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Subject:	Proposal for a Regulation of the European Parliament and of the Council on the sustainable management of external fishing fleets, repealing Council Regulation (EC) No 1006/2008 (First reading) (Legislative deliberation) - Confirmation of the final compromise text with a view to agreement

Delegations will find below the final compromise text for the Regulation of the European Parliament and of the Council on the sustainable management of external fishing fleets, repealing Council Regulation (EC) No 1006/2008. This Regulation is the result of the last informal trilogue of 20 June 2017, as technically updated by the European Parliament and the Council on 26 June 2017.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the sustainable management of external fishing fleets, repealing Council Regulation (EC)

No 1006/2008

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 Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Having regard to the opinion of the European Data Protection Supervisor³,

Acting in accordance with the ordinary legislative procedure,

¹ OJ C , , p. .

² OJ C , , p. .

³ OJ C , , p. .

Whereas:

- (1) Council Regulation (EC) No 1006/2008⁴ ('FAR') established a system concerning authorisations for fishing activities of Union fishing vessels outside Union waters and the access of third country vessels to Union waters,
- (2) The Union is a contracting party to the United Nations Conventions on the Law of the Sea of 10 December 1982⁵ (UNCLOS) and has ratified the 1995 United Nations Agreement on the Implementation of the provisions of the United Nations Convention on the Law of the Sea relating to the conservation and management of straddling fish stocks and highly migratory fish stocks of 4 August 1995 (UN Fish Stock Agreement)⁶. These international provisions set out the principle that all states have to adopt appropriate measures to ensure the sustainable management *and conservation* of marine resources and to cooperate with each other to this end.
- (3) The Union has accepted the Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas of 24 November 1993 of the Food and Agriculture Organisation of the United Nations (FAO Compliance Agreement)⁷. This agreement stipulates that a contracting party is to abstain from granting authorisation to use a vessel for fishing on the high seas if certain conditions are not met, as well as implement sanctions if certain reporting obligations are not fulfilled.

⁴ Council Regulation (EC) No 1006/2008 of 29 September 2008 concerning authorisations for fishing activities of Community fishing vessels outside Community waters and the access of third country vessels to Community waters, amending Regulations (EEC) No 2847/93 and (EC) No 1627/94 and repealing Regulation (EC) No 3317/94 (OJ L 286, 29.10.2008, p. 33).

⁵ Council Decision 98/392/EC of 23 March 1998 concerning the conclusion by the European Community of the United Nations Convention of 10 December 1982 on the Law of the Sea and the Agreement of 28 July 1994 relating the implementation of Part XI thereof (OJ L 179, 23.6.1998, p. 1).

⁶ Council Decision 98/414/EC of 8 June 1998 on the ratification by the European Community of the Agreement for the implementing of the provisions of the United Nations Convention of the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling stocks and highly migratory fish stocks (OJ L 189, 3.7.1998, p. 14).

⁷ Council Decision 96/428/EC of 25 June 1996 on acceptance by the Community of the Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas (OJ L 177/26, 16.7.1996, p. 24).

- (4) The Union has endorsed the FAO International Plan of Action to prevent, deter and eliminate illegal, unreported and undeclared fishing (IPOA-IUU) adopted in 2001. The IPOA-IUU and the FAO Voluntary Guidelines for flag state performance endorsed in 2014 underlie the responsibility of the flag State to ensure the long-term conservation and sustainable use of living marine resources and marine ecosystems. The IPOA-IUU provides that a flag State should issue authorisations to fish in waters outside its sovereignty or jurisdiction to vessels flying its flag. The Voluntary Guidelines also recommend an authorisation be given by the flag State and by the coastal state when the fishing activities take place under a fisheries access agreement or even outside such an agreement. They should both be satisfied that such activities will not undermine the sustainability of the stocks in the coastal state's waters (paragraphs 40 and 41).

Recital 4 a (new)

- (4a) In 2014, all members of the FAO, including the Union and its developing country partners, unanimously adopted the Voluntary Guidelines on Securing Sustainable Small-scale Fisheries in the Context of Food Security and Poverty Eradication. Point 5.7 thereof highlights that small-scale fisheries should be given due consideration before agreements on resource access are entered into with third countries and third parties. These guidelines call for the adoption of measures for the long-term conservation and sustainable use of fisheries resources and for the securing of the ecological foundation for food production, underlining the importance of environmental standards for fishing activities outside Union waters that include an ecosystem-based approach to fisheries management together with the precautionary approach.*

New Recital 5

- (5) ***If there is evidence that the conditions on the basis of which a fishing authorisation has been issued are no longer met, a flag Member State should take appropriate action, including amending or withdrawing the authorisation and, if necessary, imposing effective and dissuasive sanctions. In fisheries under an Regional Fisheries Management Organisation (RFMO) or a Sustainable Fisheries Partnership Agreements (SFPAs), if a Union fishing vessel does not comply with the conditions for a fishing authorisation and the Member State fails to take appropriate action to remedy the situation, even after having been required to do so by the Commission, the Commission should conclude that no appropriate action has been taken. Consequently, the Commission should take additional action to make sure that the vessel concerned should no longer fish as long as the conditions are not met.***
- (5a) ***The Union committed itself at the United Nations Summit on Sustainable Development on 25 September 2015 to implementing the resolution containing the outcome document entitled "Transforming our world: the 2030 Agenda for Sustainable Development", including Sustainable Development Goal 14 "Conserve and sustainably use the oceans, seas and marine resources for sustainable development", as well as Sustainable Development Goal 12 "Ensure sustainable consumption and production patterns" and their targets.***
- (7) The objective of the Common Fisheries Policy (CFP), as set out in Regulation (EU) No 1380/2013 of the European Parliament and of the Council (the 'Basic Regulation')⁸, is to ensure that fishing activities are environmentally, economically and socially sustainable and are managed consistently with the objectives of achieving economic, social and employment benefits, and of restoring and maintaining fish stocks above levels which can produce maximum sustainable yield and that they are contributing to the availability of food supplies. ***It is also necessary, in implementing this policy, to take account of development cooperation objectives in accordance with the second subparagraph of Article 208(1) of the Treaty on the Functioning of the European Union.***

⁸ Regulation (EU) no 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy (OJ L 354, 28.12.2013, p. 22).

- (7a) *The Basic Regulation also requires that sustainable fisheries partnership agreements (SFPAs) be limited to surplus catches as referred to in Article 62(2) and (3) of UNCLOS.*
- (8) Regulation (EU) No 1380/2013 stresses the need to promote the objectives of the CFP internationally, ensuring that Union fishing activities outside Union waters are based on the same principles and standards as those applicable under Union law, while promoting a level playing field for Union operators and third-country operators.
- (9) Council Regulation (EC) No 1006/2008 was intended to establish common ground for authorising fishing activities to be carried out by Union vessels outside Union waters with a view to supporting the fight against IUU fishing and better control and monitoring of the *Union* fleet across the globe, *as well as conditions for the authorising of third country vessels fishing in Union waters.*
- (10) Council Regulation (EC) No 1005/2008⁹ on IUU fishing was adopted in parallel to Council Regulation (EC) No 1006/2008 and Council Regulation (EC) No 1224/2009 ('the Control Regulation')¹⁰ was adopted a year later. Those Regulations are the three implementing pillars of the control and enforcement provisions of the CFP.
- (11) However, these three regulations were not implemented consistently; in particular there were inconsistencies between the FAR and the Control Regulation, which was adopted after the FAR Regulation. The implementation of the FAR also revealed several loopholes, since some challenges in terms of control, such as chartering, reflagging and the issuance of fishing authorisations issued by a third country competent authority to a Union fishing vessel outside the framework of a Sustainable Fisheries Partnership Agreement ("direct authorisations"), were not covered. Besides, some reporting obligations have proven difficult as has the division of administrative roles between the Member States and the Commission.

⁹ Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999 (OJ L 286, 29.10.2008, p. 1).

¹⁰ Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).

- (12) The core principle of the present regulation is that any Union vessel fishing outside Union waters should be authorised by its flag Member State and monitored accordingly, irrespective of where it operates and the framework under which it does so. The issuing of an authorisation should be dependent on a basic set of common eligibility criteria being fulfilled. The information gathered by the Member States and provided to the Commission should allow the latter to intervene in the monitoring of the fishing activities of all Union fishing vessels in any given area outside Union waters at any time.
- (12a) *Recent years have seen considerable improvements in the Union's external fisheries policy, in terms of the conditions and terms of SFPAs and the diligence with which the provisions are enforced. Safeguarding the Union's interests in terms of access rights and conditions within the framework of SFPAs should therefore be a priority objective of the Union's external fisheries policy and similar conditions should be applied to Union activities outside the scope of SFPAs.*
- (13) Support vessels may have a substantial impact on the way fishing vessels are able to carry out their fishing activities and on the quantity of fish they can retrieve; it is therefore necessary to take them into account in the authorisation and reporting processes in this regulation.
- (14) Reflagging operations become an issue when their objective is to circumvent CFP rules or existing conservation and management measures. The Union should therefore be able to define, detect and hamper such operations. Traceability and proper follow-up of compliance history should be ensured throughout *the lifespan of a vessel owned by a Union operator regardless of the flag or flags it operates under*. The requirement that a unique vessel number be granted by the International Maritime Organisation (IMO) *where required under Union legislation* should also serve this purpose.

- (15) In third country waters, Union vessels may operate either under the provisions of sustainable fisheries partnership agreements concluded between the Union and third countries or by obtaining direct fishing authorisations from third countries if no sustainable fisheries partnership agreement is in force. In both cases these activities should be carried out in a transparent and sustainable way. Flag Member States *may* authorise the vessels flying their flag to seek and obtain direct authorisations from third coastal states, ***under a defined set of criteria and subject to monitoring***. The fishing activity should be authorised once the flag Member State is satisfied that it will not undermine sustainability ***and where the Commission has no duly justified objection. The operator should be allowed to start its fishing operation only after having been given the authorisation from both the flag Member State and the coastal State.***
- (16) A specific issue pertaining to sustainable fisheries partnership agreements is the reallocation of under-utilised fishing opportunities that occur when fishing opportunities allocated to Member States by the relevant Council Regulations are not fully used. Since the access costs set out in the sustainable fisheries partnership agreements are financed for a large part by the Union budget, a ***temporary*** reallocation ***and sub-allocation*** system is important to preserve Union financial interests and ensure that no fishing opportunity which has been paid for is wasted. It is therefore necessary to clarify and improve ***these allocation*** systems, which should be a last resort mechanism. Its application should be temporary and it should not affect the initial allocation of fishing opportunities ***among Member States in line with applicable relative stability principles***. Reallocation should only occur once the relevant Member States have given up on their rights to exchange fishing opportunities among themselves, ***and should primarily be addressed in the context of SFPA giving access to mixed fisheries.***
- (17) Fishing activities under the auspices of regional fisheries management organisations and on the high seas should also be authorised by the flag Member State and comply with regional fisheries management organisation specific rules or Union legislation governing fishing activities on the high seas.

- (18) *Effective management of* chartering arrangements *is important to ensure that* the effectiveness of conservation and management measures *is not undermined*, as well as *to ensure* the sustainable exploitation of living marine resources. It is therefore necessary to set out a legal framework that helps the Union to better monitor the activities of fishing vessels *flying a flag of a Member State of the Union and chartered by either a third country or EU operators* on the basis of what has been adopted by the relevant regional fisheries management organisation.
- (19) Procedures should be transparent and predictable for Union and third country operators, as well as for their respective competent authorities.
- (20) The exchange of data in electronic form between Member States and the Commission, as provided for by the Control Regulation, should be ensured. Member States should collect all requested data about their fleets and their fishing activities, manage it and make it available to the Commission. Moreover, they should cooperate with each other, the Commission and third countries where relevant in order to coordinate these data collection activities.
- (21) With a view to improving the transparency and accessibility of information on Union fishing authorisations, the Commission should set up an electronic fishing authorisation *database* comprising both a public and a secure part. Information in the Union fishing authorisation *database* includes personal data. The processing of personal data based on this Regulation should comply with Regulation (EC) No 45/2001 of the European Parliament and of the Council¹¹, Directive 95/46/EC of the European Parliament and of the Council¹² and applicable national laws.

¹¹ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L008 , 12.01.2001, p. 1).

¹² Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

- (22) With a view to properly addressing access to Union waters of fishing vessels flying the flag of a third country, the relevant rules should be consistent with those applicable to Union fishing vessels, in accordance with the Control Regulation. In particular, Article 33 of that Regulation on the reporting of catch and catch-related data should also apply to third country vessels fishing in Union waters.
- (23) Fishing vessels from third countries without authorisation under this Regulation should, when navigating in Union waters, be obliged to ensure that their fishing gear is installed in such a manner that it is not readily usable for fishing operations.
- (24) Member States should be responsible for controlling the fishing activities of third country vessels in Union waters and, in the event of infringements, for recording them in the national register provided for in Article 93 of the Control Regulation.
- (25) In order to simplify authorisation procedures, a common system of data exchange and data storage should be used by the Member States and the Commission to provide necessary information and updates while minimising administrative burden.
- (26) In order to take into account technological progress and subsequent possible new international law requirements, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of the adoption of modifications to the Annex to this Regulation setting out the list of information to be provided by an operator in order to obtain a fishing authorisation. It is of particular importance that the Commission carries 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-Making¹³. 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.

¹³ OJ L 123, 12.5.2016, p. 1.

New recital 26a:

The Commission should be empowered to adopt delegated acts in order to supplement the conditions for fishing authorisations in Article 11 to the extent necessary to reflect in Union law the outcome of the consultations between the Union and third countries with which the Union has concluded an agreement, or of arrangements with coastal states with which fish stocks are shared.

- (27) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission in respect of the recording, format and the transmission of data related to fishing authorisations from the Member States to the Commission and to the Union fishing authorisation ***database***, as well as to lay down a methodology for the reallocation of unused fishing opportunities. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹⁴.
- (29) By reason of the number and importance of the amendments to be made, Council Regulation (EC) No 1006/2008 should be repealed ***with the exception of Article 10 as this concerns reallocation systems in SFPAs that are in force.***

NEW RECITALS

- a) ***In case of third countries not being party to an RFMO, the Union may endeavor to foresee with the third country with which an SFPa is being considered to allocate a proportion of the sectoral support funding to facilitate that the third country joins the RFMO.***

¹⁴ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- b) *In order to apply the Union's international commitments in RFMOs and in accordance with the objectives referred to in Article 28 of Regulation (EU) No 1380/2013, the Union should encourage periodic assessments of performance by independent bodies, and should play an active role in setting up and reinforcing implementation committees in all RFMOs to which it is a contracting party. It should in particular ensure that these implementation committees perform general supervision of the implementation of the external fisheries policy and of the measures decided within the RFMO.***
- c) *To make the Union fishing authorisation database operational and to enable Member States to meet the technical transmission requirements, the Commission should provide technical assistance to the Member States concerned to enable them to transfer data electronically. Member States may also draw on financial aid from the European Maritime and Fisheries Fund pursuant to point (a) of the Article 76(2) of Regulation (EU) No 508/2014 of the European Parliament and of the Council¹⁵.***
- e) *When third countries' vessels overfish the quotas allocated to them for stocks in EU waters, the Commission should operate deductions from the quotas allocated to the third country in subsequent years. In the case of third country fishing vessels under agreements on exchange or joint management, those vessels fish on the quotas allocated to them by their own flag states in EU waters. In these cases, the deduction of quotas to be operated by the Commission in case of overfishing, is to be understood as the input that the Commission provides in the framework of the consultation with coastal states.***
- f) *Transshipments at sea escape any proper control by flag or coastal states and therefore constitute a possible way for operators to carry illegal catch. Transshipments by Union vessels on the high sea and under direct authorisations should be subject to prior notification when conducted outside port. Member States should inform the Commission on all transshipment operations carried out by their vessels, once a year.***

¹⁵ ***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 (OJ L 149, 20.5.2014, p. 1).***

- g) Union fishing vessels are not allowed to fish in waters under the jurisdiction or sovereignty of States with which the Union has an agreement but no active protocol. In the case of such an agreement, where no protocol has been in force for at least three years, it is appropriate that the Commission examines the reasons for the situation and takes appropriate action, which could include proposing to negotiate a new protocol;*

HAVE ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1

Subject Matter

This Regulation sets out rules for issuing and managing fishing authorisations for:

- (a) Union fishing vessels *conducting fishing operations* in waters under the sovereignty or jurisdiction of a third country, under the auspices of a regional fisheries management organisation *to which the Union is a contracting party*, in or outside Union waters, or on the high seas; and
- (b) third country fishing vessels *conducting fishing operations* in Union waters.

Article 2

Relationship to International and Union law

This Regulation shall apply without prejudice to the provisions:

- (a) in sustainable fisheries partnership agreements and *other* fisheries agreements concluded between the Union and third countries;
- (b) adopted by regional fisheries management organisations to which the Union is a contracting party;
- (c) in Union legislation implementing or transposing provisions referred to in points (a) and (b).

Article 3
Definitions

1. For the purpose of this Regulation, the definitions ***set out*** in Article 4 of Regulation (EU) No 1380/2013 ***and in points 1 to 4, 15, 16 and 22 of Article 2 of Regulation (EU) No 1005/2008*** shall apply, ***save as otherwise provided for in this Regulation.***

2. For the purpose of this Regulation the following definitions shall also apply:

- (a) ‘support vessel’ means a vessel ***other than a craft carried on board*** that is not equipped with operational fishing gear ***designed to catch or attract fish and*** that facilitates, assists or prepares fishing ***operations***;
- (b) ‘fishing authorisation’ means:
 - ***an authorisation referred to in Article 4 (10) of Regulation (EC) No 1224/2009,***
 - ***an authorisation issued by a third country entitling a Union fishing vessel to carry out specific fishing operations in the waters under the sovereignty or jurisdiction of this third country, during a specified period, in a given area or for a given fishery under specific conditions, and***
 - ***in respect of a third country fishing vessel, an authorisation*** entitling it to carry out ***in Union waters*** specific fishing ***operations*** during a specified period, in a given area or for a given fishery under specific conditions;
- (d) ‘direct authorisation’ means a fishing authorisation issued by a third country competent authority to a Union fishing vessel outside the framework of a sustainable fisheries partnership agreement ***or of an agreement on exchange of fishing opportunities and joint management of species of common interest***;
- (e) ‘third country waters’ means waters under the sovereignty or jurisdiction of a third country. ***The waters of a Member State that are not Union waters are considered as third country waters for the purpose of this Regulation;***

- (f) ‘observer program’ means a scheme under the auspices of a regional fisheries management organisation, *a Sustainable Fisheries Partnership Agreement (SFPA), a third country or a Member State* that provides observers onboard fishing vessels *including, where specifically foreseen in the applicable observer scheme*, to verify the vessel's compliance with the rules adopted by that organisation.
- (fb) ‘chartering’ means an arrangement by which a fishing vessel flying the flag of a Member State is contracted for a defined period by an operator in either another Member State or a third country without a change of flag;
- (g) ‘fishing operation’ means all activities in connection with searching for fish, the shooting, towing and hauling of active gears, setting, soaking, removing or resetting of passive gears and the removal of any catch from the gear, keep nets, or from a transport cage to fattening and farming cages;

TITLE II

Fishing Operations by Union Fishing Vessels Outside Union Waters

Chapter I

Common Provisions

Article 4

General Principle

Without prejudice to the requirement to obtain an authorisation from the competent organisation or third country, a Union fishing vessel may not carry out fishing *operations* outside Union waters unless it has been *authorised by its flag Member State, and the fishing operations are indicated in a valid* fishing authorisation *issued in accordance with Chapters II to V, as appropriate.*

Article 5
Eligibility criteria

1. A flag Member State may only issue a fishing authorisation for fishing **operations** outside Union waters if:

- (a) it has received complete and accurate information, in accordance with the requirements of the Annex or the concerned SFPA or RFMO, about the fishing vessel and the associated support vessel(s), including non-Union support vessels;
- (b) the fishing vessel has a valid fishing license under Article 6 of Regulation (EC) No 1224/2009;
- (c) the fishing vessel and any associated support vessel ***apply the relevant International Maritime Organisation ship identification number scheme insofar as is required under Union law***;
- (e) the fishing vessel is not included in an IUU vessel list adopted by a regional fisheries management organisation and/or by the Union pursuant to Council Regulation (EC) 1005/2008;
- (f) where applicable, fishing opportunities are available to the flag Member State under the fisheries agreement concerned or the relevant provisions of the regional fisheries management organisation; and
- (g) where applicable, the fishing vessel complies with the requirements set out in Article 6.

2. The Commission shall be empowered to adopt delegated acts, in accordance with Article 44, for the purpose of amending the Annex to ensure appropriate monitoring of the activities of fishing vessels under this regulation, in particular through new data requirements resulting from fisheries agreements or the development of information technologies.

Article 6
Reflagging operations

1. This **Article** applies to vessels that **during the** five years **preceding** the application for a fishing authorisation have:

- (a) left the Union fishing fleet register and been reflagged in a third country; and
- (b) subsequently returned to the Union fishing fleet register

2. A flag Member State may only issue a fishing authorisation if it **has verified** that, during the period that the vessel referred to in paragraph 1 operated under a third country flag:

- (a) it did not engage in IUU fishing; and that
- (b) ***it did not operate in waters of a third country which became identified as a country allowing non-sustainable fishing pursuant to point (a) of Article 4 (1) of Regulation (EU) No 1026/2012 and***
- (c) ***it did not operate in waters of a listed non-cooperating third country pursuant to Article 33 of Council Regulation (EC) No 1005/2008 and***
- (d) ***it did not operate in waters of an identified non-cooperating third country pursuant to Article 31 of Council Regulation (EC) No 1005/2008 after a period of six weeks following the adoption of the Commission's decision identifying that third country as such, except for any operations carried out in the event that the Council has rejected a proposal to designate that third country pursuant to Article 33 of Council Regulation (EC) No 1005/2008.***

3. To this end, an operator shall provide **the following** information related to the period **during which the vessel operated under a third country flag** required by a flag Member State:

- (a) a declaration of catches and fishing efforts during the relevant period ***as required by the third country flag State;***
- (b) a copy of **any** fishing authorisations permitting fishing operations during the relevant period;

- (d) an official statement by the third country where the vessel was reflagged listing the sanctions the vessel or the operator had been subject to during the relevant period.

(da) complete flag history during the period when the vessel has left the Union fleet register.

4. A flag Member State shall not issue a fishing authorisation to a vessel that has been reflagged:

- (a) in a third country which became listed as a non-cooperating country in combatting IUU fishing pursuant to Article 33 of Council Regulation (EC) No 1005/2008; or

(aa) in a third country which became identified as a non-cooperating country in combatting IUU fishing pursuant to Article 31 of Council Regulation (EC) No 1005/2008 after a period of six weeks following the adoption of the Commission's decision identifying that third country as such, except for any operations carried out in the event that the Council has rejected a proposal to designate that third country pursuant to Article 33 of Council Regulation (EC) No 1005/2008; or

- (b) in a third country which became identified as a country allowing non-sustainable fishing pursuant to Article 4 paragraph 1(a) of Regulation (EU) No 1026/2012.

5. Paragraph 4 shall not apply if the flag Member State is satisfied that, as soon as the ***circumstances described in paragraph 2 points (b) - (d) and paragraph 4 points (a) - (c) became applicable***, the operator:

- (a) ceased fishing operations; and
- (b) ***immediately*** started the relevant administrative procedures to remove the vessel from the third country's fishing fleet register.

Article 7

Management of fishing authorisations

1. When applying for a fishing authorisation, an operator shall provide the flag Member State with complete and accurate data.
2. An operator shall immediately inform the flag Member State of any change to the related data.
3. A flag Member State shall ***on a regular basis*** monitor whether the conditions on the basis of which a fishing authorisation has been issued continue to be met during the period of validity of that authorisation.
4. If, ***as a result of the final outcome of the inspection activities, there is evidence that the*** conditions on the basis of which a fishing authorisation has been issued ***are*** no longer met, a flag Member State shall ***take appropriate action, including amending or withdrawing*** the authorisation and, ***if necessary, impose sanctions. The sanctions applied by the flag Member States in respect of infringements should be sufficiently stringent to ensure effective compliance with them, to prevent infringements and to deprive offenders of the benefits derived from their illegal activities. The Member State shall immediately*** notify the operator and the Commission. ***Where*** relevant, ***the Commission shall notify the secretariat of the RFMO or the third country concerned*** accordingly.
5. Upon a ***reasoned*** request from the Commission, a flag Member State shall ***take appropriate action as provided for in paragraph 4, in cases of contravention of*** conservation and management ***measures*** of marine biological resources ***adopted by RFMO where the Union is a contracting party, or under SFPAs.***
6. ***Where the Union is a contracting party in a RFMO and an EU flagged fishing vessel does not comply with the conditions set out in point (b) of article 22 as established in the final inspection report recognised by the RFMO, and where the flag Member State fails to take the appropriate action as provided for in paragraph 4, the Commission may by decision require the flag Member State concerned to ensure that the EU flagged fishing vessel concerned fulfils this condition.***

Where the flag Member State concerned has not taken appropriate action to comply with the Commission decision referred to in the first paragraph within a period of 15 days, the Commission shall send the updated details of the fishing vessels referred to in Article 23 to the Secretariat of the RFMO to address the vessel concerned. The Commission shall inform the flag Member State of its action; the flag Member State shall notify the operator of the Commission's action.

7. Where the Union has concluded a SFPa with a third country and an EU flagged fishing vessel does not comply with the conditions set out in point (b) of article 11 as established in the final inspection report recognised by the competent authorities, and where the flag Member State fails to take the appropriate action as provided for in paragraph 4, the Commission may by decision require the flag Member State concerned to ensure that the EU flagged fishing vessel concerned fulfils this condition.

Where the flag Member State concerned has not taken appropriate action to comply with the Commission decision referred to in the first paragraph within a period of 15 days, the Commission shall send the updated details of the fishing vessels to the third country to address the vessel concerned. The Commission shall inform the flag Member State of its action; the flag Member State shall notify the operator of the Commission's action.

Chapter II

Fishing *operations* by Union fishing vessels in third country waters

Section 1

Fishing *operations* under Sustainable Fisheries Partnership Agreements

Article 8 [shall become Article 9]

RFMO Membership

A Union fishing vessel may only carry out fishing *operations* in waters of a third country on stocks managed by an RFMO if this country is a contracting party to that RFMO.

Article 9 [shall become Article 8]

Scope

This Section shall apply to fishing *operations* carried out by Union fishing vessels in third country waters under a sustainable fisheries partnership agreement.

Article 11

Conditions for fishing authorisations by the flag Member State

A flag Member State may only issue a fishing authorisation for fishing *operations* carried out in third country waters under a sustainable fisheries partnership agreement if :

- (a) the eligibility criteria set out in Article 5 are fulfilled;
- (b) the conditions set out in the relevant sustainable fisheries partnership agreement are complied with;

- (c) the operator has paid all fees *due under the relevant agreements, and where applicable, related financial sanctions established by a judicial or administrative decision having final and binding effect; and*
- (d) *the fishing vessel has a valid fishing authorisation issued by the third country with sovereignty or jurisdiction over the waters where the fishing operations take place.*

Article 12

Procedure for obtaining the third country's fishing authorisation

1. *For the purpose of Article 11 (d), a flag Member State that has verified that the conditions set out in Article 11(a) to (c) are complied with,* shall send to the Commission the corresponding application for the third country's authorisation.
2. The application referred to in paragraph 1 shall contain the information required under the sustainable fisheries partnership agreement.
3. The flag Member State shall send the application to the Commission at least 10 calendar days before the deadlines for the transmission of applications laid down in the sustainable fisheries partnership agreement. The Commission may *send a duly justified request to* the flag Member State for any additional information necessary *for verifying the conditions.*
4. *Upon receipt of the application or any additional information requested pursuant to paragraph 3, the Commission shall conduct a preliminary examination to determine whether the conditions set out in Article 11(a)-c) are met. The Commission shall then:*
 - a) send the application to the third country *without delay and in any event before the expiry of the deadline for the transmission of applications laid down in the sustainable fisheries partnership agreement, provided that the deadline set out in paragraph 3 has been respected, or;*
 - b) *notify the Member State that the application is refused.*

5. If a third country informs the Commission that it has decided to issue, refuse, suspend or withdraw a fishing authorisation for a Union fishing vessel ***under the agreement***, the Commission shall ***immediately*** inform the flag Member State accordingly, ***if possible by electronic means***.

Article 13

Temporary reallocation of unused fishing opportunities in the framework of sustainable fisheries partnership agreements

1. During a specific year or any other relevant period of the implementation of a protocol to a sustainable fisheries partnership agreement ***taking into account validity periods of the fishing authorisations and fishing seasons***, the Commission may identify unused fishing opportunities and inform Member States benefiting from the corresponding shares of the allocation accordingly.
2. Within 10 ***calendar*** days of receipt of this information from the Commission, the Member States referred to in paragraph 1 may:
 - (a) inform the Commission that they will use their fishing opportunities later in the relevant period of implementation by providing a fishing plan with detailed information on the number of fishing authorisations requested, the estimated catches, ***area*** and period of fishing; or
 - (b) notify the Commission of ***the use of their fishing opportunities through*** exchanges of fishing opportunities, pursuant to Article 16(8) of Regulation (EC) No 1380/2013.
3. If certain Member States have not informed the Commission of one of the actions referred to in paragraph 2, ***or of a partial use of their fishing opportunities only***, and, if as a result, fishing opportunities remain unused, the Commission may launch a call for interest for the available unused fishing opportunities among the other Member States benefiting from a share of the allocation. ***The Commission shall at the same time inform all Member States of the launch of the call for interest.***

4. Within 10 *calendar* days of receipt of this call for interest, Member States ***benefiting from a share of the allocation*** may communicate their interest in the ***available*** unused fishing opportunities to the Commission. In support for their request, they shall provide a fishing plan with detailed information on the number of fishing authorisations requested, the estimated catches, ***area*** and period of fishing.
5. If deemed necessary for the assessment of the request, the Commission may ask the Member States concerned for additional information.
6. In the absence of interest in the ***total amount of the available*** unused fishing opportunities by the Member States benefiting from a share of the allocation ***at the end of the 10 day period***, the Commission may ***extend the*** call for interest to all Member States. A Member State may communicate its interest in the unused fishing opportunities under the conditions referred to in paragraph 4.
7. On the basis of the information provided by Member States in accordance with paragraphs 4 or 6, the unused fishing opportunities ***shall be reallocated by the Council in accordance with Article 43(3) TFEU, solely*** on a temporary basis ***for the relevant period of time referred to in paragraph 1.***

The Commission shall inform Member States to which Member State(s) the reallocation has been made and the quantities reallocated.

8. ***The temporary allocation of fishing opportunities shall be based on transparent and objective criteria including, where applicable, those of an environmental, social and economic nature. These may include:***

- (a) fishing opportunities available for reallocation;
- (b) number of requesting Member States;
- (c) share assigned to each requesting Member State in the initial allocation of fishing opportunities;

- (d) historic catch and effort levels of each requesting Member State, *where applicable*;
- (e) *the viability* of the fishing plans provided by the requesting Member States, *in light of the* number, type and characteristics of vessels and gear used;

Article 15

Sub-allocation of a yearly quota broken down into several successive catch limits

1. Where the Protocol to a sustainable fisheries partnership agreement sets monthly or quarterly catch limits or other subdivisions of *the fishing opportunities available for the relevant* year, and where the fishing opportunities allocated may not all be used during the same monthly, quarterly or *otherwise applicable* period *of time*, the corresponding *available* fishing opportunities *shall be sub-allocated by the Council in accordance with Article 43(3) TFEU among the* Member States *concerned for the relevant periods of time*.
2. *The sub-allocation of the available* fishing opportunities *shall be carried out using transparent and objective criteria. It* shall be consistent with the annual fishing opportunities allocated to Member States under the relevant Council Regulation.

SECTION 1A: FISHING OPERATIONS UNDER AGREEMENTS ON EXCHANGE OR JOINT MANAGEMENT

Article 15a

Applicable provisions

- 1. Articles 8 to 12 shall apply mutatis mutandis to Union fishing vessels fishing in third country waters under an agreement on exchange of fishing opportunities or joint management of fish stocks of common interest.***
- 2. By derogation from Article 12, a flag Member State may provide the Commission with the detail(s) of vessels that are eligible for carrying out fishing operations in third country waters under the relevant agreement. When it is established that the conditions set out in Article 11 (a) to (c) are met, the Commission shall forward the detail(s) of the relevant vessels to the third country without delay. As soon as the third country informed the Commission that the detail(s) of vessels has been approved, the Commission shall inform the flag Member State accordingly. The vessels for which the required details have been provided shall be considered to have a valid fishing authorisation for the purpose of Article 11(d). The Commission shall also inform the flag Member State without delay by electronic means of any notification by the third country that a vessel is not eligible for carrying out fishing operations in its waters.***

Article 15b

Consultations with third countries in respect of Union fishing vessels

The Commission is empowered to adopt delegated acts, in accordance with Article 44, in order to supplement Article 11 by reflecting in Union law the outcome of the consultations between the Union and third countries with which the Union has concluded an agreement, or of arrangements with coastal states with which fish stocks are shared, as regards the conditions for fishing authorisations.

SECTION 2

FISHING *OPERATIONS* UNDER DIRECT AUTHORISATIONS

Article 16

Scope

This Section shall apply to fishing *operations* carried out by Union fishing vessels in waters of a third country *outside the framework of an agreement referred to in sections 1 or 1a*.

Article 18

Conditions for fishing authorisations by the flag Member States

A flag Member State may only issue a fishing authorisation for fishing *operations* carried out in third country waters outside the framework of an agreement *referred to in sections 1 or 2* if:

- (a) the eligibility criteria set out in Article 5 are fulfilled;
- (b) no sustainable fisheries partnership agreement *or agreement on exchange of fishing opportunities or joint management with the relevant third country* is in force *or is provisionally applied*;
- (d) the operator has provided each of the following:
 - *a copy of or a complete reference to the applicable fisheries legislation as provided to the operator by the coastal State*;
 - a scientific evaluation demonstrating the sustainability of the planned fishing *operations*, *including consistency with the provisions of Article 62 of UNCLOS, as applicable*;
 - a designated official, public bank account number for the payment of all the fees; and

(e) in the case that the fishing **operations** are to be carried out on species managed by an RFMO, the third country is a contracting party to that organisation;

(f) *the operator has provided either*

– *a valid fishing authorisation for the vessel concerned, issued by the third country with sovereignty or jurisdiction over the waters where the fishing operations take place; or*

– a written confirmation *issued by* the third country *with sovereignty or jurisdiction over the waters where the fishing operations take place*, following the discussions between the operator and the latter, of the terms of the intended direct authorisation to give the operator access to its fishing resources, including the duration, conditions, and fishing opportunities expressed as effort or catch limits.

In any event, fishing operations cannot commence until the third country has issued the fishing authorisation referred to in the first bullet point. The flag Member state shall suspend its authorization if the third country authorisation has not been issued by the beginning of the planned fishing operations.

The scientific evaluation referred to in the first subparagraph point (d), third indent, shall be provided by an RFMO or by a regional fisheries body with scientific competence or shall be established by, or in cooperation with, the third country. The scientific evaluation emanating from the third country shall be reviewed by a scientific institute or body of a Member State or of the Union.

Article 19

Procedure for obtaining the third country's fishing authorisation

1. A flag Member State *that has verified that the conditions set out in Article 18 (a) - (e) are complied with*, shall send the Commission the relevant information listed in *the Annex*, and *information related to the fulfilment of the conditions of Article 18 (d)*.
2. *If the Commission considers that the information referred to in paragraph 1 is insufficient to assess the fulfilment of the conditions in Article 18, it shall request further information or justification within 10 working days of the receipt of this information.*
3. If following the request for further information or justification referred to in paragraph 2 *and after a dialogue with the Member State concerned*, the Commission finds that the conditions in Article 18 are not met, it may object to the granting of the fishing authorisation within *30 calendar days* of receipt of all the required information or justification. *If the Commission finds that the conditions are met, it shall inform the Member State concerned without delay of its intention not to object.*
4. *The flag Member State may issue the fishing authorisation upon expiry of the period referred to in paragraph 2. Where the Commission has requested further information in accordance with that paragraph, the flag Member State may issue the fishing authorisation if no objection has been raised by the Commission within the deadline referred to in paragraph 3 or prior to that deadline, provided that the Commission informed of its intention not to raise objections to the Member State.*
5. *By way of derogation from paragraphs 1 to 4, in case of renewal of a fishing authorisation with the same terms and conditions and within two years from the granting of the initial fishing authorisation, the flag Member State may issue the fishing authorisation upon verification of the information received in relation to the conditions set out in Article 18(1)(a), (b), (c), (e) and (f) and shall inform the Commission thereof without delay.*

6. If a third country informs the Commission that it has decided to issue, refuse, suspend or withdraw a direct authorisation to a Union fishing vessel, the Commission shall ***immediately*** inform the flag Member State accordingly.

7. If a third country informs the flag Member State that it has decided to issue, refuse, suspend or withdraw a direct authorisation to a Union fishing vessel, the flag Member State shall ***immediately*** inform the Commission accordingly.

8. An operator shall provide the flag Member State with a copy of the agreed final conditions between him and the third country, including a copy of the direct authorisation.

Chapter III

Fishing operations by Union fishing vessels under the auspices of regional fisheries management organisations

Article 20

Scope

This Chapter shall apply to fishing ***operations*** carried out by Union fishing vessels ***fishing for*** stocks under the auspices of a RFMO, in ***or outside*** Union waters, ***insofar as their operations are subject to an authorisation regime put in place by the RFMO.***

Article 21
Fishing authorisations

1. A Union vessel, *the fishing operations of which are subject to an authorisation regime adopted by the regional fisheries management organisation* may not carry out fishing *operations under the auspices of the* regional fisheries management organisation unless:

- (a) *the Union is a contracting party to the RFMO;*
- (b) it has been issued with a fishing authorisation by its flag Member State;
- (c) it has been included in the relevant register or list *of authorised vessels* of the regional fisheries management organisation; and
- (d) where the fishing *operations* are carried out in third country waters; it has been issued a fishing authorisation by the relevant third country in accordance with Chapter II.

2. *Point (a) of paragraph 1 shall not apply in respect of Union fishing vessels fishing exclusively in Union waters that have already been issued with a fishing authorisation in accordance with Article 7 of Regulation (EC) No 1224/2009.*

Article 22
Conditions for fishing authorisations by the flag Member States

A flag Member State may only issue a fishing authorisation if:

- (a) the eligibility criteria in Article 5 are fulfilled;
- (b) the rules laid down by the regional fisheries management organisation or the transposing Union legislation are complied with; and
- (c) where the fishing *operations* are carried out in third country waters: the criteria set out in Articles 11 or 18 are complied with.

Article 23

Registration by regional fisheries management organisations

1. A flag Member State shall send the Commission ***details*** of vessels it has authorised for fishing ***operations in accordance with Article 21 or, in the case of Article 21 (2), in accordance with Article 7 of Regulation (EC) No 1224/2009.***
2. The ***details*** referred to in paragraph 1 shall be drawn up in accordance with ***conditions laid down*** by the regional fisheries management organisation and accompanied by the information ***required by that organisation.***
3. The Commission may request any additional information that it deems necessary from the flag Member State ***within a period of 10 days after receiving the details referred to in paragraph 1. It shall provide a justification for any such request.***
4. When it is satisfied that the conditions in Article 22 are met, ***and within a period of 15 days after receiving the details referred to in paragraph 1,*** the Commission shall send the details of authorised vessels to the RFMO.
5. If the RMFO register or list is not public, the Commission shall ***circulate the details of authorised vessels to the Member States involved in the relevant fishery.***

Chapter IV

Fishing *operations* by Union fishing vessels on the high seas

Article 24

Scope

This Chapter shall apply to fishing *operations* carried out on the high seas *outside the scope of chapter III* by Union fishing vessels exceeding 24 meters in overall length.

Article 26

Conditions for fishing authorisations by the flag Member States

A flag Member State may only issue a fishing authorisation for fishing *operations* on the high seas if:

(a) the eligibility criteria in Article 5 are fulfilled;

(c) the planned fishing operations are:

- in accordance with a scientific evaluation, demonstrating the sustainability of the planned fishing operations, provided or validated by a scientific institute in the flag Member State; or

- part of a research programme, including a scheme for data collection, organised by a scientific body. The scientific protocol of the research, that will be required in any event, shall be validated by a scientific institute in the flag Member State.

Article 26a
Transshipment operations

1. Any transshipment operation conducted by an EU fishing vessel on the high seas or under direct authorisations shall be conducted in accordance with articles 21 and 22 of Council Regulation (EC) No 1224/2009. The flag Member State shall inform the Commission by the end of March each year, for transshipments which took place the previous year, on the information provided in the transshipment declaration, the date of transshipment, the geographical position and area where the transshipment took place.

2. Masters of Union vessels fishing under direct authorisations or on the high seas shall notify the competent authorities of their flag Member State prior to the transshipment of the following information:

- name and external identification number of the receiving vessel;**
- time and geographical position of the planned transshipment operation;**
- estimated quantities of species to be transshipped.**

3. This article shall not apply to transshipments carried out in ports by Union fishing vessels.

Article 27
Procedure for the fishing authorisation

1. A flag Member State that has verified that the conditions set out in Article 26 are complied with, shall send to the Commission the information listed in the Annex, and information related to the fulfilment of the conditions in Article 5.

2. If the Commission considers that the information provided in accordance with paragraph 1 is insufficient to assess the fulfilment of the conditions in Article 26, it shall request further information or justification within 10 calendar days of receipt of this information.

3. *If, after receiving the requested additional information or justification referred to in paragraph 2, the Commission finds that the conditions in Article 26 are not met, it may object to the granting of the fishing authorisation within 5 calendar days of receipt of the additional information or justification. If the Commission finds that the conditions are met, it shall inform the Member State concerned without delay of its intention not to object.*

4. *The flag Member State may issue the fishing authorisation upon expiry of the period referred to in paragraph 2. Where the Commission has requested further information in accordance with that paragraph, the flag Member State may issue the fishing authorisation if no objection has been raised by the Commission within the deadline referred to in paragraph 3 or prior to that deadline, provided that the Commission informed of its intention not to raise objections to the Member State.*

Chapter V

Chartering of Union fishing vessels

Article 28

Principles

1. A Union fishing vessel may not carry out fishing **operations** under chartering arrangements *in waters in which* a sustainable fisheries partnership agreement is in force *or is provisionally applied*.

2. A Union **fishing** vessel may not carry out fishing **operations** under more than one chartering arrangement at *the same* time or engage in sub-chartering.

2a. *Union vessels shall operate under chartering agreements in waters under the auspices of an RFMO only if the State to which the vessel is chartered is a contracting party to that organisation.*

3. A chartered Union **fishing** vessel may not use the fishing opportunities of its flag Member State **during the period of application of the charter**. The catches of a chartered vessel shall be counted against the fishing opportunities of the chartering State.

3a. Nothing in this Regulation shall diminish the responsibilities of the flag Member State with respect to its obligations under international law, Regulation (EC) No 1224/2009, Regulation (EC) No 1005/2008 or other provisions of the Common Fisheries Policy, including reporting requirements.

3b. The holder of the fishing licence of a Union fishing vessel that is to be chartered shall inform the flag Member State of the chartering arrangement before its start. The Member State shall inform the Commission without delay.

Article 29

Management of fishing authorisations under a chartering arrangement

When issuing a fishing authorisation to a vessel in accordance with Articles 18, 22 or 26, and when the relevant fishing **operations** are carried out under a chartering arrangement, the flag Member State shall verify that:

- (a) the chartering State's competent authority has officially confirmed that the arrangement is in line with its national legislation; and
- (b) **the details of the chartering arrangement are specified in the fishing authorisation including time period, fishing opportunities and fishing area.**

Chapter VI

Observation and reporting obligations

Article 30

Observer programme data

If data are collected on board a Union fishing vessel under an observer programme, *related reports shall be sent, in accordance with the transmission rules specified in the observer programme, without delay to the competent authority of the flag Member State.*

Article 31

Information to third countries

1. When carrying out fishing *operations* under this Title *the master* of a Union fishing vessel *or his representative* shall *make* the relevant catch declarations and landing declarations *available* to the third country, and *in addition* send its flag Member State an *electronic* copy of *these data*.
2. A flag Member State shall assess, *through cross-checking in accordance with Article 109 of Regulation (EC) No 1224/2009*, the consistency of the data referred to in paragraph 1, with the data it has received in accordance with Regulation (EC) No 1224/2009 *and, where applicable, in accordance with relevant provisions of the sustainable fisheries partnership agreement*.
3. The non-transmission of catch declarations *or* landing declarations to the third country referred to in paragraph 1 shall *also* be considered serious infringements for the purposes of *Article 90 of Regulation (EC) No 1224/2009 depending on* the gravity of the infringement *in question which* shall be determined by the competent authority of the *flag* Member State, taking into account criteria such as the nature of the damage, its value, the economic situation of the offender and the extent of the infringement or its repetition.

TITLE III

FISHING *OPERATIONS* BY THIRD COUNTRY FISHING VESSELS IN UNION WATERS

Art. 31 a

RFMO Membership Requirements

A third country fishing vessel may only carry out fishing operations in Union waters on stocks managed by an RFMO if the third country is a contracting party to that RFMO.

Article 32

General Principles

1. A **third** country fishing vessel may not engage in fishing **operations** in Union waters unless it has been issued with a fishing authorisation by the Commission. ***It shall only be issued with such an authorisation if it fulfils the eligibility criteria set out in Article 5.***
2. A third country vessel authorised to fish in Union waters shall comply with the rules governing the fishing **operations** of Union vessels in the fishing **area** in which it operates. ***Should the provisions laid down in the relevant fisheries agreement be different, the provisions shall be stated explicitly either in that agreement or by means of rules agreed with the third country implementing the agreement.***
3. If a third country fishing vessel is sailing through Union waters without an authorisation issued under this Regulation, its fishing gear shall be lashed and stowed ***in accordance with the conditions laid down in Article 47 of Regulation (EC) No 1224/2009*** so that it is not readily usable for fishing operations.

Article 33
Conditions for fishing authorisations

1. The Commission may only issue an authorisation to a third country fishing vessel for fishing *operations* in Union waters if:

- (-a)** *there is a surplus of allowable catch that would cover the proposed fishing opportunities as required under Article 62(2) and (3) of the UNCLOS;*
- (a)** *the conditions set out in the relevant fisheries agreement are complied with and* the fishing vessel is eligible under the fisheries agreement with the third country concerned and, where *relevant*, is on the list of vessels under that agreement;
- (b)** the information *required under the agreement for* the fishing vessel and the associated support vessel(s) is complete and accurate; the vessel and any associated support vessel(s) have an IMO number *when so required under Union legislation*;
- (e)** the fishing vessel is not *included in an IUU vessel* list adopted by a regional fisheries management organisation and/or by the Union pursuant to Council Regulation (EC) 1005/2008;
- (f)** *the third country is not listed as non-cooperating pursuant to Council Regulation (EC) 1005/2008 or as allowing non-sustainable fishing pursuant to Regulation (EU) No 1026/2012.*

2. *Point (-a) of paragraph 1 shall not apply to third country vessels carrying out fishing operations under an agreement on exchange of fishing opportunities or joint management of fish stocks of common interest.*

Article 34

Procedure for the issuing of fishing authorisations

1. The third country shall send the Commission the applications for its fishing vessels before the deadline in the agreement concerned or that set by the Commission.
2. The Commission may ask the third country for additional information necessary *for verifying that the conditions provided for in Article 33 have been met*.
3. When it is *established* that the conditions *referred to in paragraph 2* are met, the Commission shall issue a fishing authorisation and inform the third country and the Member States concerned of this *without delay*.

Article 35

Management of fishing authorisations

1. If a condition in Article 33 is no longer met, the Commission shall *take the appropriate action, including to* amend or withdraw the authorisation, and inform the third country and the Member States concerned of this.
2. The Commission may refuse, suspend or withdraw the authorisation *issued to the third country fishing vessel* in cases where a fundamental change of circumstances has occurred or in cases *of a serious threat to the sustainable exploitation, management and conservation of marine biological resources, or where it is essential in order to prevent or suppress* illegal, unreported or unregulated fishing, or in cases where the Union has decided to suspend or sever relations with the third country concerned.

The Commission shall immediately inform the third country in the event that it refuses, suspends or withdraws the authorisation in accordance with the first subparagraph.

Article 36
Closure of fishing *operations*

1. Where fishing opportunities granted to a third country are deemed to have been exhausted, the Commission shall immediately notify it and the competent inspection authorities of the Member States of this. To ensure the continuance of fishing *operations* of non-exhausted fishing opportunities, which may also affect the exhausted opportunities, the third country shall submit to the Commission technical measures preventing any negative impact on the exhausted fishing opportunities.
2. From the date of the notification referred to in paragraph 1, the fishing authorisations issued to vessels flying the flag of that third country concerned shall be considered to be suspended for the fishing *operations* concerned and the vessels shall no longer be authorised to engage in these fishing *operations*.
3. Fishing authorisations shall be considered to be withdrawn where a suspension of fishing *operations* in accordance with paragraph 2 concerns all the *operations* for which they have been granted.
4. The third country shall ensure that the fishing vessels concerned are informed immediately of the application of this Article and that they cease all fishing *operations* concerned. ***The third country shall also inform the Commission without delay when fishing vessels flying its flag have ceased their fishing operations.***

Article 37
Overfishing of quotas in Union waters

1. When the Commission establishes that a third country has exceeded the quotas it has been allocated for a stock or group of stocks, the Commission shall **operate** deductions from the quotas allocated to that country for that stock or group of stocks in subsequent years. ***The Commission shall endeavour so that the amount of the reduction is consistent with reductions imposed on Member States in similar circumstances.***
2. If a deduction according to paragraph 1 cannot be made on the quota for a stock or group of stocks that was overfished as such because that quota for a stock or group of stocks is not sufficiently available to the third country concerned, the Commission may, after consultation with the third country concerned, **operate** from quotas in subsequent years for other stocks or groups of stocks available to that third country in the same geographical area, or to the corresponding commercial value.

Article 38
Control and enforcement

1. A third country vessel authorised to fish in Union waters shall comply with the control rules governing the fishing **operations** of Union vessels in the fishing **area** in which it operates.
2. A third country vessel authorised to fish in Union waters shall provide to the Commission or the body designated by it, and, where relevant, to the coastal Member State, the data which Union vessels are required to send to the flag Member State under Council Regulation (EC) No 1224/2009.
3. The Commission, or the body designated by it, shall send the data referred to in paragraph 2 to the coastal Member State.
4. A third country vessel authorised to fish in Union waters shall provide upon request to the Commission or the body designated by it the observer reports produced under applicable observer programmes.

5. A coastal Member State shall record all infringements committed by third country fishing vessels, including the related sanctions, in the national register provided for in Article 93 of Council Regulation (EC) No 1224/2009.

TITLE IV

DATA AND INFORMATION

Article 39

Union *database for* fishing authorisations *issued under this Regulation*

1. The Commission shall set up and maintain an electronic Union fishing authorisation *database containing all fishing authorisations granted in accordance with Titles II and Title III*, made of a public part and a secure part. That database shall:

- (a) record all information *submitted in accordance with the Annex and other information submitted to the Commission for the purpose of issuing fishing authorisations under Titles II and III, including name, city, country of residence of the owner and of up to five main beneficial owners*, and display the status of each authorisation *as soon as possible* ;
- (b) be used for data and information exchange between the Commission and a Member State; and
- (c) be used for the purposes of sustainable management of fishing fleets *as well as for the purposes of control* only.

2. The list of *all* fishing authorisations *issued under Titles II and III* in the *database* shall be publicly accessible and contain each of the following information:

- (a) name and flag of the vessel and its CFR and IMO numbers where required under Union legislation;
- (b) type of authorization *including target species or species group(s); and*

(c) authorised time and area of fishing **operation** (start and end dates; fishing area).

3. A Member State shall use the **database** to submit **applications for** fishing authorisations to the Commission and to keep its details updated, as required under Articles [12, 19, 23 and 27], **and a third country shall use the database to submit applications for fishing authorisations as required under Article 34.**

Article 40

Technical requirements

1. The exchange of information referred to in Titles II, III and IV shall be done in an electronic format.
2. The Commission may adopt implementing acts, without prejudice to the provisions of Directive 2007/2/EC27, establishing technical operational requirements for the recording, formatting and transmission of the information referred to in those Titles. ***The technical operational requirements shall not become applicable earlier than 6 months, and no later than 18 months after their adoption.*** These implementing acts shall be adopted in accordance with the examination procedure referred to in Article 45(2).

Article 41

Access to data

Without prejudice to Article 110 of Council Regulation (EC) No 1224/2009, the Member States or the Commission shall grant access to the secure part of the Union **database for external fishing fleets'** fishing authorisations referred to in Article 39 to the relevant competent administrative services involved in the management of fishing fleets.

Article 42

Data management, protection of personal data and confidentiality

Data obtained under this Regulation shall be handled in accordance with Articles **112** and 113 of Council Regulation (EC) No 1224/2009, Regulation (EC) No 45/2001 and Directive 95/46/EC and its national implementing rules.

Article 43

Relations with third countries and regional fisheries management organisations

1. When a Member State receives information from a third country or a regional fisheries management organisation which is relevant for the effective application of this Regulation, it shall communicate that information to the Commission or the body designated by it, ***and, where appropriate, to other Member States concerned***, provided that it is permitted to do so under bilateral agreements with that third country or the rules of the regional fisheries management organisation concerned.
2. The Commission or the body designated by it may, in the framework of fisheries agreements concluded between the Union and third countries, under the auspices of regional fisheries management organisations to which the Union is a contracting party, communicate relevant information concerning non-compliance with the rules of this Regulation, or serious infringements, to other parties to those agreements or organisations subject to the consent of the Member State that supplied the information and in accordance with Regulation (EC) No 45/2001.

TITLE V

PROCEDURES, DELEGATION AND IMPLEMENTING MEASURES

Article 44

Exercise of 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 Articles [5 (2) and 15b] shall be conferred on the Commission *for a period of five years from ... [the date of entry into force of this Regulation]. 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 Articles [5 (2) and 15b] 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.

3a. 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 on Better Law-Making of 13 April 2016.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to [**5 (2) and 15b**] 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 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.

Article 45

Committee procedure

1. The Commission shall be assisted by the Committee for Fisheries and Aquaculture established under Article 47 of Regulation (EU) No 1380/2013. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph Article 5 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

TITLE VI

FINAL PROVISIONS

Article 46

Repeal

1. Regulation (EC) No 1006/2008 is repealed. *However, its Article 10 shall continue to apply for the re-allocation of fishing opportunities under those protocols to sustainable fisheries partnership agreements that are in force or are provisionally applied when this Regulation enters into force.*
2. References to provisions of Regulation (EC) No 1006/2008 shall be construed as references to the provisions of this Regulation.

Article 47

Entry into force

This Regulation shall enter into force on the **20th** day following that of its publication in the Official Journal of the European Union.

Annex

List of data to be provided

1. Information on applicant

Name of the economic operator

- *E-mail*
- *Address*
- *Fax*
- *Telephone*

Name of the owner

- *E-mail*
- *Address*
- *Fax*
- *Telephone*

Name of association or agent representing economic operator

- *E-mail*
- *Address*
- *Fax*
- *Telephone*

Name of master(s)

- *E-mail*
- *Address*
- *Fax*
- *Telephone*

2. Information on fishing vessel

- Vessel name
- Vessel identifier (IMO number, CFR number, etc)
- Method of fish preservation on board
- ***Vessel type FAO code***
- Gear type ***FAO*** code

3. Fishing category for which authorisation requested

- *Type of authorisation (“**northern agreement**”; direct authorisation; high seas; support; specify if charter arrangement vessel)*
- ***Fisheries area (FAO Area(s), Subarea(s), Division(s), Subdivision(s) as appropriate)***
- *Area of operation (high seas; third country - specify)*
- *Landing ports*
- *Target species **FAO** code(s) (or fishing category for SFPA)*
- *Authorisation period requested (start and end dates)*
- ***List of support vessels (vessel name; IMO number; CFR number)***

4. Chartering

- ***Vessel operating under chartering arrangement (Y/N)***
 - ***Type of chartering arrangement***
 - ***Period of chartering (start & end dates)***
 - ***Fishing opportunities (mt) allocated to vessel under chartering***
 - ***Third country allocating fishing opportunities to the vessel under chartering***
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