

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

PART III

MEASURES FOR THE CONSERVATION AND SUSTAINABLE EXPLOITATION OF MARINE BIOLOGICAL RESOURCES

TITLE II

Specific measures

Article 9

Principles and objectives of multiannual plans

1 Multiannual plans shall be adopted as a priority, based on scientific, technical and economic advice, and shall contain conservation measures to restore and maintain fish stocks above levels capable of producing maximum sustainable yield in accordance with Article 2(2).

2 Where targets relating to the maximum sustainable yield as referred to in Article 2(2) cannot be determined, owing to insufficient data, the multiannual plans shall provide for measures based on the precautionary approach, ensuring at least a comparable degree of conservation of the relevant stocks.

3 Multiannual plans shall cover either:

- a single species; or
- b in the case of mixed fisheries or where the dynamics of stocks relate to one another, fisheries exploiting several stocks in a relevant geographical area, taking into account knowledge about the interactions between fish stocks, fisheries and marine ecosystems.

4 The measures to be included in multiannual plans, and the calendar for implementing them, shall be proportionate to the objectives and targets pursued and to the time-frame envisaged. Before measures are included in the multiannual plans, account shall be taken of their likely economic and social impact.

5 Multiannual plans may contain specific conservation objectives and measures based on the ecosystem approach in order to address the specific problems of mixed fisheries in relation to the achievement of the objectives set out in Article 2(2) for the mixture of stocks covered by the plan in cases where scientific advice indicates that increases in selectivity cannot be achieved. Where necessary, the multiannual plan shall include specific alternative conservation measures, based on the ecosystem approach, for some of the stocks that it covers.

Article 10

Content of multiannual plans

- 1 As appropriate and without prejudice to the respective competences under the Treaty, a multiannual plan shall include:
 - a the scope, in terms of stocks, fishery and the area to which the multiannual plan shall be applied;
 - b objectives that are consistent with the objectives set out in Article 2 and with the relevant provisions of Articles 6 and 9;
 - c quantifiable targets such as fishing mortality rates and/or spawning stock biomass;
 - d clear time-frames to reach the quantifiable targets;
 - e conservation reference points consistent with the objectives set out in Article 2;
 - f objectives for conservation and technical measures to be taken in order to achieve the targets set out in Article 15, and measures designed to avoid and reduce, as far as possible, unwanted catches;
 - g safeguards to ensure that quantifiable targets are met, as well as remedial action, where needed, including for situations where the deteriorating quality of data or non-availability put the sustainability of the stock at risk.
- 2 A multiannual plan may also include:
 - a other conservation measures, in particular measures to gradually eliminate discards, taking into account the best available scientific advice, or to minimise the negative impact of fishing on the ecosystem, to be further specified, where appropriate, in accordance with Article 18;
 - b quantifiable indicators for periodic monitoring and assessment of progress in achieving the targets of the multiannual plan;
 - c where appropriate, specific objectives for the freshwater part of the life cycle of anadromous and catadromous species.
- 3 A multiannual plan shall provide for its revision after an initial ex-post evaluation, in particular to take account of changes in scientific advice.

Article 11

Conservation measures necessary for compliance with obligations under Union environmental legislation

- 1 Member States are empowered to adopt conservation measures not affecting fishing vessels of other Member States that are applicable to waters under their sovereignty or jurisdiction and that are necessary for the purpose of complying with their obligations under Article 13(4) of Directive 2008/56/EC, Article 4 of Directive 2009/147/EC or Article 6 of Directive 92/43/EEC, provided that those measures are compatible with the objectives set out in Article 2 of this Regulation, meet the objectives of the relevant Union legislation that they intend to implement, and are at least as stringent as measures under Union law.
- 2 Where a Member State ("the initiating Member State") considers that measures need to be adopted for the purpose of complying with the obligations referred to in paragraph 1 and other Member States have a direct management interest in the fishery to be affected by such measures, the Commission shall be empowered to adopt such measures, upon request, by means

of delegated acts in accordance with Article 46. For this purpose, Article 18(1) to (4) and (6) shall apply *mutatis mutandis*.

3 The initiating Member State shall provide the Commission and the other Member States having a direct management interest with relevant information on the measures required, including their rationale, scientific evidence in support and details on their practical implementation and enforcement. The initiating Member State and the other Member States having a direct management interest may submit a joint recommendation, as referred to in Article 18(1), within six months from the provision of sufficient information. The Commission shall adopt the measures, taking into account any available scientific advice, within three months from receipt of a complete request.

If not all Member States succeed in agreeing on a joint recommendation to be submitted to the Commission in accordance with the first subparagraph within the deadline set therein, or if the joint recommendation is deemed not to be compatible with the requirements referred to in paragraph 1, the Commission may submit a proposal in accordance with the Treaty.

4 By way of derogation from paragraph 3, in the absence of a joint recommendation referred to in paragraph 3, in cases of urgency, the Commission shall adopt the measures. The measures to be adopted in a case of urgency shall be limited to those in the absence of which the achievement of the objectives associated with the establishment of the conservation measures in accordance with the Directives referred to in paragraph 1 and the Member State's intentions, is in jeopardy.

5 The measures referred to in paragraph 4 shall apply for a maximum period of 12 months which may be extended for a maximum period of 12 months where the conditions provided for in that paragraph continue to exist.

6 The Commission shall facilitate cooperation between the Member State concerned and the other Member States having a direct management interest in the fishery in the process of implementation and enforcement of the measures adopted under paragraphs 2, 3 and 4.

Article 12

Commission measures in case of a serious threat to marine biological resources

1 On duly justified imperative grounds of urgency relating to a serious threat to the conservation of marine biological resources or to the marine ecosystem based on evidence, the Commission, at the reasoned request of a Member State or on its own initiative, may, in order to alleviate that threat, adopt immediately applicable implementing acts applicable for a maximum period of six months in accordance with the procedure referred to in Article 47(3).

2 The Member State shall communicate the request referred to in paragraph 1 simultaneously to the Commission, to other Member States and to the Advisory Councils concerned. The other Member States and the Advisory Councils may submit their written comments within seven working days of the receipt of the notification. The Commission shall take a decision within 15 working days of the receipt of the request referred to in paragraph 1.

3 Before expiry of the initial period of application of immediately applicable implementing acts referred to in paragraph 1, the Commission may, where the conditions under paragraph 1 are complied with, adopt immediately applicable implementing acts extending the application of such emergency measure for a maximum period of six months with immediate effect. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 47(3).

Article 13

Member State emergency measures

1 On the basis of evidence of a serious threat to the conservation of marine biological resources or to the marine ecosystem relating to fishing activities in waters falling under the sovereignty or jurisdiction of a Member State that require immediate action, that Member State may adopt emergency measures to alleviate the threat. Such measures shall be compatible with the objectives set out in Article 2 and no less stringent than those provided for in Union law. Such measures shall apply for a maximum period of three months.

2 Where emergency measures to be adopted by a Member State are liable to affect fishing vessels of other Member States, such measures shall be adopted only after consulting the Commission, the relevant Member States and the relevant Advisory Councils on a draft of the measures accompanied by an explanatory memorandum. The consulting Member State may set a reasonable deadline for the consultation which shall, however, not be shorter than one month.

3 Where the Commission considers that a measure adopted under this Article does not comply with the conditions set out in paragraph 1, it may, subject to providing relevant reasons, request that the Member State concerned amend or repeal that measure.

Article 14

Avoidance and minimisation of unwanted catches

1 In order to facilitate the introduction of the obligation to land all catches in the respective fishery in accordance with Article 15 ("the landing obligation"), Member States may conduct pilot projects, based on the best available scientific advice and taking into account the opinions of the relevant Advisory Councils, with the aim of fully exploring all practicable methods for the avoidance, minimisation and elimination of unwanted catches in a fishery.

2 Member States may produce a "discard atlas" showing the level of discards in each of the fisheries which are covered by Article 15(1).

Article 15

Landing obligation

1 All catches of species which are subject to catch limits and, in the Mediterranean, also catches of species which are subject to minimum sizes as defined in Annex III to Regulation (EC) No 1967/2006, caught during fishing activities in Union waters or by Union fishing vessels outside Union waters in waters not subject to third countries' sovereignty or jurisdiction, in the fisheries and geographical areas listed below shall be brought and retained on board the fishing vessels, recorded, landed and counted against the quotas where applicable, except when used as live bait, in accordance with the following time-frames:

- a From 1 January 2015 at the latest:
 - small pelagic fisheries (i.e. fisheries for mackerel, herring, horse mackerel, blue whiting, boarfish, anchovy, argentine, sardine, sprat);
 - large pelagic fisheries (i.e. fisheries for bluefin tuna, swordfish, albacore tuna, bigeye tuna, blue and white marlin);

- fisheries for industrial purposes (inter alia, fisheries for capelin, sandeel and Norwegian pout);
- fisheries for salmon in the Baltic Sea.
- b From 1 January 2015 at the latest for species which define the fisheries and from 1 January 2017 at the latest for all other species in fisheries in Union waters of the Baltic Sea for species subject to catch limits other than those covered by point (a).
- c From 1 January 2016 at the latest for the species which define the fisheries and from 1 January 2019 at the latest for all other species in:
 - (i) the North Sea
 - fisheries for cod, haddock, whiting, saithe;
 - fisheries for Norway lobster;
 - fisheries for common sole and plaice;
 - fisheries for hake;
 - fisheries for Northern prawn;
 - (ii) North Western waters
 - fisheries for cod, haddock, whiting, saithe;
 - fisheries for Norway lobster;
 - fisheries for common sole and plaice;
 - fisheries for hake;
 - (iii) South Western waters
 - fisheries for Norway lobster;
 - fisheries for common sole and plaice;
 - fisheries for hake;
 - (iv) other fisheries for species subject to catch limits.
- d From 1 January 2017 at the latest for species which define the fisheries and from 1 January 2019 at the latest for all other species in fisheries not covered by point (a) in the Mediterranean, in the Black Sea and in all other Union waters and in non-Union waters not subject to third countries' sovereignty or jurisdiction.

2 Paragraph 1 shall be without prejudice to the Union's international obligations. The Commission shall be empowered to adopt delegated acts, in accordance with Article 46, for the purpose of implementing such international obligations into Union law, including, in particular, derogations from the landing obligation under this Article.

3 Where all the Member States having a direct management interest in a particular fishery agree that the landing obligation should apply to species other than those listed in paragraph 1, they may submit a joint recommendation for the purpose of extending the application of the landing obligation to such other species. For this purpose, Article 18(1) to (6) shall apply *mutatis mutandis*. Where such a joint recommendation is submitted, the Commission shall be empowered to adopt delegated acts, in accordance with Article 46, containing such measures.

- 4 The landing obligation referred to in paragraph 1 shall not apply to:
- a species in respect of which fishing is prohibited and which are identified as such in a Union legal act adopted in the area of the CFP;
 - b species for which scientific evidence demonstrates high survival rates, taking into account the characteristics of the gear, of the fishing practices and of the ecosystem;
 - c catches falling under *de minimis* exemptions.

5 Details of the implementation of the landing obligation referred to in paragraph 1 shall be specified in multiannual plans referred to in Articles 9 and 10 and, where relevant, further specified in accordance with Article 18, including:

- a specific provisions regarding fisheries or species covered by the landing obligation referred to in paragraph 1;
- b the specification of exemptions to the landing obligation of species referred to in point (b) of paragraph 4;
- c provisions for de minimis exemptions of up to 5 % of total annual catches of all species subject to the landing obligation referred to in paragraph 1. The de minimis exemption shall apply in the following cases:
 - (i) where scientific evidence indicates that increases in selectivity are very difficult to achieve; or
 - (ii) to avoid disproportionate costs of handling unwanted catches, for those fishing gears where unwanted catches per fishing gear do not represent more than a certain percentage, to be established in a plan, of total annual catch of that gear.

Catches under the provisions referred to in this point shall not be counted against the relevant quotas; however, all such catches shall be fully recorded.

For a transitional period of four years, the percentage of the total annual catches referred to in this point shall increase:

- (i) by two percentage points in the first two years of application of the landing obligation; and
 - (ii) by one percentage point in the subsequent two years;
- d provisions on documentation of catches;
 - e where appropriate, the fixing of minimum conservation reference sizes in accordance with paragraph 10.

6 Where no multiannual plan, or no management plan in accordance with Article 18 of Regulation (EC) No 1967/2006, is adopted for the fishery in question, the Commission shall be empowered to adopt, in accordance with Article 18 of this Regulation, delegated acts in accordance with Article 46 of this Regulation, laying down on a temporary basis and for a period of no more than three years a specific discard plan containing the specifications referred to in points (a) to (e) of paragraph 5 of this Article. Member States may cooperate, in accordance with Article 18 of this Regulation, in the drawing up of such a plan with a view to the Commission adopting such acts or submitting a proposal in accordance with the ordinary legislative procedure.

7 Where no measures have been adopted for the purpose of specifying the de minimis exemption either in a multiannual plan in accordance with paragraph 5 or in a specific discard plan in accordance with paragraph 6, the Commission shall adopt delegated acts, in accordance with Article 46, setting the de minimis exemption referred to in point (c) of paragraph 4 which shall, subject to the conditions set out in point (c)(i) or (ii) of paragraph 5, amount to no more than 5 % of total annual catches of all species to which the landing obligation applies under paragraph 1. That de minimis exemption shall be adopted so as to apply from the date of application of the relevant landing obligation.

8 By way of derogation from the obligation to count catches against the relevant quotas in accordance with paragraph 1, catches of species that are subject to the landing obligation and that are caught in excess of quotas of the stocks in question, or catches of species in respect of

which the Member State has no quota, may be deducted from the quota of the target species provided that they do not exceed 9 % of the quota of the target species. This provision shall only apply where the stock of the non-target species is within safe biological limits.

9 For stocks subject to the landing obligation, Member States may use a year-to-year flexibility of up to 10 % of their permitted landings. For this purpose, a Member State may allow landing of additional quantities of the stock that is subject to the landing obligation provided that such quantities do not exceed 10 % of the quota allocated to that Member State. Article 105 of Regulation (EC) No 1224/2009 shall apply.

10 Minimum conservation reference sizes may be established with the aim of ensuring the protection of juveniles of marine organisms.

11 For the species subject to the landing obligation as specified in paragraph 1, the use of catches of species below the minimum conservation reference size shall be restricted to purposes other than direct human consumption, including fish meal, fish oil, pet food, food additives, pharmaceuticals and cosmetics.

12 For species that are not subject to the landing obligation as specified in paragraph 1, the catches of species below the minimum conservation reference size shall not be retained on board, but shall be returned immediately to the sea.

13 For the purpose of monitoring compliance with the landing obligation, Member States shall ensure detailed and accurate documentation of all fishing trips and adequate capacity and means, such as observers, closed-circuit television (CCTV) and others. In doing so, Member States shall respect the principle of efficiency and proportionality.

Article 16

Fishing opportunities

1 Fishing opportunities allocated to Member States shall ensure relative stability of fishing activities of each Member State for each fish stock or fishery. The interests of each Member State shall be taken into account when new fishing opportunities are allocated.

2 When the landing obligation in respect of a fish stock is introduced, fishing opportunities shall be fixed taking into account the change from fixing fishing opportunities that reflect landings to fixing fishing opportunities that reflect catches, on the basis of the fact that, for the first and subsequent years, discarding of that stock will no longer be allowed.

3 Where new scientific evidence shows that there is a significant disparity between the fishing opportunities that have been fixed for a specific stock and the actual state of that stock, Member States having a direct management interest may submit a reasoned request to the Commission for it to submit a proposal to alleviate that disparity, while respecting the objectives set out in Article 2(2).

4 Fishing opportunities shall be fixed in accordance with the objectives set out in Article 2(2) and shall comply with quantifiable targets, time-frames and margins established in accordance with Article 9(2) and points (b) and (c) of Article 10(1).

5 Measures on the fixing and allocation of fishing opportunities available to third countries in Union waters shall be established in accordance with the Treaty.

6 Each Member State shall decide how the fishing opportunities that are allocated to it, and which are not subject to a system of transferable fishing concessions, may be allocated

to vessels flying its flag (e.g. by creating individual fishing opportunities). It shall inform the Commission of the allocation method.

7 For the allocation of fishing opportunities pertaining to mixed fisheries, Member States shall take account of the likely catch composition of vessels participating in such fisheries.

8 Member States may, after notifying the Commission, exchange all or part of the fishing opportunities allocated to them.

Article 17

Criteria for the allocation of fishing opportunities by Member States

When allocating the fishing opportunities available to them, as referred to in Article 16, Member States shall use transparent and objective criteria including those of an environmental, social and economic nature. The criteria to be used may include, inter alia, the impact of fishing on the environment, the history of compliance, the contribution to the local economy and historic catch levels. Within the fishing opportunities allocated to them, Member States shall endeavour to provide incentives to fishing vessels deploying selective fishing gear or using fishing techniques with reduced environmental impact, such as reduced energy consumption or habitat damage.