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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a Regulation of the European Parliament and of the Council on establishing a multi-annual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks and repealing Council Regulation (EC) 676/2007 and Council Regulation (EC) 1342/2008 - Outcome of the European Parliament's first reading (Strasbourg, 28 May to 31 May 2018)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure ¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

¹ OJ C 145, 30.6.2007, p.5

In this context, the chair of the Committee on Fisheries, Alain CADEC (EPP, FR) presented one compromise amendment (amendment 103) to the proposal for a Regulation, on behalf of the Committee on Fisheries. This amendment had been agreed during the informal contacts referred to above.

The Committee on Fisheries also tabled one amendment (amendment 104) to approve the joint statements by the Parliament and the Council.

II. VOTE

When it voted on 29 May 2018, the plenary adopted the compromise amendment (amendment 103) to the proposal for a Regulation as well as amendment 104 for the joint statements to be approved. The Commission's proposal as amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto².

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

Multiannual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks *I**

European Parliament legislative resolution of 29 May 2018 on the proposal for a regulation of the European Parliament and of the Council on establishing a multi-annual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks and repealing Council Regulation (EC) 676/2007 and Council Regulation (EC) 1342/2008 (COM(2016)0493 – C8-0336/2016 – 2016/0238(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0493),
 - having regard to Article 294(2) and Article 43(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0336/2016),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the official notification of 29 March 2017 by the United Kingdom government, pursuant to Article 50 of the Treaty on European Union, of its intention to withdraw from the European Union;
 - having regard to the opinion of the European Economic and Social Committee of 14 December 2016³,
 - having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 7 March 2018 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Fisheries (A8-0263/2017),
1. Adopts its position at first reading hereinafter set out⁴;
 2. Approves the joint statements by Parliament and the Council annexed to this resolution, which will be published in the L series of the *Official Journal of the European Union* together with the final legislative act;

³ OJ C 75, 10.3.2017, p. 109.

⁴ This position replaces the amendments adopted on 14 September 2017 (Texts adopted, P8_TA(2017)0357).

3. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Position of the European Parliament adopted at first reading on 29 May 2018 with a view to the adoption of Regulation (EU) 2018/... of the European Parliament and of the Council establishing a multiannual plan for demersal stocks in the North Sea and the fisheries exploiting those stocks, *specifying details of the implementation of the landing obligation in the North Sea* and repealing Council Regulations (EC) No 676/2007 and (EC) No 1342/2008

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 Committee⁵,

Acting in accordance with the ordinary legislative procedure⁶,

⁵ OJ C 75, 10.3.2017, p. 109.

⁶ Position of the European Parliament of 29 May 2018.

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 maintaining or restoring populations of harvested species at levels which can produce the maximum sustainable yield ('MSY').
- (2) At the United Nations Summit on Sustainable Development held in New York in 2015, the Union and its Member States committed themselves, by 2020, to effectively regulate harvesting, to end overfishing, illegal, unreported and unregulated fishing and destructive fishing practices, and to implement science-based management plans, in order to restore fish stocks, in the shortest time feasible, at least to levels that can produce MSY as determined by their biological characteristics.

- (3) Regulation (EU) No 1380/2013 of the European Parliament and of the Council⁷ 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, the sustainable management of all commercially exploited species and in particular the achievement of good environmental status by 2020, as set out in Article 1(1) of Directive 2008/56/EC of the European Parliament and of the Council⁸.
- (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) To achieve the objectives of the CFP, a number of conservation measures are to be adopted, as appropriate, in any combination thereof, such as multiannual plans, technical measures, fixing and allocation of fishing opportunities.

⁷ 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).

⁸ 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).

- (6) Pursuant to Articles 9 and 10 of Regulation (EU) No 1380/2013, multiannual plans are to be based on scientific, technical and economic advice. ***In accordance with those provisions, the multiannual plan established by this Regulation ('the plan') should contain objectives, quantifiable targets with clear timeframes, conservation reference points, safeguards and technical measures designed to avoid and reduce unwanted catches.***
- (7) ***The 'best available scientific advice' should be understood to refer to publicly available scientific advice that is supported by the most up-to-date scientific data and methods and that has either been issued or reviewed by an independent scientific body that is recognised at Union or international level.***
- (8) ***The Commission should obtain the best available scientific advice for the stocks falling within the scope of the plan. In order to do so, it concludes Memoranda of Understanding with the International Council for the Exploration of the Sea (ICES). The scientific advice issued by ICES should be based on the plan and should indicate, in particular, ranges of F_{MSY} and biomass reference points, i.e. $MSY B_{trigger}$ and B_{lim} . Those values should be indicated in the relevant stock advice and, where appropriate, in any other publicly-available scientific advice, including, for example, in mixed fisheries advice issued by ICES.***

- (9) Council Regulations (EC) No 676/2007⁹ and (EC) No 1342/2008¹⁰ set out the rules for the sustainable exploitation of the stocks of cod, plaice and sole in the North Sea and *its* adjacent waters. *Those* and other demersal stocks are taken in mixed fisheries. Therefore, it is appropriate to establish a single multiannual plan taking into account such technical interactions.
- (10) In addition, such a multiannual plan should apply to ■ demersal stocks and their fisheries in the North Sea. *Those are roundfish, flatfish and cartilaginous fish species, Norway lobster (Nephrops norvegicus) and Northern prawn (Pandalus borealis) that live at or near the bottom of the water column.*
- (11) Some demersal stocks are exploited both in the North Sea and in its adjacent waters ■ . Therefore the scope of the provisions of the plan relating to targets and safeguards for stocks that are mainly exploited in the North Sea should be extended so that they also cover those areas outside the North Sea. In addition, for ■ stocks which are *present in the North Sea, but* which are mainly exploited outside the North Sea, it is necessary to establish the targets and safeguards in multiannual plans for areas outside the North Sea where *those stocks* are mainly exploited, *extending the scope of those multiannual plans so that they also cover* the North Sea.

⁹ Council Regulation (EC) No 676/2007 of 11 June 2007 establishing a multiannual plan for fisheries exploiting stocks of plaice and sole in the North Sea (OJ L 157, 19.6.2007, p. 1).

¹⁰ 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).

- (12) *The geographical scope of the 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 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 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 those stocks are managed in a sustainable manner that is consistent with the objectives of Regulation (EU) No 1380/2013, in particular Article 2(2) thereof, and of this Regulation. Where no formal agreement is reached, the Union should make every effort to reach common arrangements for fishing of such stocks with a view to making sustainable management possible, thereby promoting a level-playing field for Union operators.*

- (14) The objective of the plan should be to contribute to the achievement of the objectives of the CFP, and ***in particular*** to reaching and maintaining MSY for the ***target*** stocks ***implementing*** the landing obligation for demersal stocks subject to catch limits, ***to promoting a fair standard of living for those who depend on fishing activities, bearing in mind coastal fisheries and socio-economic aspects,*** and to ***implementing*** the ecosystem-based approach to fisheries management. ***The plan should also specify details for the implementation of the landing obligation in Union waters of the North Sea 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 ***objectives*** set out ***in Article 2(2) thereof and comply with the targets, time frames and margins established*** in the multiannual 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 *the best available* scientific advice, are necessary in order to provide the flexibility to take account of developments in scientific advice, to contribute to the implementation of the landing obligation and to take into account the characteristics of mixed fisheries. The ranges of F_{MSY} **should be** calculated and provided by ICES, *in particular in its periodic catch advice. Based on the plan, they* are derived to deliver no more than a 5 % reduction in long-term yield compared to MSY, *as set out in ICES' response to the 'EU request to ICES to provide ranges of F_{MSY} for selected North Sea and Baltic Sea Stocks'*. 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 is to be reduced to a value that does not exceed an upper limit equal to the F_{MSY} point value multiplied by the spawning biomass or abundance in the **total allowable catch (TAC)** year divided by $MSY B_{trigger}$. ICES uses those 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 ranges of F_{MSY} in normal use and, provided that the stock concerned is considered to be in a good state, an upper limit for certain cases. It should be possible to fix fishing opportunities at the upper limit only if, on the basis of scientific advice or evidence, it is necessary to achieve the objectives of 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.

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- (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.

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

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- (20) *It should be possible* to set the TAC for Norway lobster in ICES *division 2a* and *subarea 4* 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 should not preclude the adoption of measures to protect specific functional units.
- (21) *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 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.*

- (22) 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 that Regulation*.
- (23) *In order to avoid the disruptive dislocation of fishing activity which could have a negative impact on the state of the cod stocks, it is appropriate to maintain the system of fishing authorisations linked to a limitation of the total capacity of fishing vessels' engine power in ICES division 7d, as previously applicable under Regulation (EC) No 1342/2008.*
- (24) The deadline for submitting joint recommendations from Member States having a 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 ■ assessment by the Commission, *by ... [five years after the date of entry into force of this Regulation] and every five years thereafter*, of the adequacy and effectiveness of the application of this Regulation ■ based on scientific advice ■ . *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 fisheries. It is also the minimum period required by scientific bodies.
- (26) In order to adapt to technical and scientific progress in a timely and proportionate manner, to ensure flexibility and to allow for the 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 adjustments concerning the stocks covered by this Regulation following changes in the geographical distribution of the stocks, 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 Interinstitutional Agreement *of 13 April 2016* on Better Law-Making¹¹ ■ . 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.

¹¹ *OJ L 123, 12.5.2016, p. 1.*

(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 Council¹².*

(28) Regulations ■ (EC) No 676/2007 and (EC) No 1342/2008 should be repealed,

HAVE ADOPTED THIS REGULATION:

¹² *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).*

CHAPTER I
SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

Subject-matter and scope

1. This Regulation establishes a multiannual plan ('the plan') for the ***following*** demersal stocks in  Union waters of ***the North Sea (ICES divisions 2a, 3a and subarea 4), including the fisheries exploiting those stocks, and, where those stocks extend beyond the North Sea, in its adjacent waters:***
- (a) ***Cod (Gadus morhua) in subarea 4 (North Sea) and divisions 7d (Eastern Channel) and 3a.20 (Skagerrak);***
 - (b) ***Haddock (Melanogrammus aeglefinus) in subarea 4 (North Sea) and divisions 6a (West of Scotland) and 3a.20 (Skagerrak);***
 - (c) ***Plaice (Pleuronectes platessa) in subarea 4 (North Sea) and division 3a.20 (Skagerrak);***
 - (d) ***Saithe (Pollachius virens) in subareas 4 (North Sea) and 6 (Rockall and West of Scotland) and division 3a (Skagerrak and Kattegat);***
 - (e) ***Sole (Solea solea) in subarea 4 (North Sea);***
 - (f) ***Sole (Solea solea) in division 3a (Skagerrak and Kattegat) and subdivisions 22–24 (Western Baltic Sea);***

- (g) *Whiting (Merlangius merlangus) in subarea 4 (North Sea) and division 7d (Eastern English Channel);*
- (h) *Anglerfish (Lophius piscatorius) in division 3a (Skagerrak and Kattegat) and subareas 4 (North Sea) and 6 (Rockall and West of Scotland);*
- (i) *Northern Prawn (Pandalus borealis) in divisions 4a East (Northern North Sea, Norwegian Deep) and 3a.20 (Skagerrak);*
- (j) *Norway lobster (Nephrops norvegicus) in division 3a (Functional Units 3-4);*
- (k) *Norway lobster in subarea 4 (North Sea) by Functional Unit:*
 - *Norway lobster in Botney Gut-Silver Pit (Functional Unit 5);*
 - *Norway lobster in Farn Deeps (Functional Unit 6);*
 - *Norway lobster in Fladen Ground (Functional Unit 7);*
 - *Norway lobster in Firth of Forth (Functional Unit 8);*
 - *Norway lobster in Moray Firth (Functional Unit 9);*
 - *Norway lobster in Noup (Functional Unit 10);*
 - *Norway lobster in Norwegian Deeps (Functional Unit 32);*
 - *Norway lobster in Horn's Reef (Functional Unit 33);*
 - *Norway lobster in Devil's Hole (Functional Unit 34).*

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 16 amending this Regulation by adjusting the areas listed in the first subparagraph of this paragraph in order to reflect that change. Such adjustments shall not extend the stock areas beyond Union waters of subareas 2 to 7.

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2. *Where, on the basis of scientific advice, the Commission considers that the list of stocks set out in the first subparagraph of paragraph 1 needs to be amended, the Commission may submit a proposal for the amendment of that list.*
3. *With respect to adjacent waters referred to in paragraph 1 of this Article, only Article 4 and 6 and the measures related to fishing opportunities under Article 7 shall apply.*
4. *This Regulation also applies to by-catches caught in the North Sea when fishing for the stocks listed in the first subparagraph of paragraph 1. However, where ranges of F_{MSY} and safeguards linked to biomass are established for those stocks 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 North Sea for all stocks of species to which the landing obligation applies under Article 15 of Regulation (EU) No 1380/2013.*

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply in addition to those laid down in Article 3 of Council Regulation (EC) No 850/98¹³, Article 4 of Council Regulation (EC) No 1224/2009¹⁴ and Article 4 of Regulation (EU) No 1380/2013:

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¹³ Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (OJ L 125, 27.4.1998, p. 1).

¹⁴ Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).

- (1) *"Range of F_{MSY} " means a range of values provided for in the best available scientific advice, in particular by 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 with a given fishing pattern and under current average environmental conditions without significantly affecting the reproduction process for the stock in question. It is derived to deliver no more than a 5 % reduction in long-term yield compared to the MSY. It is capped so that the probability of the stock falling below the limit spawning stock biomass reference point (B_{lim}) is no more than 5 %;*
- (2) *"MSY F_{lower} " means the lowest value within the range of F_{MSY} ;*
- (3) *"MSY F_{upper} " means the highest value within the range of F_{MSY} ;*
- (4) *" F_{MSY} point value" is the value of the estimated fishing mortality that with a given fishing pattern and under current average environmental conditions gives the longterm MSY;*
- (5) *"Lower range of F_{MSY} " means a range that contains values from MSY F_{lower} up to F_{MSY} point value;*

- (6) *"Upper range of F_{MSY} " means a range that contains values from F_{MSY} point value up to $MSY F_{upper}$;*
- (7) *" B_{lim} " means the spawning stock biomass reference point provided for in the best available scientific advice, in particular by ICES, below which there may be reduced reproductive capacity;*
- (8) *" $MSY B_{trigger}$ " means the spawning stock biomass **and, in the case of Norway lobster stocks, the abundance** reference point **provided for in the best available scientific advice, in particular by 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.
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. ***The ranges of F_{MSY} based on the 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 for a stock may be fixed at levels ***that are lower ■ than the ranges of F_{MSY} .***

5. Notwithstanding paragraphs 3 *and* 4, fishing opportunities for a stock may be fixed in accordance with the *upper range of F_{MSY} available at that time for that stock*, provided that the stock *referred to in Article 1(1) is above $MSY B_{trigger}$* :
- (a) if, on the basis of scientific advice or evidence, it is necessary for the achievement of the objectives laid down in Article 3 in the case of mixed fisheries;
 - (b) if, on the basis of scientific advice or evidence, it is necessary to avoid serious harm to a stock caused by intra- or inter-species stock dynamics; or
 - (c) in order to limit variations in fishing opportunities between consecutive years to not more than 20 %.
6. *Fishing opportunities shall in any event be fixed in such a way as to ensure that there is less than a 5 % probability of the spawning stock biomass falling below B_{lim} .*

Article 5

Management of by-catch stocks

1. *For the stocks referred to in Article 1(4), management measures including, where appropriate, fishing opportunities, shall be set taking into account the best available scientific advice and shall be consistent with the objectives laid down in Article 3.*
2. *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 that leads to a premature closure of the fishery.*

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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 the plan:

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

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Article 7

Safeguards

1. When scientific advice indicates that, for a given year, the spawning stock biomass *and, in the case of Norway lobster stocks*, the *abundance* of any of the stocks *referred to in Article 1(1)* are below $MSY_{B_{trigger}}$, 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 fixed at levels consistent with a fishing mortality *that is reduced below the upper range of F_{MSY}* , taking into account the decrease in biomass ■.

2. When scientific advice indicates that the spawning stock biomass *and, in the case of Norway lobster stocks*, the *abundance* of any of the stocks *referred to in Article 1(1)* are 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 and 9 of this Regulation.*
4. *The choice of measures referred to in this Article shall be made taking into account the nature, seriousness, duration and repetition of the situation where the spawning stock biomass and, in the case of Norway lobster stocks, the abundance are below the levels referred to in Article 6.*

Article 8

Specific conservation measures

When scientific advice indicates that remedial action is required for the conservation of any of the demersal stocks *referred to in Article 1(4) of this Regulation*, or when the spawning stock biomass *and, in the case of Norway lobster stocks, the abundance* of any of the stocks *covered by Article 1(1)* for a given year are below *MSY B_{trigger}*, the Commission is empowered to adopt delegated acts in accordance with Article 16 of this Regulation and Article 18 of Regulation (EU) No 1380/2013. *Such delegated acts may supplement this Regulation by laying down rules* regarding:

- (a) characteristics of fishing gear, in particular mesh size, hook size, construction of the gear, twine thickness, size of the gear or use of selectivity devices to ensure or improve selectivity;
- (b) use of the fishing gear, in particular immersion time, depth of gear deployment, to ensure or improve selectivity;
- (c) prohibition or limitation to fish in specific areas to protect spawning and juvenile fish, fish below the minimum conservation reference size or non-target fish species;

- (d) prohibition or limitation on fishing or the use of certain types of fishing gear during specific time periods, to protect spawning fish, fish below the minimum conservation reference size or non-target fish species;
- (e) minimum conservation reference sizes, to ensure the protection of juveniles of marine organisms;
- (f) other characteristics linked to selectivity.

CHAPTER V

TECHNICAL MEASURES

Article 9

Technical measures

1. ***The Commission is empowered to adopt delegated acts in accordance with Article 16 of this Regulation and Article 18 of Regulation (EU) No 1380/2013 in order to supplement this Regulation regarding the following technical measures:***
 - (a) ***specifications of characteristics of fishing gears and rules governing their use, to ensure or to 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 to improve selectivity, to reduce unwanted catches or to minimise the negative impact on the ecosystem;*
- (c) limitations or prohibitions on the use of certain fishing gears and on fishing activities, in certain areas or periods to protect spawning fish, fish below the minimum conservation reference size or non-target fish species, or to minimise the negative impact on the ecosystem; and*
- (d) the fixing of minimum conservation reference sizes for any of the stocks to which this Regulation applies, to ensure the protection of juveniles of marine organisms.*

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

CHAPTER VI

FISHING OPPORTUNITIES

Article 10

Fishing opportunities

1. ***When allocating fishing opportunities available to them in accordance with Article 17 of Regulation (EU) No 1380/2013, Member States shall take account of the likely catch composition of vessels participating in mixed fisheries.***
2. ***Member States may, after notifying the Commission, exchange all or part of the fishing opportunities allocated to them pursuant to Article 16(8) of Regulation (EU) No 1380/2013.***
3. Without prejudice to Article 7 ***of this Regulation***, the TAC for the stock of Norway lobster in ICES zones ***2a*** and ***4*** ***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 fixing fishing opportunities in order to avoid exceeding the total target of fishing mortality.*

CHAPTER VII

PROVISIONS LINKED TO THE LANDING OBLIGATION

Article 11

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

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

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CHAPTER VIII
ACCESS TO WATERS AND RESOURCES

Article 12

Fishing authorisations and capacity ceilings

1. ***For each of the ICES zones referred to in Article 1(1) of this Regulation, each Member State shall issue fishing authorisations in accordance with Article 7 of Regulation (EC) No 1224/2009 for vessels flying its flag and which engage in fishing activities in that area. In such fishing authorisations, Member States may also limit the total capacity expressed in kW of such vessels using a specific gear.***
2. ***For cod in the Eastern Channel (ICES division 7d), without prejudice to the capacity ceilings set out in Annex II to Regulation (EU) No 1380/2013, the total capacity expressed in kW of the vessels having fishing authorisations issued in accordance with paragraph 1 of this Article shall not be greater than the maximum capacity of the vessels that have been active in 2006 or 2007 using one of the following gears in the ICES zone concerned:***

(a) bottom trawls and seines (OTB, OTT, PTB, SDN, SSC, SPR) of mesh:

(i) equal to or larger than 100 mm;

(ii) equal to or larger than 70 mm and less than 100 mm;

(iii) equal to or larger than 16 mm and less than 32 mm;

(b) beam trawls (TBB) of mesh:

(i) equal to or larger than 120 mm;

(ii) equal to or larger than 80 mm and less than 120 mm;

(c) gill nets, entangling nets (GN);

(d) trammel nets (GT);

(e) longlines (LL).

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

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CHAPTER IX
MANAGEMENT OF STOCKS OF COMMON INTEREST

Article 13

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

- 1. Where stocks of common interest are also exploited by third countries, the Union shall engage with those third countries with a view to ensuring that those stocks are managed in a sustainable manner that is consistent with the objectives of Regulation (EU) No 1380/2013, in particular Article 2(2) thereof, and of this Regulation. Where no formal agreement is reached, the Union shall make every effort to reach common arrangements for fishing of such stocks with a view to making 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 *14*

Regional cooperation

1. Article 18(1) to (6) of Regulation (EU) No 1380/2013 shall apply to measures referred to in Articles 8, *9* and *11* of this Regulation.
2. For the purpose of paragraph 1 of this Article, Member States having a direct management interest may submit joint recommendations in accordance with Article 18(1) of Regulation (EU) No 1380/2013 for the first time not later than ... [12 months after the date of entry into force of this Regulation] and thereafter 12 months after each submission of the evaluation of the plan in accordance with Article *15* of this Regulation. 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*, 9 and 11 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*

FOLLOW UP

Article *15*

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.*

CHAPTER *XII*

PROCEDURAL PROVISIONS

Article *16*

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 Article **1(1) and Articles 8, 9 and 11** shall be conferred on the Commission for a period of five years from ... [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 Article **1(1) and Articles 8, 9 and 11** may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article **1(1) and Articles 8, 9 and 11** 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 XIII

SUPPORT FROM THE EUROPEAN MARITIME AND FISHERIES FUND

Article 17

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 a temporary cessation of fishing activities for the purposes of points (a) and (c) of Article 33(1) of Regulation (EU) No 508/2014.

CHAPTER *XIV*
FINAL PROVISIONS

Article *18*
Repeals

1. Regulations (EC) No 676/2007 *and* (EC) No 1342/2008 are repealed.
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 ...,

For the European Parliament

For the Council

The President

The President

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ANNEX TO THE LEGISLATIVE RESOLUTION

JOINT STATEMENTS

Joint Statement by the European Parliament and the Council on prohibited species

The Regulation to be adopted on the basis of the Commission proposal on the conservation of fishery resources and the protection of marine ecosystems through technical measures (2016/0074(COD)) should contain provisions, inter alia, on the species for which fishing is prohibited. For that reason the two institutions have agreed not to include a list concerning the North Sea in this Regulation (2016/0238(COD)).

Joint Statement by the European Parliament and the Council on control

The European Parliament and the Council will include the following control provisions in the upcoming review of the Control Regulation (Regulation (EC) No 1224/2009) where relevant to the North Sea: prior notifications, logbook requirements, designated ports, and other control provisions.
