Delegation of power

The Commission shall be empowered to adopt delegated acts, in accordance with Article 284, in order to determine the list of failures with no significant effect on the correct operation of the temporary storage or of the customs procedure concerned and to supplement point (h)(i) of Article 124(1).’;

(5) in Article 129, paragraph 2 is replaced by the following:

'2. Where the goods for which an entry summary declaration has been lodged are not brought into the customs territory of the Union, the customs authorities shall invalidate that declaration without delay in either of the following cases:

- (a) upon application by the declarant; or
- (b) after 200 days have elapsed since the declaration was lodged.;

(6) in Article 139, paragraph 5 is replaced by the following:

'5. Where non-Union goods presented to customs are not covered by an entry summary declaration, and except where the obligation to lodge such declaration is waived, one of the persons referred to in Article 127(4) shall, without prejudice to Article 127(6), immediately lodge such declaration or, if permitted by the customs authorities, shall instead lodge a customs declaration or temporary storage declaration. Where, in such circumstances, a customs declaration or a temporary storage declaration is lodged, the declaration shall contain at least the particulars necessary for the entry summary declaration.;

(7) in Article 146, paragraph 2 is replaced by the following:

'2. Where the goods for which a temporary storage declaration has been lodged are not presented to customs, the customs authorities shall invalidate that declaration without delay in either of the following cases:

- (a) upon application by the declarant; or
- (b) after 30 days have elapsed since the declaration was lodged.;

(8) the following Article is inserted:

'Article 260a

Goods repaired or altered in the context of international agreements

1. Total relief from import duty shall be granted to processed products resulting from goods placed under the outward processing procedure where it is established to the satisfaction of the customs authorities that:

- (a) those goods have been repaired or altered in a country or territory outside the customs territory of the Union with which the Union has concluded an international agreement providing for such relief; and
- (b) the conditions for the relief from import duty laid down in the agreement referred to in point (a) are fulfilled.

2. Paragraph 1 shall not apply to processed products resulting from equivalent goods as referred to in Article 223 and to replacement products as referred to in Articles 261 and 262.;

(9) in Article 272, paragraph 2 is replaced by the following:

'2. Where the goods for which an exit summary declaration has been lodged are not taken out of the customs territory of the Union, the customs authorities shall invalidate that declaration without delay in either of the following cases:

- (a) upon application by the declarant; or
- (b) after 150 days have elapsed since the declaration was lodged.;

(10) in Article 275, paragraph 2 is replaced by the following:

'2. Where the goods for which a re-export notification has been lodged are not taken out of the customs territory of the Union, the customs authorities shall invalidate that notification without delay in either of the following cases:

- (a) upon application by the declarant; or
- (b) after 150 days have elapsed since the notification was lodged.'

Article 2

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

Article 1(1) shall apply from 1 January 2020.

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

Done at Brussels, 19 March 2019.

For the European Parliament

The President

A. TAJANI

For the Council

The President

G. CIAMBA

DIRECTIVES

COUNCIL DIRECTIVE (EU) 2019/475

of 18 February 2019

amending Directives 2006/112/EC and 2008/118/EC as regards the inclusion of the Italian municipality of Campione d'Italia and the Italian waters of Lake Lugano in the customs territory of the Union and in the territorial application of Directive 2008/118/EC

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 113 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 Parliament ⁽¹⁾,

Having regard to the opinion of the European Economic and Social Committee ⁽²⁾,

Acting in accordance with a special legislative procedure,

Whereas:

- (1) By its letter of 18 July 2017, Italy requested that the Italian municipality of Campione d'Italia and the Italian waters of Lake Lugano be included in the customs territory of the Union as defined in Regulation (EU) No 952/2013 of the European Parliament and of the Council ⁽³⁾ as well as in the territorial scope of Council Directive 2008/118/EC ⁽⁴⁾ for the purposes of excise duty, whilst leaving those territories outside the territorial scope of Council Directive 2006/112/EC ⁽⁵⁾ for the purposes of value added tax.
- (2) The Italian municipality of Campione d'Italia, an Italian exclave in the territory of Switzerland, and the Italian waters of Lake Lugano should be included in the customs territory of the Union because the historical reasons justifying the exclusion of those territories, such as their isolation and economic disadvantages, no longer apply. For the same reasons, those territories should be included in the territorial application of Directive 2008/118/EC.
- (3) However, Italy wants to continue the exclusion of those territories from the territorial application of Directive 2006/112/EC, as this is essential to maintain a level playing field between economic operators established in Switzerland and in the Italian municipality of Campione d'Italia through the application of a local indirect taxation regime in line with the Swiss value added tax system.
- (4) This Directive should be strictly linked to Regulation (EU) 2019/474 of the European Parliament and of the Council ⁽⁶⁾. Therefore, the national transposition measures necessary to comply with this Directive should apply from the date of application of that Regulation.
- (5) Directives 2006/112/EC and 2008/118/EC should therefore be amended accordingly,

⁽¹⁾ Opinion of 2 October 2018 (not yet published in the Official Journal).

⁽²⁾ Opinion of 11 July 2018 (OJ C 367, 10.10.2018, p. 117).

⁽³⁾ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

⁽⁴⁾ Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC (OJ L 9, 14.1.2009, p. 12).

⁽⁵⁾ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

⁽⁶⁾ Regulation (EU) 2019/474 of the European Parliament and of the Council of 19 March 2019 amending Regulation (EU) No 952/2013 laying down the Union Customs Code (see page 38 in this Official Journal).

HAS ADOPTED THIS DIRECTIVE:

Article 1

In Directive 2006/112/EC, Article 6 is amended as follows:

(1) in paragraph 1, the following points are added:

- (f) Campione d'Italia;
- (g) the Italian waters of Lake Lugano;

(2) in paragraph 2, points (f) and (g) are deleted.

Article 2

In Article 5(3) of Directive 2008/118/EC, points (f) and (g) are deleted.

Article 3

1. By 31 December 2019, Member States shall adopt and publish the measures necessary to comply with this Directive. They shall immediately inform the Commission thereof.

They shall apply those measures from 1 January 2020.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the main measures of national law which they adopt in the field covered by this Directive.

Article 4

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

Article 5

This Directive is addressed to the Member States.

Done at Brussels, 18 February 2019.

For the Council
The President
N. BĂDĂLĂU

ISSN 1977-0677 (electronic edition)
ISSN 1725-2555 (paper edition)



Publications Office of the European Union
2985 Luxembourg
LUXEMBOURG

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