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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	29 March 2017
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down management, conservation and control measures applicable in the Convention Area of the South Pacific Regional Fisheries Management Organisation (SPRFMO)
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Delegations will find attached document COM(2017) 128 final.

Encl.: COM(2017) 128 final



Brussels, 29.3.2017
COM(2017) 128 final

2017/0056 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**laying down management, conservation and control measures applicable in the
Convention Area of the South Pacific Regional Fisheries Management Organisation
(SPRFMO)**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Reasons for and objectives of the proposal**

The proposal aims at transposing into EU law the conservation, control and enforcement measures adopted by the South Pacific Regional Fisheries Management Organisation (SPRFMO) to which the European Union is a Contracting Party. SPRFMO is the Regional Fisheries Management Organisation (RFMO) responsible for the management of fishery resources in the South Pacific and adjoining seas excluding tuna and tuna-like species. SPRFMO has adopted new conservation, control and enforcement measures every year since it first met in 2013. The most recent measures to be transposed into EU law included in this proposal were adopted by SPRFMO in January 2017.

SPRFMO has the authority to adopt conservation and management measures (“CMMs”), which are compulsory decisions, for the conservation and management of the fisheries under its purview. These acts are primarily addressed to the SPRFMO Contracting Parties but also contain obligations for operators such as fishing vessel masters. The SPRFMO CMMs enter into force 90 days following their notification and are binding for Contracting Parties and, in the case of the EU, must be enacted into European law to the extent to which they are not already covered by EU legislation.

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

There has been no previous transposition of SPRFMO conservation and management measures. The main policy provisions in the policy area are the Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy, Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing and Regulation (EU) No 1380/2013 of the European Parliament and of the Council on the Common Fisheries Policy.

Fishing opportunities for the EU decided by SPRFMO will not be covered by this proposal in the light of Article 43(3) of the Treaty on the Functioning of the European Union (TFEU), which provides that the adoption of measures on fixing prices, levies, aid and quantitative limitations and on the fixing and allocation of fishing opportunities is a prerogative of the Council.

- **Consistency with other Union policies**

NA.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The proposal is based on Article 43(2) TFEU as it sets out provisions necessary for the pursuit of the objectives of the Common Fisheries Policy.

- **Subsidiarity (for non-exclusive competence)**

The subsidiarity principle does not apply in this context, as the proposal relates to the sustainable exploitation, management and conservation of marine biological resources in the context of the external component of the Common Fisheries Policy.

- **Proportionality**

The considered option will ensure the implementation of the SPRFMO obligations within the EU without exceeding what is necessary to achieve the objective pursued.

- **Choice of the instrument**

As a Regulation is directly applicable and binding on the Member States, it shall contribute to a uniform application of the proposed rules throughout the Union, therefore creating a level playing field for all EU operators active in fishing activities in the SPRFMO Convention Area.

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

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

NA.

- **Stakeholder consultations**

This proposal aims at transposing already existing SPRFMO conservation and management measures, binding upon the Contracting Parties. Both Member States experts and stakeholders are consulted in the preparation of the SPRFMO meetings where these conservation and management measures are adopted, as well as throughout its negotiation at the SPRFMO annual meeting. No stakeholder consultation was therefore deemed to be necessary for this transposition Regulation.

- **Collection and use of expertise**

NA.

- **Impact assessment**

As no new policy aspects will be defined, an impact assessment is not relevant for the present legislative initiative. This initiative is about applicable international obligations that are already binding upon the EU, in respect of which no impact assessment is required.

- **Regulatory fitness and simplification**

NA.

- **Fundamental rights**

NA.

4. BUDGETARY IMPLICATIONS

NA.

5. OTHER ELEMENTS

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

NA.

- **Explanatory documents (for directives)**

NA.

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

Title I contains general provisions such as subject matter, scope and definitions. Most importantly, this Regulation applies to the Union fishing vessels fishing in the SPRFMO Convention area or, in the case of transshipments, in the area outside the SPRFMO Convention area for the species caught in the SPRFMO Convention area. It also applies to third country fishing vessels that access EU ports and that carry fishery products harvested in the Convention Area.

Title II refers to management, conservation and control measures concerning certain species. Chapter I contains SPRFMO management measures applicable to jack mackerel. Chapter II refers to seabird mitigation measures.

Title III lays down provisions on management, conservation and control measures concerning certain fishing methods. Chapter I regards bottom fishing. Chapter II concerns exploratory fisheries.

Title IV contains common control measures. Chapter I deals with authorisations for fishing vessels and the SPRFMO Record of Vessels. Chapter II lays down provisions on transshipment activities including general provisions, prior notification, transshipment supervision and post-transshipment notification. Chapter III refers to data collection and reporting. Chapter IV contains provisions on surveillance and observer programmes. Chapter V refers to the inspection in EU ports of third country fishing vessels carrying fishery products harvested in SPRFMO, notably the establishment of points of contact and designated ports, the procedure for prior notification, the criteria for inspections and the inspection procedure. It also contains provisions on the applicable procedure in case of apparent infringements during port inspections. Chapter VI contains rules on enforcement and compliance, notably the circulation of information on illegal, unregulated and unreported (IUU) fishing activities, the implementation of measures vis-à-vis fishing vessels included in the SPRFMO IUU list and the management of compliance issues.

Title V contains final provisions, such as confidentiality of electronic reports and messages, procedure for amendments, exercise of the delegation, implementation and entry into force.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

laying down management, conservation and control measures applicable in the Convention Area of the South Pacific Regional Fisheries Management Organisation (SPRFMO)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee¹,

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

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The objective of the Common Fisheries Policy (CFP), as set out in Regulation (EU) No 1380/2013 of the European Parliament and of the Council³ is to ensure that the exploitation of marine biological resources contributes to long-term environmental, economic and social sustainability.
- (2) The Union has, by Council Decision 98/392/EC⁴, approved the United Nations Convention on the Law of the Sea, which contains principles and rules with regard to the conservation and management of the living resources of the sea. In the framework of its wider international obligations, the European Union participates in efforts made in international waters to conserve fish stocks.

¹ OJ C , , p. .

² OJ C , , p. .

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

⁴ Council Decision 98/392/EC of 23 March 1998 concerning the conclusion by the European Community of the United Nations Convention of 10 December 1982 on the Law of the Sea and the Agreement of 28 July 1994 relating to the implementation of Part XI thereof (OJ L 179, 23.6.1998, p. 1).

- (3) Pursuant to Council Decision 2012/130/EU⁵ the Union is a Contracting Party to the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean (hereinafter "the SPRFMO Convention"), which established the South Pacific Regional Fisheries Management Organisation (SPRFMO), since 26 July 2010.
- (4) Within the SPRFMO, the Commission of the South Pacific Regional Fisheries Management Organisation is responsible for the adoption of measures designed to ensure the long-term conservation and sustainable use of fishery resources through the application of the precautionary approach and an ecosystem approach to fisheries management, and, in so doing, to safeguard the marine ecosystems in which these resources occur. Such measures may become binding upon the Union.
- (5) It is necessary to ensure that the conservation and management measures adopted by SPRFMO are fully transposed into Union law and are, therefore, uniformly and effectively implemented within the Union.
- (6) The SPRFMO has the authority to adopt conservation and management measures for the fisheries under its purview, which are binding on the Contracting Parties. These acts are primarily addressed to the SPRFMO Contracting Parties and provide for obligations for operators such as fishing vessel masters.
- (7) This Regulation should not cover the fishing opportunities decided by SPRFMO, as those fishing opportunities are allocated in the framework of the annual regulation on fishing opportunities adopted pursuant to Article 43 (3) of the Treaty.
- (8) In order to swiftly incorporate into Union law future binding amendments to the SPRFMO conservation and management measures, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of amending the Annexes and the relevant Articles of this Regulation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.
- (9) To ensure compliance with the Common Fisheries Policy, Union legislation has been adopted to establish a system of control, inspection and enforcement, which includes the fight against illegal, unreported and unregulated (IUU) activities.
- (10) In particular, Council Regulation (EC) No 1224/2009 establishes a Union system for control, inspection and enforcement with a global and integrated approach to ensure compliance with all the rules of the Common Fisheries Policy, and Commission Implementing Regulation (EU) No 404/2011 lays down detailed rules for the implementation of Council Regulation (EC) No 1224/2009. Council Regulation (EC) No 1005/2008 establishes a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing. Those Regulations already implement a number of the provisions laid down in the SPRFMO conservation and management measures. It is therefore not necessary to include those provisions in this Regulation.

⁵ OJ L 67, 6.3.2012.

- (11) Article 15(1) of Regulation (EU) No 1380/2013 introduced a landing obligation which applies as of 1 January 2015 to fisheries for small and large pelagic species, fisheries for industrial purposes and fisheries for salmon in the Baltic sea. However, under Article 15(2) of that Regulation, the landing obligation is without prejudice to the Union's international obligations, such as those resulting from the SPRFMO Conservation and Management Measures,

HAVE ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation lays down management, conservation and control provisions relating to fishing for straddling species in the Convention Area of the South Pacific Regional Fisheries Management Organisation (SPRFMO).

Article 2

Scope

This Regulation shall apply to:

- (a) Union fishing vessels operating in the SPRFMO Convention Area specified in Article 5 of that Convention;
- (b) Union fishing vessels transshipping fishery products caught in the SPRFMO Convention Area;
- (c) Third country fishing vessels upon requesting access or being the object of an inspection in Union ports and carrying fishery products harvested in the SPRFMO Convention Area.

Article 3

Definitions

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

- (1) 'SPRFMO Convention Area' means the high seas geographical area south of 10° N, north of the CCAMLR Convention Area as defined in the Convention on the

Conservation of Antarctic Marine Living Resources, east of the SIOFA Convention Area as defined in the Southern Indian Ocean Fisheries Agreement, and west of the areas of fisheries jurisdictions of South American States;

- (2) 'fishing vessel' means any vessel of any size used or intended for use for the purposes of commercial exploitation of fishery resources, including support ships, fish processing vessels, vessels engaged in transshipment and carrier vessels equipped for the transportation of fishery products, except container vessels;
- (3) 'SPRFMO fishery resources' means all marine biological resources within the SPRFMO Convention Area excluding:
 - (a) sedentary species in so far as they are subject to the national jurisdiction of coastal States pursuant to Article 77 paragraph 4 of the United Nations Convention on the Law of the Sea of 10 December 1982 (hereinafter "the 1982 Convention");
 - (b) highly migratory species listed in Annex I of the 1982 Convention;
 - (c) anadromous and catadromous species;
 - (d) marine mammals, marine reptiles and sea birds;
- (4) 'fishery products' means aquatic organisms within the SPRFMO Convention Area resulting from any fishing activity or products derived therefrom;
- (5) 'fishing activity' means searching for fish, shooting, setting, towing, hauling of a fishing gear, taking catch on board, transshipping, retaining on board, processing on board, transferring and landing of fish and fishery products;
- (6) 'bottom fishing' means the fishing by any fishing vessel using any gear which is likely to come in contact with the seafloor or benthic organisms during the normal course of operations;
- (7) 'bottom fishing footprint' means the spatial extent of bottom fishing during a defined period of time in the SPRFMO Convention Area;
- (8) 'draft SPRFMO IUU vessel list' means the initial list of fishing vessels presumed to have undertaken illegal, unreported or unregulated (IUU) fishing activities as drafted by the SPRFMO Secretariat and submitted for consideration by the SPRFMO Compliance and Technical Committee;
- (9) 'exploratory fishery' means a fishery that has not been subject to fishing or has not been subject to fishing with a particular gear type or technique in the previous ten years;
- (10) 'established fishery' means a fishery that has not been closed and that has been subject to fishing or has been subject to fishing with a particular gear type or technique in the previous ten years;
- (11) 'IUU fishing activities' means any illegal, unreported or unregulated fishing activity as defined in Article 2 of Regulation (EC) No 1005/2008;

- (12) SPRFMO Cooperating Non-Contracting Party is a State or fishing entity that it is not a party to the SPRFMO Convention but has agreed to fully cooperate in the implementation of the conservation and management rules adopted by the SPRFMO;
- (13) ‘SPRFMO record of vessels’ means the list of fishing vessels authorised to fish in the Convention Area maintained by the SPRFMO Secretariat as notified by the SPRFMO Contracting Parties and Cooperating Non-Contracting Parties (CNCs);
- (14) ‘transshipment’ means the unloading of all or any fishery products on board a fishing vessel to another fishing vessel;
- (15) ‘other species of concern’ means species listed in Annex XIII;
- (16) ‘vulnerable marine ecosystem’ means any marine ecosystem whose integrity is, according to the best scientific information available and to the precautionary principle, threatened by significant adverse impacts resulting from physical contact with bottom gears in the normal course of fishing operations, including, inter alia, reefs, seamounts, hydrothermal vents, cold water corals or cold water sponge beds.

TITLE II

MANAGEMENT, CONSERVATION AND CONTROL MEASURES CONCERNING CERTAIN SPECIES

Chapter I

Jack mackerel (*Trachurus murphyi*)

Article 4

Catch management of jack mackerel

1. In accordance with Article 15 of Regulation (EU) No 1006/2008, a Member State shall close the fishery of jack mackerel for fishing vessels flying its flag when their total catch is equivalent to 100 per cent of their catch limit.
2. Member States shall inform the Commission of the date of the closure without delay. The Commission shall promptly transmit that information to the SPRFMO Secretariat.

Article 5

Observer coverage in the jack mackerel fishery

Member States shall ensure a minimum 10 per cent observer coverage of trips for fishing vessels flying their flag. For fishing vessels undertaking no more than two trips in total, the 10 per cent observer coverage shall be calculated by reference to active fishing days for trawlers, and by reference to sets for purse-seiners.

Article 6

Data reporting for jack mackerel

1. Member States shall report to the Commission by the 15th of each month on the catches of jack mackerel from the preceding month, in accordance with Article 33 of Regulation (EC) No 1224/2009.
2. In addition to paragraph 1, Member States shall report to the Commission the following data regarding jack mackerel fisheries:
 - a) by the 5th of each month, the list of its fishing vessels engaged in transshipment in the preceding month. The Commission shall forward that information to the SPRFMO Secretariat within 20 days of the end of that month;
 - b) within 5 days of the end of each quarter, the VMS data of fishing vessels actively fishing or engaged in transshipment in the previous quarter. The Commission shall forward to the SPRFMO Secretariat that information within 10 days of the end of each quarter;
 - c) 45 days before the SPRFMO Scientific Committee meeting, the annual scientific report covering the previous year. The Commission shall transmit this information to the SPRFMO Secretariat at the latest 30 days before the SPRFMO Scientific Committee meeting.
3. By 30 September of each year, the Commission shall provide to the SPRFMO Secretariat the annual catch data raised to live weight covering the previous calendar year's catches.

Chapter II

Seabirds

Article 7

Seabird mitigation measures for long-liners

1. All Union fishing vessels using longlines shall be subject to the seabird mitigation measures set out in this Article.

2. All Union fishing vessels using demersal longlines shall use line weights and tori lines.
3. Union fishing vessels shall not set longlines during the hours of darkness or discharge offal during shooting and hauling.
4. Line weighting shall be rigged in accordance with Annex I.
5. Bird scaring lines shall be rigged in accordance with Annex II.
6. Union fishing vessels shall be prohibited from discharging offal during shooting and hauling. Where this is not feasible, vessels shall batch waste for two hours or longer.

Article 8

Seabird mitigation measures for trawlers

1. All Union fishing vessels using trawl gear shall be subject to the seabird mitigation measures set out in this Article.
2. Union fishing vessels shall deploy, while fishing, two tori lines or, if the operational practices prevent the effective deployment of tori lines, a bird baffler.
3. Bird bafflers shall be rigged in accordance with Annex III.
4. Union fishing vessels shall be prohibited from discharging offal during shooting and hauling.
5. Union fishing vessels shall convert offal into fish meal and retain all waste material with any discharge restricted to liquid discharge/sump water. Where this is not feasible, fishing vessels shall batch waste for two hours or longer.
6. Nets shall be cleaned after every fishing operation to remove entangled fish and benthic material to discourage interactions with birds during gear deployment.
7. The time the net is on the water surface during hauling shall be minimised through proper maintenance of winches and good deck practices.

Article 9

Seabird data reporting

In their annual scientific report to be provided to the Commission 45 days before the SPRFMO Scientific Committee meeting each year Member States shall indicate:

- (a) the seabird mitigation measures used by each fishing vessel flying their flag and fishing in the SPRFMO Convention Area;
- (b) the level of observer coverage applicable to recording seabird bycatch.

TITLE III

MANAGEMENT, CONSERVATION AND CONTROL MEASURES CONCERNING CERTAIN FISHING METHODS

Chapter I

Bottom fishing

Article 10

Bottom fishing authorisation

1. Member States shall not permit fishing vessels flying their flag to engage in bottom fishing without prior authorisation from the SPRFMO.
2. Member States intending to engage in bottom fishing activities in the Convention Area shall submit a request to the Commission no later than 45 days before the SPRFMO Scientific Committee meeting at which they wish the request to be considered. The Commission shall forward the request to the SPRFMO Secretariat no later than 30 days before the Scientific Committee meeting. The request shall contain:
 - (a) the bottom fishing footprint, based on the track record in bottom fishing catch or effort in the SPRFMO Convention Area over the period from 1 January 2002 to 31 December 2006 established by the Member State concerned;
 - (b) the average catch level over the period 1 January 2002 to 31 December 2006;
 - (c) a bottom fishing impact assessment;
 - (d) an evaluation as to whether the proposed activities both promote the sustainable management of target species and non-target species taken as bycatch, and protect the marine ecosystems in which those resources occur, including by preventing significant adverse impacts on vulnerable marine ecosystems.
3. The impact assessment referred to in paragraph 2 (c) shall be carried out in accordance with the Deep-sea Fisheries Guidelines of the Food and Agriculture Organisation of the United Nations (FAO) and shall take into account the SPRFMO Bottom Fishery Impact Assessment Standard and areas where vulnerable marine ecosystems are known or likely to occur.
4. The Commission shall inform the relevant Member State of the SPRFMO decision regarding the authorisation to bottom fish in the SPRFMO Convention Area for which the impact assessment was conducted, including any attached conditions and

relevant measures to prevent significant adverse impacts on vulnerable marine ecosystems.

5. Member States shall ensure that assessments referred to in paragraph 2 (c) are updated when a change in the fishery has occurred that is likely to have an impact on vulnerable marine ecosystems, and provide that information to the Commission as soon as it become available for transmission to the SPRFMO Secretariat.

Article 11

Bottom fishing outside the footprint or exceeding reference period catch levels

1. Member States shall not permit fishing vessels flying their flag to engage in bottom fishing outside the footprint or exceeding reference period catch levels without prior authorisation from the SPRFMO.
2. Member States intending to fish outside the bottom fishing footprint or intending to exceed the average catch level referred to in paragraph 2 (b) of Article 10 shall submit a request to the Commission 80 days before the SPRFMO Scientific Committee meeting of the year at which they wish their request to be considered. The Commission shall forward the application to the SPRFMO Secretariat at the latest 60 days before the SPRFMO Scientific Committee meeting. The request shall provide:
 - (a) a bottom fishing impact assessment;
 - (b) an evaluation as to whether the proposed activities both promote the sustainable management of target species and non-target species taken as bycatch, and protect the marine ecosystems in which those resources occur, including by preventing significant adverse impacts on vulnerable marine ecosystems.
3. The impact assessment referred to in paragraph 2 (a) shall be done in accordance with the Deep-sea Fisheries Guidelines of the Food and Agriculture Organisation of the United Nations (FAO) and shall take into account the SPRFMO Bottom Fishery Impact Assessment Standard and areas where vulnerable marine ecosystems are known or likely to occur.
4. The Commission shall inform the relevant Member State of the SPRFMO decision regarding the authorisation to bottom fish within the Convention Area for which the impact assessment was conducted, including any attached conditions and relevant measures to prevent significant adverse impacts on vulnerable marine ecosystems.
5. Member States shall ensure that assessments are updated when a change in the fishery has occurred that is likely to have an impact on vulnerable marine ecosystems, and provide that information to the Commission as soon as it become available for transmission to the SPRFMO Secretariat.

Article 12

Vulnerable Marine Ecosystems in bottom fishing

1. Until the SPRFMO Scientific Committee has developed advice on threshold levels, Member States shall establish threshold levels for encounters with vulnerable marine ecosystems for fishing vessels flying their flag, taking into account paragraph 68 of the FAO Deep-sea Fisheries Guidelines.
2. Member States shall require fishing vessels flying their flag to cease bottom fishing activities within five nautical miles of any site in the SPRFMO Convention Area where encounters exceed the threshold levels established pursuant to paragraph 1. Member States shall report encounters with vulnerable marine ecosystems to the Commission on the basis of the guidelines set out in Annex IV. The Commission shall forward this information to the SPRFMO Secretariat without delay.

Article 13

Observer coverage in bottom fishing

Member States shall ensure 100 per cent observer coverage in trawlers flying their flag engaged in bottom fishing and at least 10 per cent in fishing vessels deploying other bottom fishing gear.

Article 14

Data reporting for bottom fishing

1. Member States shall report to the Commission, by the 15th of each month, on the monthly catches of bottom fishing species from the preceding month in accordance with Article 33 of Regulation (EC) No 1224/2009.
2. Within 15 days of the end of each month, Member States shall provide to the Commission a list of fishing vessels flying their flag actively fishing and fishing vessels flying their flag engaged in transshipment. The Commission shall forward to the SPRFMO Secretariat that information within 5 days of receiving it.
3. Within 5 days of the end of each quarter, Member States shall provide all VMS data for the previous quarter to the Commission. The Commission shall forward to the SPRFMO Secretariat that information within 10 days of the end of each quarter.
4. Member States shall prohibit fishing vessels flying their flag from participating in bottom fishing if the minimum required data regarding fishing vessel identification contained in Annex V has not been provided.

Chapter II

Exploratory fisheries

Article 15

Exploratory fisheries application

1. Member States seeking to permit a fishing vessel flying their flag to fish in an exploratory fishery shall, not less than 80 days in advance of the SPRFMO Scientific Committee, submit to the Commission:
 - a) an application providing the information contained in Annex V;
 - b) a Fisheries Operation Plan in accordance with Annex VI, including a commitment to comply with the Data Collection Plan of Article 16 (3), (4) and (5).
2. No later than 60 days in advance of the SPRFMO Scientific Committee meeting, the Commission shall forward the application to the SPRFMO Commission, and the Fisheries Operation Plan to the SPRFMO Scientific Committee.
3. The Commission shall inform the Member States of the SPRFMO decision regarding the authorisation to fish in an exploratory fishery.

Article 16

Exploratory fisheries authorisation

1. Member States shall not permit fishing vessels flying their flag to fish in an exploratory fishery without prior authorisation from the SPRFMO.
2. Member States shall ensure that any fishing vessel flying their flag only fishes in an exploratory fishery in accordance with the Fishery Operation Plan approved by the SPRFMO.
3. Member States shall ensure that the data required by the SPRFMO Data Collection Plan is provided to the Commission for transmission to the SPRFMO Secretariat.
4. Member States' fishing vessels authorised to participate in exploratory fisheries shall be prohibited from continuing to fish in the relevant exploratory fishery unless the data specified in the SPRFMO Data Collection Plan has been submitted to the SPRFMO Secretariat for the most recent season in which the fishing occurred and the Scientific Committee has had the opportunity to review that data.
5. Member States whose fishing vessels participate in exploratory fisheries shall ensure that each fishing vessel flying their flag carries one or more independent observers sufficient to collect data in accordance with the SPRFMO Data Collection Plan.

Article 17

Fishing vessel replacement in exploratory fisheries

1. Notwithstanding Articles 15 and 16, Member States shall be entitled to authorise fishing in an exploratory fishery by a vessel flying their flag which is not identified in the Fisheries Operation Plan if an Union fishing vessel identified in the Fisheries Operation Plan is prevented from fishing on account of legitimate operational or force majeure reasons. In such circumstances the Member State concerned shall inform the Commission without delay and provide:
 - a) full details of the intended replacement vessel;
 - b) a comprehensive account of the reasons for the replacement and any relevant supporting evidence;
 - c) specifications and a full description of the types of fishing gear to be used by the replacement vessel.
2. The Commission shall transmit that information to the SPRFMO Secretariat without delay.

TITLE IV

COMMON CONTROL MEASURES

Chapter I

Authorisations

Article 18

Record of Vessels

1. By 15 November each year, Member States shall submit to the Commission a list of fishing vessels flying their flag authorised to fish in the SPRFMO Convention Area for the following year for transmission to the SPRFMO Secretariat, including the information contained in Annex V. Member States shall take into account the compliance history of fishing vessels and operators when considering the issuance of fishing authorisations for the SPRFMO Convention Area.
2. Member States shall inform the Commission of fishing vessels flying their flag authorised to fish in the Convention Area at least 20 days prior to the first entry of such vessel in the SPRFMO Convention Area. The Commission shall transmit that information to the SPRFMO Secretariat at least 15 days prior to the first entry in the SPRFMO Convention Area.

3. Member States shall ensure that the data of fishing vessels flying their flag authorised to fish in the SPRFMO Convention Area is up-to-date. Any modification shall be notified to the Commission at the latest 10 days after such modification. The Commission shall inform the SPRFMO Secretariat within 5 days of receiving it.
4. In the case of revocation, renounce or any other circumstances that render an authorisation invalid, Member States shall inform the Commission without delay so that it can provide that information to the SPRFMO Secretariat within a period of 3 days following the date of the invalidity of the authorisation.
5. Notwithstanding Article 15(1) of Regulation (EU) No 1380/2013, Union fishing vessels not included in the SPRFMO Record of vessels shall not be permitted to engage in fishing activities for species harvested in the SPRFMO Convention Area.

Chapter II

Transshipment

Article 19

General provisions on transshipment

1. This Chapter shall apply to the following transshipment operations:
 - a) transshipment operations carried out within the SPRFMO Convention Area in respect of SPRFMO fishery resources and other species caught in association with these resources, that were harvested in the SPRFMO Convention Area;
 - b) transshipment operations carried out outside the SPRFMO Convention Area in respect of SPRFMO fishery resources, and other species caught in association with these resources, that were harvested in the SPRFMO Convention Area.
2. Transshipments at sea and in port shall only be undertaken between fishing vessels included in the SPRFMO Record of Vessels.
3. At sea transfer of fuel, crew, gear or any other supplies in the SPRFMO Convention Area shall only be undertaken between fishing vessels included in the SPRFMO Record of Vessels.
4. This Article shall be without prejudice of Articles 21 and 22 of Regulation (EC) No 1224/2009 and Article 4 (3) and (4) of Regulation (EC) No 1005/2008.
5. Transshipment operations at sea in respect of SPRFMO fishery resources, and other species caught in association with these resources, that were harvested in the SPRFMO Convention area, shall be prohibited in Union waters.

Article 20

Notification of transhipment of jack mackerel and demersal species

1. Regardless of where the transhipment takes place, in case of transhipment of jack mackerel and demersal species caught in the SPRFMO Convention Area by fishing vessels flagged to a Member State, the authorities of that Member State shall transmit simultaneously to the Commission and the SPRFMO Secretariat the following information:
 - (a) a notification of the intention to tranship, which shall indicate a 14 days period in which the transhipment of jack mackerel and demersal species caught in the SPRFMO Convention Area is scheduled to occur, and which shall be received 7 days in advance of the first day of the 14 days period;
 - (b) a notification of the actual transhipment, which shall be received at least 12 hours before the estimated time of such activities.

Member States may authorise the Union fishing vessel operator to provide this information directly to the SPRFMO Secretariat subject to the simultaneous transmission of the information to the Commission.

2. The notifications referred to in paragraph 1 shall include the relevant information available regarding the transhipment operation, including the estimated date and time, anticipated location, fishery, and information about the Union fishing vessels involved, in accordance with Annex VII.

Article 21

Monitoring of transhipment of jack mackerel and demersal species

1. If an observer is on board the unloading or receiving Union fishing vessel, the observer shall monitor the transhipment activities. The observer shall complete the SPRFMO transhipment logsheet in accordance with Annex VIII to verify the quantity and species of the fishery products being transhipped, and shall provide a copy of the logsheet to the competent authorities of the Member State to which the observed vessel is flagged.
2. The Member State to which the fishing vessel is flagged shall submit the observer data of the transhipment logsheet to the Commission within 10 days of the observer debarking. The Commission shall forward it to the SPRFMO Secretariat within 15 days of the date of debarkation.
3. For the purpose of verifying the quantity and species of the fishery products being transhipped, and in order to ensure that proper verification can occur, the observer on board shall have full access to the observed Union fishing vessel, including crew, gear, equipment, records and fish holds.

Article 22

Information to be reported after the transhipment of jack mackerel and demersal species

1. Member States involved in the transhipment operation shall notify all the operational details simultaneously to the SPRFMO Secretariat and the Commission in accordance with Annex IX no later than 7 days after the transhipment is carried out.
2. Member States may authorise the fishing vessel operator to provide the information referred to in paragraph 1 directly to the SPRFMO Secretariat by electronic means subject to simultaneous transmission of the information to the Commission. Any request for clarification from the SPRFMO Secretariat received by the Union fishing vessel operator shall be forwarded to the Commission.

Chapter III

Data collection and reporting

Article 23

Data collection and reporting

1. In addition to the data reporting requirements set out in Articles 6, 9, 12, 14, 16, 21 and 22, Member States fishing in the SPRFMO Convention Area shall provide to the Commission the data set out in paragraphs 2 and 3 of this Article.
2. By 15 September each year, Member States fishing in the SPRFMO Convention Area shall report the Commission the live weight for all species/species groups caught during the previous calendar year. The Commission shall forward that information to the SPRFMO Secretariat before 30 September.
3. By 15 June each year, Member States fishing in the SPRFMO Convention Area shall report the Commission the data regarding trawl fishing activity on tow by tow basis; the data on bottom long lining on set by set basis; and the data on landings, including for reefers, and transhipments. The Commission shall forward that information to the SPRFMO Secretariat before 30 June.
4. The Commission may lay down, by means of implementing acts, detailed requirements for the data reporting referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 35.

Chapter IV

Surveillance

Article 24

Observer programmes

1. Member States fishing in the SPRFMO Convention Area shall establish observer programmes in order to collect the data set out in Annex X.
2. By 15 September each year, Member States fishing in the SPRFMO Convention Area shall provide to the Commission the applicable observer data set out in Annex X covering the previous calendar year. The Commission shall forward that information to the SPRFMO Secretariat before 30 September.
3. By 15 August each year, Member States fishing in the SPRFMO Convention Area shall provide an annual report on the implementation of the observer programme in the previous year. The report shall include observer training, programme design and coverage, type of data collected, and any problems encountered during the year. The Commission shall forward that information to the SPRFMO Secretariat before 1 September.

Chapter V

Control of third country fishing vessels in Member State ports

Article 25

Points of contact and designated ports

1. A Member State wishing to grant access to its ports to third country fishing vessels carrying SPRFMO fishery products caught in the SPRFMO Convention Area or fishery products originating from such resources that have not been previously landed or transhipped at port or at sea shall:
 - (a) designate the ports to which third country fishing vessels may request entry pursuant to Article 5 of Council Regulation (EC) 1005/2008;
 - (b) designate a point of contact for the purposes of receiving prior notice pursuant to Article 6 of Council Regulation (EC) 1005/2008;
 - (c) designate a point of contact for the purposes of transmitting inspection reports pursuant to Article 11(3) of Council Regulation (EC) 1005/2008.

2. Member States shall transmit any changes to the list of designated ports and designated points of contact to the Commission at least 40 days before the changes take effect. The Commission shall notify that information to the SPRFMO Secretariat at least 30 days before the changes take effect.

Article 26

Prior notification

1. By way of derogation from Article 6(1) of Regulation (EC) No 1005/2008, Port Member States shall require third country fishing vessels seeking to land or tranship in their ports SPRFMO fishery resources that have not been previously landed or transhipped to provide, no later than 48 hours before the estimated time of arrival at the port, the following information in accordance with Annex XI:
 - (a) Vessel identification (External identification, Name, Flag, International Maritime Organization (IMO) number, if any, and international radio call sign (IRCS));
 - (b) Name of the designated port to which the fishing vessel seeks entry and the purpose of the port call (landing or transhipment);
 - (c) A copy of a the fishing authorisation or, where appropriate, any other authorisation held by the fishing vessel to support operations on SPRFMO fishery products, or to tranship fishery products;
 - (d) Estimated date and time of arrival in port;
 - (e) The estimated quantities in kilograms of each SPRFMO fishery products held on board, with associated catch areas. If no SPRFMO fishery products are held on board, a 'nil' report shall be transmitted;
 - (f) The estimated quantities for each SPRFMO fishery products in kilograms to be landed or transhipped, with associated catch areas;
 - g) The crew list of the fishing vessel;
 - h) The dates of the fishing trip.
2. The notification set out in paragraph 1 shall be accompanied by a catch certificate validated in accordance with the provisions of Chapter III of Regulation (EU) No 1005/2008 if the third country fishing vessel carries on board fishery products.
3. Port Member States may also request additional information as they may wish to determine whether the fishing vessel has engaged in IUU fishing or related activities.
4. Port Member States may prescribe a longer or shorter notification period than specified in paragraph 1, taking into account, *inter alia*, the type of fishery product, the distance between the fishing grounds and their ports. In such a case, Port Member States shall inform the Commission, who shall promptly transmit the information to the SPRFMO Secretariat.

Article 27

Authorisation to land or tranship in ports

After receiving the relevant information pursuant to Article 26, a Port Member State shall decide whether to authorise or deny the third country fishing vessel entry into its port. Where a third country fishing vessel has been denied entry, the Port Member State shall inform the Commission who shall forward the information to the SPRFMO Secretariat without delay. Port Member States shall deny entry to fishing vessels included in the SPRFMO list of IUU vessels.

Article 27a

Port inspections

1. Port Member States shall inspect at least 5% of landing and transhipment operations relating to SPRFMO fishery products made by third country fishing vessels in their designated ports.
2. Without prejudice to Article 9(2) of Regulation (EC) No 1005/2008, Port Member States shall inspect third country fishing vessels when:
 - (a) there is a request from other Contracting Party, CNCP or relevant regional fisheries management organisations that a particular fishing vessel be inspected, particularly where such requests are supported by evidence of IUU fishing by the fishing vessel in question, and there are clear grounds for suspecting that a fishing vessel has engaged in IUU fishing;
 - (b) a fishing vessel has failed to provide complete information as required in Article 26;
 - (c) the fishing vessel has been denied entry or use of a port in accordance with SPRFMO or other RFMO's provisions.

Article 28

Inspection procedure

1. The provisions of this Article shall apply in addition to the rules on the inspection procedure laid down in Article 10 of Regulation (EC) No 1005/2008.
2. Inspectors from Member States shall carry a valid document of identity. They may take copies of any documents considered relevant.
3. Inspections shall be carried out in such a way that the third country fishing vessel suffers the minimum interference and inconvenience, and that degradation of the quality of the catch is avoided to the extent practicable.
4. On completion of the inspection, the Master of the inspected foreign fishing vessel shall be given the opportunity to contact the competent authority of the relevant Port Member State in relation to the inspection report. The template for the inspection report is contained in Annex XII.

5. Within 12 working days following the date of completion of the inspection, the Port Member State shall transmit to the Commission a copy of the inspection report referred to in Articles 10(3) and 11(3) of Regulation (EC) No 1005/2008 completed in accordance with Annex XII. The Commission shall forward the report to the SPRFMO Secretariat within 15 working days of the date of completion of the inspection.
6. If the inspection report cannot be transmitted to the Commission for forwarding to the SPRFMO Secretariat within 15 working days, the Port Member State shall notify the Commission within the 15 working days period of the reasons for the delay and when the report will be submitted.

Article 29

Procedure in case of evidence of infringements of SPRFMO conservation and management measures during port inspections

1. If the information collected during the inspection provides evidence that a third country fishing vessel has committed a breach of the SPRFMO conservation and management measures, the provisions of this Article shall apply in addition to Article 11 of Regulation (EC) No 1005/2008.
2. The competent authorities of the Port Member State shall forward a copy of the inspection report to Commission as soon as possible and in any case within five working days. The Commission shall transmit that report to the SPRFMO Executive Secretary and to the flag Contracting Party or CNCP point of contact without delay.
3. Port Member States shall promptly notify the action taken in the event of infringements to the competent authority of the flag Contracting Party or CNCP and to the Commission which shall transmit it to the SPRFMO Executive Secretary.

Chapter VI

Enforcement

Article 30

Alleged infringements of SPRFMO conservation and management measures reported by the Member States

Member States shall submit to the Commission any documented information that indicates possible instances of non-compliance by any fishing vessel with SPRFMO conservation and management measures in the SPRFMO Convention Area over the past two years at least 120 days in advance of the annual meeting. The Commission shall examine that information and, if appropriate, forward it to the SPRFMO Secretariat at least 90 days in advance of the annual meeting.

Article 30a

Inclusion of a fishing vessel flagged to a Member State in the Draft SPRFMO IUU vessel list

1. If the Commission receives from the SPRFMO Secretariat official notification of the inclusion of a fishing vessel flagged to a Member State in the Draft SPRFMO IUU vessel list, it shall transmit the notification, including the supporting evidence and any other documented information provided by the SPRFMO Secretariat, to the Member State for comments no later than 45 days in advance of the annual meeting of the SPRFMO Commission. The Commission shall examine and forward that information to the SPRFMO Secretariat at least 30 days in advance of the annual meeting.
2. The authorities of a fishing vessel flagged to a Member State notified by the Commission of its inclusion in the Draft IUU Vessel List shall notify the vessel owner of its inclusion in the Draft SPRFMO IUU Vessel List and of the consequences that may result from its inclusion being confirmed in the IUU Vessel List adopted by the SPRFMO.

Article 31

Measures concerning fishing vessels included in the SPRFMO IUU List

1. On adoption of the SPRFMO IUU Vessel List, the Commission shall request the Flag Member State to notify the owner of the fishing vessel identified on the IUU Vessel List of its inclusion on the list and the consequences which result from being included on the list.
2. A Member State with information indicating a change of name or an International Radio Call Sign (IRCS) of a fishing vessel appearing on the SPRFMO IUU Vessels List shall, as soon as practicable, transmit such information to Commission. The Commission shall forward that information to the SPRFMO Secretariat without delay.

Article 32

Alleged non-compliances reported by the SPRFMO Secretariat

1. If the Commission receives from the SPRFMO Secretariat any information indicating a suspected non-compliance with the SPRFMO Convention and/or conservation and management measures by a Member State, the Commission shall transmit that information to the concerned Member State without delay.
2. The Member State shall provide the Commission with the findings of any investigation taken in relation to the allegations of non-compliance and any actions taken to address compliance concerns at least 45 days in advance of the annual meeting. The Commission shall forward that information to the SPRFMO Secretary at least 30 days in advance of the annual meeting.

Article 32a

Alleged infringements of SPRFMO conservation and management measures reported by a Contracting Party or CNCP

1. Member States shall designate a point of contact for the purpose of receiving port inspection reports from Contracting Parties and CNCPs.
2. Member States shall transmit any changes to the designated point of contact to the Commission at least 40 days before the changes take effect. The Commission shall notify that information to the SPRFMO Secretariat at least 30 days before such changes take effect.
3. If the contact point designated by a Member State receives an inspection report from a Contracting Party or CNCP providing evidence that a fishing vessel flying the flag of the Member State has committed a breach of the SPRFMO conservation and management measures, the flag Member State shall promptly investigate the alleged infringement and notify the Commission of the status of the investigation, and of any enforcement action that may have been taken to enable the Commission to inform the SPRFMO Secretariat within 3 months of receipt of the notification. If the Member State cannot provide the Commission with a status report within 3 months of the receipt of the inspection report, it shall notify the Commission within the 3 month period of the reasons for the delay and when the status report will be submitted. The Commission shall transmit the information regarding the status or delay of the investigation to the SPRFMO Executive Secretary.

Article 32b

Seals of the satellite tracking devices

1. In addition to the requirements laid down in Articles 18 and 19 of Regulation (EU) No 404/2011, each Member State shall ensure that satellite tracking devices on board any fishing vessels flying its flag that are not sealed by the manufacturer are secured with official and individually identifiable seals issued by that Member State. Seals shall be applied to any bridge or antennae component that alone, or in conjunction with another component, transmits data.
2. Member States shall maintain a registry of all seals issued to fishing vessels flying their flag. The registry shall record the unique reference number of each seal and details of any replacement seal, in particular the date on which the replacement seal was issued and installed, and the circumstances regarding the replacement.
3. By 1 January 2019, fishing vessels flagged to Member States shall only carry on board satellite-tracking devices which are sealed by the manufacturer.

Article 32c

Technical failure of the satellite-tracking device

1. In case of technical failure of their satellite-tracking device, Union fishing vessels shall, by appropriate telecommunication means, report the following data to the fisheries monitoring centre of the Member State to which they are flagged every four hours:
 - a) IMO number;
 - b) International Radio Call Sign;
 - c) Vessel name;
 - d) Master's name;
 - e) Position date and time (UTC);
 - f) Activity (Fishing/Transit/Transshipping).
2. Member States shall ensure that, in case of technical failure of the satellite tracking device, fishing vessels flying their flag cease fishing, stow all fishing gear and return to port without delay to repair the satellite-tracking device within 60 days of the commencement of the technical failure.
3. Paragraphs 1 and 2 of this Article shall apply in addition to the requirements laid down in Article 25 of Regulation (EU) No 404/2011.

TITLE V

FINAL PROVISIONS

Article 33

Confidentiality

Data collected and exchanged in the framework of this Regulation shall be treated in accordance with the rules on confidentiality set out in Articles 112 and 113 of Regulation (EC) No 1224/2009.

Article 34

Procedure for amendments

In order to incorporate into Union law amendments to SPRFMO conservation and management measures, the Commission shall be empowered to adopt delegated acts in accordance with Article 35 amending:

- (a) the Annexes to this Regulation;

- (b) the time limits laid down in Articles 6 (1), (2) and (3), 9 , 10 (2), 11 (2), 14 (1), (2) and (3), 15 (1) and (2), 18 (1), (2), (3) and (4), 20 (1), 21 (2), 22 (1), 23 (2) and (3), 24 (2) and (3), 25 (2), 26 (1), 28 (5) and (6), 29 (2) and (3), 30, 30a (1), 32 (2), 32a (2) and (3), 32b (3) and 32c (1) and (2).
- (c) observer coverage laid down in Articles 5 and 13;
- (d) the reference period to determine the bottom fishing footprint in Article 10 (2);
- (e) the inspection coverage laid down in Article 27a (1);
- (f) the type of data and information requirements laid down in Articles 6 (2) and (3), 9, 10 (2) and (3), 11 (2) and (3), 12 (1), 14 (1), (2) and (3), 15 (1), 16 (2) and (3), 17 (1), 20 (1), 21 (2), 23 (2) and (3), 24 (3), 26 (1) and 32c (1) .

Article 35

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 34 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 Article 34 may be revoked at any time by the European Parliament or by the Council. A decision of revocation 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 act already in force.
- 3bis. 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.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 34 shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

Article 36

Implementation

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

Article 37

Entry into force

This Regulation shall enter into force on the third 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
The President

For the Council
The President