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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	19 April 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2018) 149 final/2
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a multiannual plan for fish stocks in the Western Waters and adjacent waters, and for fisheries exploiting those stocks, amending Regulation (EU) 2016/1139 establishing a multiannual plan for the Baltic Sea, and repealing Regulations (EC) No 811/2004, (EC) No 2166/2005, (EC) No 388/2006, (EC) 509/2007 and (EC) 1300/2008

Delegations will find attached document COM(2018) 149 final/2.

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Brussels, 18.4.2018
COM(2018) 149 final/2

2018/0074 (COD)

CORRIGENDUM
Addition of cross references on the cover page.
Concerns all lingustic versions.
The text should read as follows:

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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

{SWD(2018) 112 final} - {SWD(2018) 113 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The fisheries of the Western Waters and adjacent areas are highly complex, involving vessels from at least seven coastal Member States, using a wide variety of different fishing gears to target a wide range of different fish and shellfish species. A key issue is that many of the most important demersal stocks (i.e. those that live on or near the bottom of the sea) are caught in mixed fisheries. In practice, this means that each time a vessel retrieves its fishing gear, its catch will consist of a mix of different species. The composition of that mixture will change depending on the type of fishing gear in use, and on when and where it is used.

For vessels catching fish stocks subject to total allowable catches (TACs) it means that they should stop fishing once their quota for that stock is exhausted. Prior to the adoption of Regulation 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy[1] (Basic Regulation) vessels did not have to stop fishing once their quota for one of these species was exhausted. Instead, they were able to continue fishing for other target species and, as a result, they continued to catch the species for which quotas were already exhausted, even though they could not legally land these catches. These catches in excess of the quota had to be discarded.

With the introduction of the landing obligation by the Basic Regulation, it becomes illegal to discard any catches in excess of the quota, once fully implemented. Accordingly, vessels might have to stop fishing early in the year once their quota for the most limiting stock is exhausted. In this case the most limiting stock would become what is known as a 'choke-species' because, once the quota for that stock was exhausted, it would block the opportunities to continue fishing for other stocks. It is, therefore, desirable to account for the fact that some stocks are caught together in mixed fisheries when setting TACs for these stocks. Such an approach should have advantages for both stock conservation and for exploitation of the stocks. This proposal takes this approach.

The Basic Regulation aims at solving the problems of overfishing and discarding fish more effectively than past legislation. However, without additional legislation the Basic Regulation could lead to under-utilisation of quotas in the Western Waters mixed fisheries and it would not allow any exemptions from the landing obligation to be adopted after discard plans have expired.

In view of the interactions in Western Waters demersal fisheries, it is hence desirable to manage fishing opportunities in a mixed-fisheries perspective, which, given recent scientific advances, is now available. Such an approach would also be consistent with the ecosystem approach to fisheries management. The first step towards such adaptive management would be to incorporate all relevant stocks into a single management plan. This would include target fishing mortalities expressed in ranges for each of the stocks, where available, which would be the basis for setting annual TACs for those stocks. This would allow flexibility in TAC setting which could help reconcile difficulties arising in the mixed fishery context. Additionally, the plan would incorporate safeguard measures to give a framework to restore stocks when they fall below safe biological limits.

[1] OJ L 354, 28.12.2013, p. 22.

The objective of the proposal is to establish a management plan for demersal stocks, including deep-sea stocks, and their fisheries in the Western Waters. The plan will ensure the sustainable exploitation of these stocks, by ensuring that they are exploited according to the principles of maximum sustainable yield (MSY) and of the ecosystem approach to fisheries management as well as the precautionary approach. The plan will provide stability of fishing opportunities, while ensuring that management is based on the most up to date scientific information on stocks, mixed fisheries and other aspects of the ecosystem and environment. The plan will also facilitate the introduction of the landing obligation.

Stocks which determine fishermen's behaviour and are economically important should be managed in line with ranges of Fmsy. As a consequence, around 95% of landings in the Western Waters in terms of volume will be managed in line with the maximum sustainable yield. The remainder, i.e. stocks that are predominantly caught as by-catch, should be managed according to the precautionary approach.

The proposal is not an initiative within the Regulatory Fitness Programme (REFIT). Nevertheless, it would contribute to the simplification of applicable Union legislation. It is proposed to replace the five existing single-species based multi-annual plans adopted by separate regulations by bringing all multi-annual plans for the different demersal stocks into one regulation. The five existing single species plans are the following:

1. The multi-annual plan for the stock of herring distributed to the west of Scotland and the fisheries exploiting that stock (Regulation (EC) No 1300/2008);
2. The multi-annual plan for sole in the western Channel (Regulation (EC) 509/2007);
3. The multi-annual plan for sole in the Bay of Biscay (Regulation (EC) No 388/2006);
4. The recovery plan for the northern stock of hake (Regulation (EC) No 811/2004);
5. The recovery plan for hake and Norway lobster in the Iberian Peninsula (Regulation (EC) No 2166/2005).

The introduction of this new approach would allow achievement of the conservation objectives while, at the same time, permitting elimination of fishing effort limitations meaning that numerous reporting and control obligations would not be required. This results in a significant reduction of the administrative burden.

The plan will apply to all Union fishing vessels irrespective of their overall length fishing in the Western Waters as this is in conformity with the rules of the Common Fisheries Policy (CFP) and is in line with the effect of the vessels on the fish stocks concerned.

As of 1 January 2014 the Basic Regulation sets out the rules of the CFP, including the provisions on multi-annual plans, establishing the landing obligation for stocks subject to TACs and the so-called regionalisation. These provisions are reflected in the plan as follows:

- In line with the principles and objectives of multi-annual plans set out in Article 9 of the Basic Regulation the plan is a mixed fisheries plan, primarily based on the MSY objective;
- Article 10 of the Basic Regulation lists the content of multi-annual plans, which refers to the quantifiable targets. In this plan these targets, corresponding to maximum sustainable yield, are expressed as range values advised by ICES. These ranges allow for a maximum sustainable yield-based management for these stocks, while at the same time preserving a high level of predictability. Such targets are supplemented with safeguard provisions linked to a trigger conservation reference point. For fish stocks for which they are available, these reference points are expressed as a spawning stock biomass, which is obtained from ICES, usually through their benchmarking exercise. Similarly, for certain functional units of

Norway lobster such reference points are expressed as abundance, where available. In the absence of advice on spawning biomass or abundance level, the trigger should be when scientific advice states that a stock is under threat. The same approach was followed to determine the objectives, targets and safeguards of the plan and for the implementation of the landing obligation as it is in the recently adopted Regulation (EU) No 2016/1139 of the European Parliament and of the Council of 6 July 2016 establishing a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea and the fisheries exploiting those stocks, amending Council Regulation (EC) No 2187/2005 and repealing Council Regulation (EC) No 1098/2007[2];

- Pursuant to Article 15 of the Basic Regulation the landing obligation in the Western Waters applies to pelagic species as from 2015, to certain demersal fisheries and species that define the fishery from 2016, and will apply to all other species subject to catch limits from 1 January 2019. In line with Article 16(7) of Regulation (EU) No 1380/2013, Member States are required to allocate the TACs to vessels flying their flag taking into account the likely composition of the catch and the obligation to land all catches. In order to achieve this, Member States may adopt national measures, such as retaining certain reserves of the national TAC available for quota swaps with other Member States;
- In accordance with Article 18 of the Basic Regulation, Member States having a direct management interest may submit joint recommendations for, amongst others, certain measures to be adopted, where the Commission has been granted power to adopt implementing or delegated acts for achieving the objectives of a multi-annual plan. To this end, the plan establishes regional cooperation among Member States in respect of adopting provisions for the landing obligation and specific conservation measures for certain stocks.

In line with scientific advice from STECF, the plan does not include annual limits on fishing effort (the numbers of days at sea). However, Member States may establish capacity ceilings at national level.

- **Consistency with existing policy provisions in the policy area**

The Commission Proposal is consistent with the existing legal framework in the fisheries management in the Western Waters:

- 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 204/585/EC[1] sets the general framework for the CFP and identifies the situations in which the European Parliament and the Council shall adopt multi-annual plans.
- Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms[3] outlines technical conservation measures, i.e. catch composition rules, minimum mesh size, minimum landing size, closed areas and closed seasons for certain fisheries. It also establishes a limitation on drift netting. It is currently under review and will be replaced if the Commission Proposal for a Regulation of the

2 OJ L 191, 15.7.2016, p. 1.
3 OJ L 125, 27.4.1998, p. 1

European Parliament and of the Council on the conservation of fishery resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1098/2007, (EC) No 1224/2009 and Regulations (EU) No 1343/2011 and (EU) No 1380/2013 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005[4] is adopted.

- The annual Council Regulations fixing the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in the Western Waters set the TAC levels for the stocks concerned (most recent and currently binding is Council Regulation (EU) 2018/120 of 23 January 2018 fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters[5]).
- Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006[6] (hereafter Council Regulation 1224/2009) sets the general control requirements for fisheries as well as specific control requirements for multi-annual plans.
- The Commission is proposing to apply dynamic references to ranges of F_{MSY} and to conservation reference points. That approach guarantees that these parameters, which are essential for setting fishing opportunities, do not become outdated and the Council is always able to use the best available scientific advice. Moreover, the same approach providing dynamic references to the best available scientific advice should be followed for managing stocks in the Baltic Sea. Regulation (EU) 2016/1139 should therefore be modified.

- **Consistency with other Union policies**

The proposal and its objectives are consistent with the Union's policies, especially environmental, social, market and trade policies.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

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

- **Subsidiarity principle**

Provisions of the proposal relate to the conservation of marine biological resources, measures that fall under the exclusive competence of the Union. Consequently the subsidiarity principle does not apply.

- **Proportionality principle**

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4 COM/2016/0134 final - 2016/074 (COD)

5 OJ L 27, 31.01.2018, p. 1

6 OJ L 343, 22.12.2009, p. 1

The proposed measures comply with the proportionality principle as they are appropriate, necessary and no other less restrictive measures are available to obtain the desired policy objectives.

- **Choice of instrument**

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

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

Consultation has taken place at different levels, including stakeholders, scientists, public (including public administrations) and Commission services. It has followed a full evaluation process, set-up so that the initial tasks and questions to be addressed have been specified by the Commission, but the key inputs at all steps have come from scientists and other experts, and from stakeholders who have been fully involved throughout the process.

- **Stakeholder consultations**

Stakeholders have been consulted in a targeted manner through consultations with the North Western Waters Advisory Council and South Western Waters Advisory Council. Advisory Councils are stakeholder organisations, established by the previous CFP reform in 2002, that bring together the industry (fishing, processing and marketing sectors) and other interest groups, such as environmental and consumers' organisations. Advisory Councils are organised by sea basins and the above Advisory Councils provide advice on the fisheries within the geographical area covered by this Proposal.

A wide ranging, internet-based, public consultation was carried out from 22 May to 15 September 2015[7]. A total of 28 detailed contributions were received from Member States, the Advisory Councils, industry representative organisations, NGOs, and the general public. The main conclusions were as follows:

- The main problem was the fact that the stocks are not yet at MSY and hence the industry cannot fully enjoy benefits of sustainable fishing and the fact that the current multi-annual plans are inadequate to use the management measure of the new CFP;
- There is a need for the European Union to take action, which is also an obligation under the Treaty, but it should be done in collaboration with the fishing sector;
- There is strong preference to a multi-annual, proactive approach rather than an annual, reactive one. However, a reactive approach might still be needed in changing circumstances;
- There is a need for a transparent and stable framework to achieve MSY and for a legal framework for the long-term implementation of the landing obligation and the regional approach to fisheries management. Some comments pointed out that the scope should be wider and include environmental objectives;
- It is appropriate to establish a framework for managing the main species consistently within a multiannual management plan. It should reflect catch composition and quota allocation and be based on multi-species considerations. The framework should cover more species than only the main ones. Consistence should be sought with geographical distribution in biological and fishery terms;

[7] https://ec.europa.eu/info/consultations/multi-annual-plans-western-eu-waters_en

- As it comes to the species to be covered by the plan, there was an evident division between professional organisations, preferring the plan to focus on the species leading the main fisheries, as covered by the discard plans in place from 2016 (e.g. cod, hake, megrims, anglerfish), while non-governmental organisations preferred the plan to cover a wider range of species that are caught as either main species or as by-catch.
- Fisheries management should take into account regional specificities and better involvement of stakeholders; precautionary approach should be applied.

Parallel to this public consultation, a targeted survey was done with more precise and technical questions. It was addressed to the Advisory Councils, to Member States authorities, to the PECH Committee of the European Parliament and to the NAT Committee of the European Economic and Social Committee.

- **Collection and use of expertise**

Most of the work and consultation necessary to cover the evaluation of the existing legislation has been carried out by scientists working through the auspices of the Scientific, Technical and Economic Committee on Fisheries (STECF) and the International Council for the Exploration of the Sea (ICES) as well as by the Marine Resources Assessment Group (MRAG) under a framework contract with the Commission.

- **Ex-post evaluations/fitness checks of existing legislation**

STECF, ICES and MRAG had conducted a number of evaluations of the current management plans for single species prior to the reform of the CFP. In addition, there is constant scientific review of the management measures in place.

The five existing management plans do not meet the requirements of the CFP nor of the conclusions of the Inter-institutional Task Force[8] and do not perform to achieve the objectives of the CFP. Reviews of current Multi-Annual Plans by the Scientific, Technical and Economic Committee of Fisheries (STECF) and the International Council for the Exploration of the Sea (ICES)[9], concluded as follows:

- On the plan for herring in the West of Scotland, the 2015 ICES benchmark concluded that: "*there was no precautionary plan applied for the combined stocks. Combined assessment of 6aN and of 6aS/7bc herring was benchmarked in 2015. The stocks are combined because it is not possible to segregate them in commercial catches or surveys*"[10];
- On the plan for Western Channel sole (Regulation (EC) 509/2007), STECF explained in 2014 that, '*the TAC restriction is the only effective element of the plan'*. Furthermore STECF concluded that: '*Given the multispecies nature of all the fisheries in the area, STECF considers that efficient management of the fisheries would best be achieved through the development and implementation of a regional multi-annual fishery management plan'*, as this would: *'make management more*

[8] The interinstitutional task force on multiannual plans was established in 2013 to address inter-institutional issues and agree a way forward to facilitate the development and introduction of multi-annual plans under the terms of the Common Fisheries Policy, and To examine the multi-annual plans issues and explore the options to help find an appropriate way forward.

[9] STECF reports assessing the performance of the existing multi-annual plans can be found in https://stecf.jrc.ec.europa.eu/reports/management-plans .

[10] http://www.ices.dk/sites/pub/Publication%20Reports/Advice/2015/2015/her-67bc.pdf

efficient and avoid problems of TAC unbalance'. As regards the effort limitations, the STECF pointed out that '*the majority of fishing effort (expressed as kW days fishing) deployed in the Western Channel is effort that is not being regulated by the Management plan for sole'* and *'effort prescribed under the plan has not been restrictive for any fleets'.* If the effort is restricted, *'it is possible that vessels will return inshore where fuel costs are lower and sole abundance is higher. If this were to occur, catches of undersize plaice may also increase due to increased effort in nursery areas'*[11];

- The Bay of Biscay sole plan (Regulation (EC) No 388/2006) has the objective to rebuild the stock but no target has been set under the plan for reaching MSY; In 2011 STECF commented that, the plan '*requires that new biological targets be fixed once the stock has recovered to its precautionary biomass level'*[12]. Even if the stock reached this level in 2010, no revision has taken place;
- In the Northern hake plan (Regulation (EC) No 811/2004), the objective is considered to be achieved when the size of the spawning stock is kept above safe biological limits for two consecutive years. It is therefore not specifically designed to achieve MSY. Besides, ICES has reported that "*the current recovery plan (EC Reg. No. 811/2004) is based on precautionary reference points that are no longer appropriate*"[13];
- Similar comments apply to the Southern hake and Norway lobster plan (Regulation (EC) No 2166/2005): it is not designed to achieve MSY and, according to ICES, it uses "precautionary reference points that are no longer appropriate". In 2010, STECF assessed that "*the F reduction from 2006 expected from the plan has not been achieved*", *'while regulated fishing effort has declined, operative effort (catch weighted effort) has increased as effort transferred to gears that catch more hake with the same effort'*, and "F_{msy} *will probably not be reached by the intended date of 2015. In consequence the plan is not succeeding in achieving its stated objectives*"[14];

The days at sea regime has also been criticised by some stakeholders for having perverse effects that damage the environment rather than preserving fish stocks, for instance because vessels with a limited budget of fishing days have to fish close to shore where juvenile fish concentrates.

- **Impact assessment**

The impact assessment for a Western Waters multi-annual plan has taken place in the context of the new CFP and the redrafting of the Technical Measures regulations. The new CFP includes, *inter alia*, a new landing obligation, a timeline to reach maximum sustainable yield (MSY) and regionalisation. Against this background, a number of reports, studies and contracts have provided background on these issues. The background includes:

- the reform of the CFP;

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11 STECF: Evaluation/scoping of Management plans - Evaluation of the multi-annual plan for the management of Western Channel sole (Regulation EC 509/2007) (STECF-14-04), p. 7 and 10

12 STECF: Impact Assessment of Bay of Biscay sole (STECF-11-01), p. 12

13 http://www.ices.dk/sites/pub/Publication%20Reports/Advice/2016/2016/hke-nrtn.pdf

14 STECF: Report of the Sub Group on Management Objectives and Strategies (SGMOS 10-06). Part d) Evaluation of Multi-Annual Plan for hake and Nephrops in areas VIIIc and IXa, p. 6

- impacts of the introduction of the landing obligation;
- socio-economic dimensions of the CFP;
- the development of a new technical measures regulation;
- mixed fisheries issues in the EU, including dealing with choke effects;
- considerations on management areas for the new multi-annual plans;
- considerations of managing using MSY.

Three legislative options were examined in detail in the impact assessment: Option 1 - to use existing relevant rules of the CFP, Option 2 - to establish a single mixed-fishery multi-annual plan, Option 3 – to replace the existing plans with several mixed-fisheries multi-annual plans.

Option 1 reflects the status quo which does not effectively address the problems of overfishing and ineffective governance (see sections 1.4 and 3). The problems of the status quo are instead precisely what the initiative intends to address. Due to the contradictory provisions that would hence remain in force, this option clearly does not reach the specific objectives.

Option 2 would imply one plan, covering all of Western Waters. This option would thereby take into account that many of the same Member States fish in both North and South Western Waters, and furthermore that several fleets fish in both Waters.

Furthermore one plan would still allow presenting joint recommendations covering specific fisheries in either the North Western Waters or South Western Waters respectively. In addition the proposals will follow exactly the same model for the North and South Western Waters, as adopted in the Multi-Annual Plan for the Baltic Sea, and awaiting the expected refinement brought about by the Multi-Annual Plan for the North Sea.

Option 3 would imply two plans, covering North Western Waters and South Western Waters respectively. The difference between this and option 2 would thereby be that this option would reflect the current set-up for regionalisation, as these two areas are covered by the Advisory Councils for the North Western Waters and the Advisory Council for the South Western Waters respectively. These are the areas which have been used by the North Western Waters MS Group and the South Western Waters MS Group to produce Joint Recommendation for the discard plans.

Two plans would thereby work as a natural prolongation of the work done through the discard plans in assessing the management requirements in the fisheries, in order to meet the objectives of the CFP (i.e. implement the landing obligation and reach MSY).

Whilst Options 2 and 3 both scored higher than the baseline Option 1, the preceding analyses demonstrated that the **Option 2: a single mixed fisheries multiannual plan for all Western Waters** scored best on the following criteria:

- Effectiveness and efficiency;
- Reducing administrative burden;
- Achieving the overall main objectives of the CFP;
- Providing a management framework facilitating stability and predictability.

Additionally, a single management plan will simplify the legal framework and reduce the administrative burden on Member States and industry.

- **Regulatory fitness and simplification**

Although this plan is not linked to REFIT, it reduces the regulatory burdens as it would replace five regulations to be merged in this plan. In addition, it would abolish the complex days-at-sea schemes, which required additional administrative resources to manage and monitor.

The current system imposes important economic cost on businesses and especially SMEs; those losses are being caused by complex regulation and will be avoided in future (direct benefits of simplification). Sustainable exploitation will give higher profitability leading to improved economic performance. Fishermen will have more liberty to decide where and when to fish. The elimination of the fishing effort regime not only reduces the administrative burden, including heavy reporting, for the industry, but also the burden of the national administrations in processing and monitoring such reports.

The management plan for herring in the West of Scotland, laid down in the Council Regulation (EC) No 1300/2008 would be repealed. The plan has become obsolete due to the change in the scientific perception of the stocks involved.

- **Fundamental rights**

Not applicable

4. BUDGETARY IMPLICATIONS

No budgetary implications

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The plan foresees the periodic evaluation of its impact on the stocks concerned based on scientific advice. It is paramount to identify an appropriate period for such evaluation: a period that allows for regionalised measures to be adopted, implemented and to show effects on the stocks and fishery. It should also take account of the working method of scientific bodies, including their regular benchmarking. Recently, scientific advice could not be delivered due to insufficient data or trends to be evaluated, when the evaluation concerned a period of three years. Accordingly, the plan should be evaluated every five years.

In this respect it has to be noted that the periodic evaluation of the impact of the plan does not prevent the legislators from amending the plan, should it be required by new developments.

- **Detailed explanation of the specific provisions of the proposal**

In accordance with the overall ambition of the CFP on the conservation of fisheries resources and with specific regards to Articles 9 and 10 of the Basic Regulation which require the development of multi-annual plans, the main elements of the plan are:

- The scope of the plan is demersal stocks, including deep-sea stocks, in the Western Waters and the fisheries exploiting those stocks. The plan also covers implementation of the landing obligation and technical measures for all stocks and the fisheries exploiting those stocks in the Western Waters.
- Objectives and targets (achieve levels of fishing mortality consistent with the principle of maximum sustainable yield). In accordance with Article 10 of the Basic Regulation the targets should be quantifiable. The proposed targets are expressed as

fishing mortality ranges around F_{MSY} as advised by ICES. These F_{MSY} ranges allow for a maximum sustainable yield-based management for the stocks concerned, and appear to allow for adaptations in case of changes in the scientific advice, while at the same time preserving a high level of predictability;

- Conservation reference points, expressed in tonnes of spawning stock biomass or abundance in numbers, included in the plan are determined by ICES, usually through their benchmarking exercise. In the absence of advice on spawning stock biomass or abundance reference points, action should be taken when scientific advice states that a stock is under threat.
- Safeguards and specific conservation measures are linked to the conservation reference points. When scientific advice states that any of the stocks concerned is below that point, the TAC for that stock should be reduced This measure may be complemented as necessary by measures such as technical measures, Commission or Member State emergency measures.
- Provisions related to the landing obligation to be adopted under regionalisation, which are necessary for full implementation of the landing obligation. They will also provide for a legal basis for any possible future high survivability or de minimis exemptions, in line with scientific advice.

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

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee[15],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) The United Nations Convention of 10 December 1982 on the Law of the Sea, to which the Union is a contracting party, provides for conservation obligations, including the maintaining or restoring populations of harvested species at levels which can produce the maximum sustainable yield (MSY).

(2) At the World Summit on Sustainable Development at New York in 2015, the Union and its Member States committed themselves by 2020, to effectively regulate harvesting and end overfishing, illegal, unreported and unregulated fishing and destructive fishing practices and implement science-based management plans, in order to restore fish stocks in the shortest time feasible, at least to levels that can produce MSY as determined by their biological characteristics.

(3) Regulation (EU) No 1380/2013 of the European Parliament and of the Council[16] establishes the rules of the Common Fisheries Policy (CFP) in line with the international obligations of the Union. The CFP is to contribute to the protection of the marine environment, to the sustainable management of all commercially exploited species, and in particular to the achievement of good environmental status by 2020, as

15 OJ C , , p. .

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

set out in Article 1(1) of Directive 2008/56/EC of the European Parliament and of the Council[17].

(4) The objectives of the CFP are, inter alia, to ensure that fishing and aquaculture are environmentally sustainable in the long term, to apply the precautionary approach to fisheries management, and to implement the ecosystem-based approach to fisheries management.

(5) For the achievement of the objectives of the CFP, a number of conservation measures are to be adopted as appropriate in any combination thereof, such as multi-annual plans, technical measures, fixing and allocation of fishing opportunities.

(6) Pursuant to Articles 9 and 10 of Regulation (EU) No 1380/2013, multi-annual plans are to be based on scientific, technical and economic advice. In accordance with those provisions, this plan should contain objectives, quantifiable targets with clear timeframes, conservation reference points, safeguards and technical measures designed to avoid and reduce unwanted catches.

(7) "Best available scientific advice" refers to publicly available scientific advice that is supported by the most up-to-date scientific data and methods and has either been issued or reviewed by an independent scientific body that is recognised at the European Union or international level.

(8) The Commission should obtain the best available scientific advice for the stocks within the scope of the multiannual plan. In order to do so it concludes Memoranda of Understanding with the International Council for the Exploration of the Sea (ICES). The scientific advice issued by ICES should be based on this multiannual plan and should indicate, in particular, ranges of FMSY and biomass reference points, i.e. MSY Btrigger and Blim. Those values should be indicated in the relevant stock advice and, where appropriate, in any other publicly-available scientific advice, including, for example, in mixed fisheries advice issued by ICES.

(9) Council Regulations (EC) No 811/2004[18], (EC) No 2166/2005[19], (EC) No 388/2006[20], (EC) 509/2007[21], (EC) No 1300/2008[22] and (EC) No 1342/2008[23] set out the rules for the exploitation of the northern stock of hake, hake and Norway lobster stocks in the Cantabrian Sea and by the Western Iberian Peninsula, sole in the Bay of Biscay, sole

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17 Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) (OJ L 164, 25.6.2008, p. 19)

18 Council Regulation (EC) No 811/2004 of 21.4.2004 establishing measures for the recovery of the Northern hake stock (OJ L 150, 30.4.2004, p. 1)

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

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

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

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

23 Council Regulation (EC) No 1342/2008 of 18 December 2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks and repealing Regulation (EC) No 423/2004 (OJ L 348, 24.12.2008, p. 20)

in the Western Channel, herring in the West of Scotland and cod in the Kattegat, the North Sea in the West of Scotland and the Irish Sea. These and other demersal stocks are taken in mixed fisheries. Therefore, it is appropriate to establish a single multi-annual plan taking into account such technical interactions.

(10) In addition, such a multi-annual plan should apply to demersal stocks and their fisheries in the Western Waters, comprising the North Western Waters and the South Western Waters. These are roundfish, flatfish, cartilaginous fish species and Norway lobster (*Nephrops norvegicus*) that live at or near the bottom of the water column.

(11) Some demersal stocks are exploited both in the Western Waters and in their adjacent waters. Therefore the scope of the provisions of the plan relating to targets and safeguards for stocks that are mainly exploited in the Western Waters should be extended for those areas outside the Western Waters. In addition, for stocks also present in the Western Waters that are mainly exploited outside the Western Waters, it is necessary to establish the targets and safeguards in multiannual plans for areas outside the Western Waters where those stocks are mainly exploited, extending the scope of those multiannual plans so that they also cover the Western Waters.

(12) The geographical scope of the multiannual plan should be based on the geographical distribution of stocks indicated in the latest scientific stock advice provided by ICES. Future changes to the geographical distribution of stocks as set out in the multiannual plan may be needed either due to improved scientific information or due to migration of stocks. Therefore, the Commission should be empowered to adopt delegated acts adjusting the geographical distribution of stocks set out in the multiannual plan if the scientific advice provided by ICES indicates a change in the geographical distribution of the relevant stocks.

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

(14) The objective of this plan should be to contribute to the achievement of the objectives of the CFP, and in particular, reaching and maintaining MSY for the target stocks, implementing the landing obligation for demersal stocks subject to catch limits, promoting a fair standard of living for those who depend on fishing activities, bearing in mind coastal fisheries and socio-economic aspects. It should also implement the ecosystem-based approach to fisheries management in order to minimise negative impacts of fishing activities on the marine ecosystem. It should be coherent with the Union's environmental legislation, in particular the objective of achieving good environmental status by 2020 (in accordance with Directive 2008/56/EC) and the objectives of Directive 2009/147/EC and Council Directive 92/43/EEC. This plan should also specify details for the implementation of the landing obligation in Union waters of the Western Waters for all stocks of species to which the landing obligation applies under Article 15 of Regulation (EU) No 1380/2013.

(15) Article 16(4) of Regulation (EU) No 1380/2013 requires that fishing opportunities be fixed in accordance with the objective set out in Article 2(2) thereof and comply with the targets, time frames and margins established in the multi-annual plans.

(16) It is appropriate to establish the target fishing mortality (F) that corresponds to the objective of reaching and maintaining MSY as ranges of values which are consistent with achieving MSY(F_{MSY}). Those ranges, based on best available scientific advice, are necessary in order to provide flexibility to take account of developments in the scientific advice, to contribute to the implementation of the landing obligation and to take into account the characteristics of mixed fisheries. The F_{MSY} ranges should be calculated by the International Council for the Exploration of the Sea (ICES), in particular in its periodic catch advice. Based on this plan they are derived to deliver no more than a 5% reduction in long-term yield compared to MSY[24]. The upper limit of the range is capped, so that the probability of the stock falling below B_{lim} is no more than 5%. That upper limit also conforms to the ICES "advice rule", which indicates that when the spawning biomass or abundance is in a poor state, F be reduced to a value that does not exceed an upper limit equal to the F_{MSY} point value multiplied by the spawning biomass or abundance in the total allowable catch (TAC) year divided by MSY $B_{trigger}$. ICES uses these considerations and the advice rule in its provision of scientific advice on fishing mortality and catch options.

(17) For the purposes of fixing fishing opportunities, there should be an upper threshold for F_{MSY} ranges in normal use and, provided that the stock concerned is considered to be in a good state, an upper limit of that range may be used for certain cases. It should only be possible to fix fishing opportunities up to the upper limit if, on the basis of scientific advice or evidence, it is necessary for the achievement of the objectives laid down in this Regulation in mixed fisheries or necessary to avoid harm to a stock caused by intra- or inter-species stock dynamics, or in order to limit the year-to-year variations in fishing opportunities.

(18) For stocks for which targets relating to MSY are available, and for the purpose of the application of safeguard measures, it is necessary to establish conservation reference points expressed as trigger spawning biomass levels for fish stocks, and trigger abundance levels for Norway lobster.

(19) Appropriate safeguard measures should be envisaged in case the stock size falls below these levels. Safeguard measures should include the reduction of fishing opportunities and specific conservation measures when scientific advice states that remedial measures are needed. These measures should be supplemented by all other measures, as appropriate, such as Commission measures in accordance with Article 12 of Regulation (EU) No 1380/2013 or Member State measures in accordance with Article 13 of Regulation (EU) No 1380/2013.

(20) It should be possible to set the total allowable catches (TACs) for Norway lobster in Western Waters as the sum of the catch limits established for each functional unit and of the statistical rectangles outside the functional units within that TAC area. However, this does not preclude the adoption of measures to protect specific functional units.

(21) In order to apply a regional approach to conservation and sustainable exploitation of marine biological resources, it is appropriate to provide for a possibility to take technical measures in the Western Waters regarding all stocks.

(22) Where the Council takes into account a significant impact of recreational fisheries in the framework of the fishing opportunities for a certain stock, it should be able to set a

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24 EU request to ICES to provide FMSY ranges for selected stocks in ICES subareas 5 to 10

TAC for commercial catches which takes into account the volume of recreational catches and/or to adopt other measures restricting recreational fisheries such as bag limits and closure periods.

(23) In order to comply with the landing obligation established by Article 15(1) of Regulation (EU) No 1380/2013, the plan should provide for additional management measures to be further specified in accordance with Article 18 of Regulation (EU) No 1380/2013.

(24) The deadline for submitting joint recommendations from Member States having direct management interest should be established, as required by Regulation (EU) No 1380/2013.

(25) In accordance with Article 10(3) of Regulation (EU) No 1380/2013 provisions should be established for the periodical assessment by the Commission of the adequacy and effectiveness of the application of this Regulation based on scientific advice. The plan should be evaluated by ... [five years after the date of entry into force of this Regulation], and every five years thereafter. That period allows for the full implementation of the landing obligation, and for regionalised measures to be adopted, implemented and to show effects on the stocks and fishery. It is also the minimum period required by scientific bodies.

(26) In order to adapt to the technical and scientific progress in a timely and proportionate fashion and to ensure flexibility and allow evolution of certain measures, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of supplementing this Regulation as regards remedial measures and implementation of the landing obligation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Inter-institutional Agreement of 13 April 2016 on Better Law-Making [25]. 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.

(27) In order to provide legal certainty, it is appropriate to clarify that temporary cessation measures that have been adopted in order to attain the objectives of the plan can be deemed eligible for support under Regulation (EU) No 508/2014 of the European Parliament and of the Council[26].

(28) Applying dynamic references to ranges of F_{MSY} and to conservation reference points guarantees that these parameters, which are essential for setting fishing opportunities, do not become outdated and the Council is always able to use the best available scientific advice. Moreover, that approach providing dynamic references to the best available scientific advice should be followed for managing stocks in the Baltic Sea. In this context, "best available scientific advice" refers to publicly available scientific advice that is supported by the most up-to-date scientific data and methods and has

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25 OJ L 123, 12.5.2016, p. 1.

26 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).

either been issued or reviewed by an independent scientific body that is recognised at the European Union or international level. Regulation (EU) 2016/1139[27] should therefore be amended.

(29) Council Regulations (EC) No 811/2004, (EC) No 2166/2005, (EC) No 388/2006, (EC) 509/2007, (EC) No 1300/2008 should be repealed.

(30) The likely economic and social impact of the plan was duly assessed before its finalisation in accordance with Article 9(4) of Regulation (EU) No 1380/2013,

HAVE ADOPTED THIS REGULATION:

CHAPTER I
SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1
Subject-matter and scope

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

(1) Black scabbardfish (*Aphanopus carbo*) in in subareas 1, 2, 4, 6–8, 10, and 14, and in divisions 3a, 5a–b, 9a, and 12b;

(2) Alfonsinos (*Beryx spp.*) in the Northeast Atlantic;

(3) Roundnose Grenadier (*Coryphaenoides rupestris*) in division 5b, subareas 6 and 7;

(4) Seabass (*Dicentrarchus labrax*) in divisions 4b, 4c, 7a, and 7d–h;

(5) Cod (*Gadus morhua*) in division 7a;

(6) Cod (*Gadus morhua*) in divisions 7e–k;

(7) Megrims (*Lepidorhombus spp.*) in divisions 4a and 6a;

(8) Megrims (*Lepidorhombus spp.*) in division 6b;

(9) Megrims (*Lepidorhombus spp.*) in divisions 7b–k, 8a–b, and 8d;

(10) Megrims (*Lepidorhombus spp.*) in divisions 8c and 9a;

(11) Anglerfish (*Lophiidae*) in divisions 7b–k, 8a–b, and 8d;

(12) Anglerfish (*Lophiidae*) in divisions 8c and 9a;

(13) Haddock (Melanogrammus aeglefinus) in division 6b;

(14) Haddock (Melanogrammus aeglefinus) in division 7a;

(15) Haddock (Melanogrammus aeglefinus) in divisions 7b-k;

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

(16) Whiting (Merlangius merlangus) in divisions 7b, 7c and 7e-k;

(17) Whiting (Merlangius merlangus) in subarea 8 and division 9a;

(18) Hake (Merluccius merluccius) in subareas 4, 6 and 7, divisions 3a, 8a-b and 8d;

(19) Hake (Merluccius merluccius) in divisions 8c and 9a;

(20) Blue ling (*Molva dypterygia*) in division 5b, subareas 6 and 7;

(21) Norway lobster (*Nephrops norvegicus*) by functional unit in subarea 6 and division 5b:

- In North Minch (FU 11);
- In South Minch (FU 12);
- In firth of Clyde (FU 13);
- In division VIa, outside the functional units (West of Scotland);

(22) Norway lobster (*Nephrops norvegicus*) by functional unit in subarea 7:

- In Irish Sea East (FU 14);
- In Irish Sea West (FU 15);
- In Porcupine banks (FU 16);
- In Aran grounds (FU 17);
- In the Irish Sea (FU 19);
- In the Celtic Sea (FU 20-21);
- In the Bristol Channel (FU 22);
- In ICES subarea 7 outside the functional units (Southern Celtic Sea, Southwest of Ireland);

(23) Norway lobster (*Nephrops norvegicus*) by functional unit in divisions 8a, 8b, 8d and 8e:

- In Southern Bay of Biscay (FU 25);

(24) Norway lobster (*Nephrops norvegicus*) by functional unit in subareas 9 and 10, and CECAF 34.1.1:

- In Western Galicia (FU 26-27);
- In Iberian waters (FU 28-29);
- In the Gulf of Cádiz (FU 30);

(25) Red seabream (*Pagellus bogaraveo*) in subarea 9;

(26) Red seabream (*Pagellus bogaraveo*) in subarea 10;

(27) Plaice (*Pleuronectes platessa*) in division 7d;

(28) Plaice (*Pleuronectes platessa*) in division 7e;

(29) Pollack (*Pollachius pollachius*) in subarea 7;

(30) Common sole (*Solea solea*) in subarea 5, division 6b and subareas 12 and 14;

(31) Common sole (*Solea solea*) in divisions 7b and 7c;

(32) Common sole (*Solea solea*) in division 7d;

(33) Common sole (*Solea solea*) in division 7e;

(34) Common sole (*Solea solea*) in divisions 7f and 7g;

(35) Common sole (*Solea solea*) in divisions 7h, 7j and 7k;

(36) Common sole (*Solea solea*) in divisions 8a and 8b;

(37) Common sole (*Solea solea*) in divisions 8c and 9a.

Where scientific advice indicates a change in the geographical distribution of the stocks listed in the first subparagraph of this paragraph, the Commission may adopt delegated acts in accordance with Article 15 amending this Regulation by adjusting the areas specified above in order to reflect that change. Such adjustments shall not extend the stock areas beyond Union waters of subareas 4 to 10, and the CECAF zones 34.1.1, 34.1.2 and 34.2.0.

2. Where on the basis of scientific advice the Commission considers that the list of stocks set out in the first subparagraph of paragraph 1 needs to be amended, the Commission may submit a proposal for the amendment of that list.

3. In respect to adjacent waters covered in paragraph 1 of this Article, only Articles 4 and 6 and the measures related to fishing opportunities under Article 7 of this Regulation shall apply.

4. This Regulation also applies to by-catches caught in the Western Waters when fishing for the stocks listed in paragraph 1. However, where ranges of F_{MSY} and safeguards linked to biomass for those stocks are established under other Union legal acts establishing multiannual plans, those ranges and safeguards shall apply.

5. This Regulation also specifies details for the implementation of the landing obligation in Union waters of the Western Waters for all stocks of species to which the landing obligation applies under Article 15 of Regulation (EU) No 1380/2013.

6. This Regulation provides for technical measures, as set out in article 8, applicable in the Western Waters in respect of any stock.

Article 2
Definitions

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

(1) "Western Waters" means the North Western Waters (ICES subareas 5 (excluding 5a and only Union waters of 5b), 6 and 7) and the South Western Waters (ICES subareas 8, 9 and 10 (waters around Azores), and CECAF zones 34.1.1, 34.1.2 and 34.2.0 (waters around Madeira and the Canary Islands));

(2) "Range of FMSY" means a range of values provided in the best available scientific advice, in particular from the International Council on the Exploration of the Sea (ICES), where all levels of fishing mortality within that range, result in maximum sustainable yield (MSY) in the long term given a fishing pattern and under existing average environmental conditions without significantly affecting the reproduction process for the stock in question. It is derived to deliver no more than a 5 % reduction in long-term yield compared to the maximum sustainable yield. It is

capped so that the probability of the stock falling below the limit spawning stock biomass reference point (Blim) is no more than 5 %;

(3) "MSY F_{lower}" mean the lowest value within the range of F_{MSY};

(4) "MSY F_{upper}" mean the highest value within the range of F_{MSY};

(5) "F_{MSY} point value" is the value of the estimated fishing mortality that with a given fishing pattern and current environmental conditions gives the long-term maximum yield.

(6) "Lower range of F_{MSY} " means a range that contains values from MSY F_{lower} to F_{MSY} point value;

(7) "Upper range of F_{MSY}" means a range that contains values from F_{MSY} point value up to MSY $F_{upper;}$

(8) "Blim" means the stock size reference point provided in the best available scientific advice, in particular by ICES, below which there may be reduced reproductive capacity;

(9) "MSY Btrigger" means the spawning stock biomass, or in the case of Norway lobster – abundance, reference point provided in the best available scientific advice, in particular from ICES, below which specific and appropriate management action is to be taken to ensure that exploitation rates in combination with natural variations rebuild stocks above levels capable of producing MSY in the long term.

CHAPTER II
OBJECTIVES

Article 3
Objectives

1. The plan shall contribute to the achievement of the objectives of the common fisheries policy listed in Article 2 of Regulation (EU) No 1380/2013, in particular by applying the precautionary approach to fisheries management, and shall aim to ensure that exploitation of living marine biological resources restores and maintains populations of harvested species above levels which can produce MSY.

2. The plan shall contribute to the elimination of discards, by avoiding and reducing, as far as possible, unwanted catches, and to the implementation of the landing obligation established in Article 15 of Regulation (EU) No 1380/2013 for the species which are subject to catch limits and to which this Regulation applies.

3. The plan shall implement the ecosystem-based approach to fisheries management in order to ensure that negative impacts of fishing activities on the marine ecosystem are minimised. It shall be coherent with Union environmental legislation, in particular with the objective of achieving good environmental status by 2020 as set out in Article 1(1) of Directive 2008/56/EC and the objectives set out in Articles 4 and 5 of Directive 2009/147/EC and Articles 6 and 12 of Council Directive 92/43/EEC.

4. In particular, the plan shall aim to:

(a) ensure that the conditions described in descriptor 3 contained in Annex I to Directive 2008/56/EC are fulfilled; and

(b) contribute to the fulfilment of other relevant descriptors contained in Annex I to Directive 2008/56/EC in proportion to the role played by fisheries in their fulfilment.

5. Measures under the plan shall be taken in accordance with the best available scientific advice. Where there is insufficient data, a comparable degree of conservation of the relevant stocks shall be pursued.

CHAPTER III
TARGETS

Article 4
Targets

1. The target fishing mortality in line with the ranges of F_{MSY} defined in Article 2 shall be achieved as soon as possible, and on a progressive, incremental basis by 2020 for the stocks listed in Article 1(1), and shall be maintained thereafter within the ranges of F_{MSY}, in accordance with this Article.
2. Those ranges of F_{MSY} based on this Plan shall be requested from ICES.
3. In accordance with Article 16(4) of Regulation (EU) No 1380/2013, when the Council fixes fishing opportunities for a stock, it shall establish those opportunities within the lower range of F_{MSY} available at that time for that stock.
4. Notwithstanding paragraphs 1 and 3, fishing opportunities may be fixed at levels that are lower than the ranges of F_{MSY}.
5. Notwithstanding paragraphs 3 and 4, fishing opportunities for a stock may be fixed in accordance with the upper range of F_{MSY} available at that time for that stock, provided that the stock referred to in Article 1(1) is above MSY $B_{trigger}$:

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

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

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

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

Article 5
Management of by-catch stocks

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

2. Those stocks shall be managed under the precautionary approach to fisheries management as defined in point 8 of Article 4 (1) of Regulation (EU) No 1380/2013 when no adequate scientific information is available.

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

CHAPTER IV

SAFEGUARDS

Article 6
Conservation reference points

The following conservation reference points to safeguard the full reproductive capacity of the stocks referred to in Article 1(1) shall be requested from ICES based on this Plan:

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

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

Article 7
Safeguards

1. When scientific advice indicates that for a given year the spawning biomass, and in the case of Norway lobster stocks – abundance, of any of the stocks referred to in Article 1(1) is below the MSY $B_{trigger}$, all appropriate remedial measures shall be adopted to ensure rapid return of the stock or functional unit concerned to levels above those capable of producing MSY. In particular, by way of derogation from Article 4(3) and (5) fishing opportunities shall be set at levels consistent with a fishing mortality that is reduced below the upper range of FMSY, taking into account the decrease in biomass.

2. When scientific advice indicates that the spawning stock biomass, and in the case of Norway lobster stocks – abundance, of any of the stocks referred to in Article 1(1) is below the B_{lim}, further remedial measures shall be taken to ensure rapid return of the stock or functional unit concerned to levels above the level capable of producing MSY. In particular, those remedial measures may include, by way of derogation from Article 4 (3) and (5), suspending the targeted fishery for the stock or functional unit concerned and the adequate reduction of fishing opportunities.

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

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

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

4. The choice of measures referred to in this Article shall be made in accordance with the nature, seriousness, duration and repetition of the situation where the spawning stock biomass, and in the case of Norway lobster stocks – abundance, is below the levels referred to in Article 6.

CHAPTER V

TECHNICAL MEASURES

Article 8
Technical measures

1. The Commission is empowered to adopt delegated acts in accordance with Article 15 of this Regulation and Article 18 of Regulation (EU) No 1380/2013 in order to supplement this Regulation regarding the following technical measures:

   (a) specifications of characteristics of fishing gears and rules governing their use, to ensure or improve selectivity, to reduce unwanted catches or to minimise the negative impact on the ecosystem;

   (b) specifications of modifications or additional devices to the fishing gears, to ensure or improve selectivity, to reduce unwanted catches or to minimise the negative impact on the ecosystem;

   (c) limitations or prohibitions on the use of certain fishing gears and on fishing activities, in certain areas or periods to protect spawning fish, fish below the minimum conservation reference size or non-target fish species, or to minimise the negative impact on the ecosystem; and

   (d) the fixing of minimum conservation reference sizes for any of the stocks to which this Regulation applies, to ensure the protection of juveniles of marine organisms.

2. The measures referred to in paragraph 1 of this Article shall contribute to the achievement of the objectives set out in Article 3.

CHAPTER VI
FISHING OPPORTUNITIES

Article 9
Fishing opportunities

1. When allocating fishing opportunities available to them in accordance with Article 17 of Regulation (EU) 1380/2013, Member States shall take account of the likely catch composition of vessels participating in mixed fisheries.

2. Member States may, after notifying the Commission, exchange all or part of the fishing opportunities allocated to them pursuant to Article 16(8) of Regulation (EU) No 1380/2013.

3. Without prejudice to Article 7, the total allowable catch for the stocks of Norway lobster in the Western Waters may be the sum of the catch limits of the functional units and of the statistical rectangles outside the functional units.

4. When scientific advice indicates that recreational fisheries have a significant impact on the fishing mortality of a particular stock, the Council shall take them into account and may limit recreational fisheries when setting fishing opportunities in order to avoid exceeding the total target of fishing mortality.

CHAPTER VII
PROVISIONS LINKED TO THE LANDING OBLIGATION

Article 10
Provisions linked to the landing obligation in Union waters of the Western Waters

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

CHAPTER VIII
ACCESS TO WATERS AND RESOURCES

Article 11
Fishing authorisations and capacity ceilings

1. For each of the ICES zones referred to in Article 1(1) of this Regulation, each Member State shall issue fishing authorisations in accordance with Article 7 of Council Regulation (EC) No 1224/2009 for vessels flying its flag which engage in fishing activities in that area. In such fishing authorisations, Member States may also limit the total capacity expressed in kW of such vessels using a specific gear.

2. Each Member State shall establish and maintain a list of vessels holding the fishing authorisation referred to in paragraph 1 and make it available on its official website to the Commission and other Member States.

CHAPTER IX
MANAGEMENT OF STOCKS OF COMMON INTEREST

Article 12
Principles and objectives of management of stocks of common interest to the Union and third countries

1. Where stocks of common interest are also exploited by third countries, the Union shall engage with those third countries with a view to ensuring that those stocks are managed in a sustainable manner that is consistent with the objectives of Regulation (EU) 1380/2013, in

particular Article 2(2) thereof, and of this Regulation. Where no formal agreement is reached, the Union shall make every effort to reach common arrangements for fishing of such stocks with a view to making the sustainable management possible thereby promoting a level-playing field for Union operators.

2. In the context of the joint management of stocks with third countries, the Union may exchange fishing opportunities with third countries pursuant to Article 33(2) of Regulation (EU) No 1380/2013.

CHAPTER X

REGIONALISATION

Article 13
Regional cooperation

1. Article 18 (1) to (6) of Regulation (EU) No 1380/2013 shall apply to measures referred to in Articles 8 and 10 of this Regulation.

2. For the purpose of paragraph 1 of this Article, Member States having direct management interest in the North Western waters and Member States having direct management interest in the South Western waters may submit joint recommendations in accordance with Article 18(1) of Regulation (EU) No 1380/2013 for the first time not later than twelve months after the entry into force of this Regulation and thereafter twelve months after each submission of the evaluation of the plan in accordance with Article 14. They may also submit such recommendations when deemed necessary by them, in particular in the event of an abrupt change in the situation for any of the stocks to which this Regulation applies. Joint recommendations in respect of measures concerning a given calendar year shall be submitted no later than 1 July of the previous year.

3 The empowerments granted under Articles 8 and 10 of this Regulation shall be without prejudice to powers conferred to the Commission under other provisions of Union law, including under Regulation (EU) No 1380/2013.

CHAPTER XI
EVALUATION AND PROCEDURAL PROVISIONS

Article 14
Evaluation of the plan

By [*five years after the date of entry into force of this Regulation*], and every five years thereafter, the Commission shall report to the European Parliament and to the Council on the results and impact of the plan on the stocks to which this Regulation applies and on the fisheries exploiting those stocks, in particular as regards the achievement of the objectives set out in Article 3.

Article 15
Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The delegation of power referred to in Articles 1(1), 8 and 10 shall be conferred on the Commission for a period of five years from the date of the 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 1(1), 8 and 10 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Inter-institutional Agreement on Better Law-Making of 13 April 2016[28].
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Articles 1(1), 8 and 10 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

CHAPTER XII
SUPPORT FROM THE EUROPEAN MARITIME AND FISHERIES FUND

Article 16
Support from the European Maritime and Fisheries Fund

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

[28] Inter-institutional agreement between the European Parliament, the Council of the European Union and the European Commission on better law-making.

CHAPTER XIII
AMENDMENT TO REGULATION (EU) 2016/1139

Article 17
Amendment to Regulation (EU) 2016/1139

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

1. Article 2, is replaced by the following Article:

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

(1) "pelagic stocks" means the stocks listed in points (c) to (h) of Article 1(1) of this Regulation and any combination thereof;

(2) "Range of FMSY" means a range of values provided in the best available scientific advice, in particular from the International Council on the Exploration of the Sea (ICES), where all levels of fishing mortality within that range, result in maximum sustainable yield (MSY) in the long term given a fishing pattern and under existing average environmental conditions without significantly affecting the reproduction process for the stock in question. It is derived to deliver no more than a 5 % reduction in long-term yield compared to the maximum sustainable yield. It is capped so that the probability of the stock falling below the limit spawning stock biomass reference point (Blim) is no more than 5 %;

(3) "MSY Flower" means the lowest value within the range of FMSY;

(4) MSY Fupper" means the highest value within the range of FMSY;

(5) "FMSY point value" is the value of the estimated fishing mortality that with a given fishing pattern and current environmental conditions gives the long-term maximum yield.

(6) "Lower range of FMSY" means a range that contains values from MSY Flower to FMSY point value;

(7) "Upper range of FMSY" means a range that contains values from FMSY point value up to MSY Fupper;

(8) "Blim" means the stock size reference point provided in the best available scientific advice, in particular by ICES, below which there may be reduced reproductive capacity;

(9) "MSY Btrigger" means the spawning stock biomass reference point provided in the best available scientific advice, in particular from ICES, below which specific and appropriate management action is to be taken to ensure that exploitation rates in combination with natural variations rebuild stocks above levels capable of producing MSY in the long term;

(10) "Member States concerned" means Member States having a direct management interest, namely Denmark, Germany, Estonia, Latvia, Lithuania, Poland, Finland and Sweden."

2. Article 4 is replaced by the following Article:

"Article 4
Targets

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

2. Those ranges of F_{MSY} based on this Plan shall be requested from ICES.

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

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

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

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

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

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

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

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

"Article 4a
Conservation reference points

The following conservation reference points to safeguard the full reproductive capacity of the stocks referred to in Article 1(1) shall be requested from ICES based on this Plan:

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

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

4. Article 5 is replaced by the following:

"Article 5
Safeguards

1. When scientific advice indicates that for a given year the spawning biomass of any of the stocks referred to in Article 1(1) is below the MSY $B_{trigger}$, all appropriate remedial measures shall be adopted to ensure rapid return of the stock concerned to levels above those capable of producing MSY. In particular,

by way of derogation from Article 4(3) and (5) fishing opportunities shall be set at levels consistent with a fishing mortality that is reduced below the upper range of F_{MSY}, taking into account the decrease in biomass.

2. When scientific advice indicates that the spawning stock biomass of any of the stocks referred to in Article 1(1) is below the B_{lim}, further remedial measures shall be taken to ensure rapid return of the stock concerned to levels above the level capable of producing MSY. In particular, those remedial measures may include, by way of derogation from Article 4 (3) and (5), suspending the targeted fishery for the stock and the adequate reduction of fishing opportunities.

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

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

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

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

5. Annexes I and II are deleted.

CHAPTER XIV
FINAL PROVISIONS

Article 18
Repeals

1. The following Regulations are repealed:

   a) Regulation (EC) No 811/2004;

   b) Regulation (EC) No 2166/2005;

   c) Regulation (EC) No 388/2006;

   d) Regulation (EC) 509/2007;

   e) Regulation (EC) 1300/2008.

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

Article 19
Entry into force

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

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

Done at Brussels,

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