

Information Note

1. Proposal

Proposal for a regulation of the European Parliament and of the Council on a multiannual recovery plan for Mediterranean swordfish and amending Regulations (EC) No 1967/2006 and (EU) 2017/2107

2. Date of Commission document

25/04/2018

3. Number of Commission document

COM (2018) 229 final

4. Number of Council document:

8251/18

5. Dealt with in Brussels by

Coreper

Council (Agriculture and Fisheries)

6. Department with primary responsibility

Dept of Agriculture, Food and the Marine

7. Other Departments involved

N/A

8. Background to, short summary and aim of the proposal

Pursuant to Council Decision 86/238/EEC, the Union has been a Contracting Party to the International Convention for the Conservation of Atlantic Tunas (the 'ICCAT Convention') since 14 November 1997. The ICCAT Convention provides for a framework of regional cooperation on the conservation and management of tunas and tuna-like species in the Atlantic Ocean and the adjoining seas through the setting up of an International Commission for the for the Conservation of Atlantic Tunas (the 'ICCAT'). The ICCAT has the authority to adopt compulsory decisions (recommendations) for the conservation and management of the fisheries under its purview, which are binding for Contracting Parties. The ICCAT recommendations enter into force six months following their adoption and, in respect to the Union, they must be implemented into Union law as soon as possible.

The purpose of this proposal is to transpose ICCAT Recommendation 16-05 into EU law to allow the Union to comply with its international obligations and to provide operators with legal certainty regarding rules and obligations. ICCAT Recommendation 16-05 is a fifteen year management plan which lays down rules for the conservation, management and control of the Mediterranean stock of swordfish.

9. Legal basis of the proposal

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

10. Voting Method

QMV

11. Role of the EP

Co-decision

12. Category of proposal

Little significance

13. Implications for Ireland & Ireland's Initial View

As Ireland does not have fishing interests in the Mediterranean Sea fisheries region this proposed regulation does not have any implications for Ireland.

14. Impact on the Public

None

15. Have any consultations with Stakeholders taken place or are there any plans to do so?

N/A

16. Are there any subsidiarity issues for Ireland?

None

17. Anticipated negotiating period

N/A

18. Proposed implementation date

The Regulation shall enter into force on the day following its publication in the Official Journal of the European Union. It shall apply from 01/01/2017.

19. Consequences for national legislation

N/A

20. Method of Transposition into Irish law

N/A

21. Anticipated Transposition date

N/A

22. Consequences for the EU budget in Euros annually

N/A

23. Contact name, telephone number and e-mail address of official in Department with primary responsibility

Josephine Kelly, Principal Officer
Sea Fisheries Policy and Management Division
Telephone No: 023 8859581
Email: Josephine.kelly@agriculture.gov.ie

Date 11/05/2018



Council of the
European Union

Brussels, 25 April 2018
(OR. en)

8251/18

**Interinstitutional File:
2018/0109 (COD)**

**PECHE 133
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PROPOSAL

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| From: | Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director |
| date of receipt: | 24 April 2018 |
| To: | Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union |
| No. Cion doc.: | COM(2018) 229 final |
| Subject: | Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on a multiannual recovery plan for Mediterranean swordfish and amending Regulations (EC) No 1967/2006 and (EU) 2017/2107 |

Delegations will find attached document COM(2018) 229 final.

Encl.: COM(2018) 229 final



Brussels, 24.4.2018
COM(2018) 229 final

2018/0109 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**on a multiannual recovery plan for Mediterranean swordfish and amending Regulations
(EC) No 1967/2006 and (EU) 2017/2107**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

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

The objective of the common fisheries policy (CFP), as set out in Regulation (EU) No 1380/2013¹ (the 'Basic Regulation'), is to ensure an exploitation of marine living biological resources that provides long-term environmental, economic and social sustainability.

By Council Decision 98/392/EC² the Union approved the United Nations Convention on the Law of the Sea, which contains, *inter alia*, principles and rules with regard to the conservation and management of marine living biological resources. In the framework of its wider international obligations, the Union participates in efforts made in international waters to conserve fish stocks.

Pursuant to Council Decision 86/238/EEC³, the Union has been a Contracting Party to the International Convention for the Conservation of Atlantic Tunas (the 'ICCAT Convention') since 14 November 1997.

The ICCAT Convention provides for a framework of regional cooperation on the conservation and management of tunas and tuna-like species in the Atlantic Ocean and the adjoining seas through the setting up of an International Commission for the Conservation of Atlantic Tunas (the 'ICCAT').

The ICCAT has the authority to adopt compulsory decisions (recommendations) for the conservation and management of the fisheries under its purview, which are binding for the Contracting Parties. Those recommendations are essentially addressed to the Contracting Parties to the ICCAT Convention, but also contain obligations for private operators (e.g. vessel masters). The ICCAT recommendations enter into force six months following their adoption and, in respect to the Union, they must be implemented into Union law as soon as possible.

During the 2016 ICCAT Annual Meeting held in Vilamoura (Portugal), the ICCAT CPCs⁴ took a decisive step to address the alarming situation of Mediterranean swordfish (*Xiphias gladius*) by adopting a 15-year recovery plan in the ICCAT Recommendation 16-05. The recommendation lays down rules for the conservation, management and control of the Mediterranean stock of swordfish as to achieve a biomass corresponding to a maximum sustainable yield by 2031 with at least 60% probability of achieving that objective.

¹ 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).

² 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 Council Decision 86/238/EEC of 9 June 1986 on the accession of the Community to the International Convention for the Conservation of Atlantic Tunas, as amended by the Protocol annexed to the Final Act of the Conference of Plenipotentiaries of the States Parties to the Convention signed in Paris on 10 July 1984 (OJ L 162, 18.6.1986, p. 33).

⁴ ICCAT Contracting Parties, Cooperating non-Contracting Parties, Entities or Fishing Entities.

The European Union, by letter addressed to the ICCAT Secretariat in December 2016, confirmed the implementation of ICCAT Recommendation 16-05 as of 1 January 2017

The purpose of this proposal is to transpose ICCAT Recommendation 16-05 into EU law to allow the Union to comply with its international obligations and to provide operators with legal certainty regarding rules and obligations.

ICCAT Recommendation 16-05 establishing a multiannual recovery plan for Mediterranean swordfish requires discarding and releasing swordfish in certain circumstances. For the purpose of the Union's compliance with its international obligations under the ICCAT, Delegated Regulation (EU) 2018/191⁵ provides for derogations from the landing obligation for Mediterranean swordfish, as provided in Article 15 of the Basic Regulation. Consequently, this Regulation establishing a recovery plan for Mediterranean swordfish, does not need to cover such discard and release obligations and will be without prejudice to the corresponding provisions of Delegated Regulation (EU) 2018/191.

Article 15(2) of the Basic Regulation states that the landing obligation should be implemented without prejudice to the Union's international obligations. The Commission is empowered to adopt delegated acts for the purpose of implementing such international obligations into Union law, including in particular, derogations from the landing obligation.

ICCAT Recommendation 16-05 obliges to discard swordfish on board vessels, including in sport and recreational fisheries that exceed the allocated quota of the vessel, and/or the maximum level of permitted by-catches. Mediterranean swordfish caught on board vessels that are below the minimum conservation reference size will also have to be discarded, with the exception of a given by-catch limit established by Member States in their annual fishing plans.

Council Regulation (EU) 2017/127⁶ fixes for 2017 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and, for Union fishing vessels, in certain non-Union waters. These fishing opportunities are usually amended several times during the period in which they are in effect.

With the adoption of ICCAT Recommendation 16-05, a total allowable catch ("TAC") for Mediterranean swordfish was set at 10 500 tonnes. The TAC was, however, not allocated to the CPCs by the ICCAT and hence the Union's share was at the time of publication of Council Regulation (EU) 2017/127 undetermined. The ICCAT was to convene a Working Group to define a fair and equitable allocation scheme of the TAC for Mediterranean swordfish, and to establish a quota for the CPCs for 2017.

The Working Group met in Madrid on the 20-22 February 2017, and an agreement was reached between the Parties on the quota allocation for 2017 and a compromise was found for managing the quota uptake for 2017.

⁵ Commission Delegated Regulation (EU) 2018/191 of 30 November 2017 amending Commission Delegated Regulation (EU) 2015/98 on the implementation of the Union's international obligations, as referred to in Article 15(2) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council, under the International Convention for the Conservation of Atlantic Tunas, regarding the Mediterranean stock of swordfish (OJ L 36, 9.2.2018, p. 13).

⁶ Council Regulation (EU) 2017/127 of 20 January 2017 fixing for 2017 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters (OJ L 24, 28.1.2017, p. 1).

It was therefore relevant to amend Council Regulation (EU) 2017/127 to provide legal certainty to operators, both on the quantities of Mediterranean swordfish they could catch in 2017, and on the establishment of areas where catch limitations exist. That was done through Council Regulation (EU) 2017/1398⁷.

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

Mediterranean swordfish was only regulated through technical measures under Article 25 of Regulation (EC) N° 1967/2006 of 21 December 2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea⁸, and later on by Articles 20 to 26 of Regulation (EU) 2017/2107 of the European Parliament and of the Council of 15 November 2017 laying down management, conservation and control measures applicable in the Convention area of the International Commission for the Conservation of Atlantic Tunas (ICCAT), and amending Council Regulations (EC) No 1936/2001, (EC) No 1984/2003 and (EC) No 520/2007⁹.

Throughout the negotiations the EU position was in line with the objectives of Articles 2(2), 28(1) and (2), 29 and 33 of the Basic Regulation.

The measures adopted by ICCAT Recommendation 16-05, which are transposed by this Regulation, are more restrictive or more precise than those measures already in force (see above) to allow the recovery of the stock. The main differences could be summarized as follows:

a) Minimum conservation reference size: Article 11 of the present Regulation defines the minimum conservation reference size as measuring less than 100 cm Lower Jaw to Fork Length (LJFL), or weighing less than 11,4 kg of round weight, or 10,2 kg of gilled and gutted weight. It is therefore more restrictive than Article 24 of Regulation (EU) 2017/2107 that defines it as 90 cm of LJFL or, alternatively, weighing less than 10 kg of round weight or 9 kg of gilled and gutted weight, or 7,5 kg of dressed weight (gilled, gutted, fins off, part of head off);

b) Maximum number of hooks: Article 14 of the present Regulation sets out that the maximum number of hooks that may be set by or taken on board of fishing vessels targeting Mediterranean swordfish shall be fixed at 2 500 hooks. It is therefore more restrictive than Article 25 of Regulation (EU) 2017/2107 that defines that "By way of derogation from Article 12 of Council Regulation (EC) No 1967/2006, the maximum number of hooks that may be set by or taken on board of vessels targeting Mediterranean swordfish shall be fixed at 2 800 hooks";

c) Closure period: The closure period from 1st January until 31st March each year has been already adopted by Council Regulation (EU) 2017/1398 of 25 July 2017 amending Regulation (EU) 2017/127 as regards certain fishing opportunities¹⁰ and in Council Regulation (EU) 2018/120 of 23 January 2018, fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and, for Union fishing vessels, in certain

⁷ Council Regulation (EU) 2017/1398 of 25 July 2017 amending Regulation (EU) 2017/127 as regards certain fishing opportunities (OJ L 199, 29.7.2017, p. 2).

⁸ OJ L 409, 30.12.2006, p. 11, last amended by Regulation (EU) 2015/2102 of 28 October 2015 (OJ L 308, 25.11.2015, p. 1).

⁹ OJ L 315, 30.11.2017, p. 1.

¹⁰ OJ L 199, 29.7.2017, p. 2.

non-Union waters¹¹. Therefore, the closure periods defined in Article 23 of Regulation (EU) 2017/2107 are no longer valid;

d) Definition of TAC and quota allocation have been already transposed in 2017 and are now included in the Council Regulation (EU) 2018/120 of 23 January 2018, fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and, for Union fishing vessels, in certain non-Union waters. Therefore, it is not necessary to include the transposition of the fishing opportunities here.

- **Consistency with other Union policies**

The ICCAT Recommendation 16-05, which is the object of this transposition, states clearly in its paragraph 1 that Contracting Parties whose vessels have been actively fishing for swordfish in the Mediterranean shall implement a 15-year Recovery plan starting in 2017 and continuing through 2031, with the goal of achieving B_{msy} with at least 60% probability. The objective and maximum duration of the plan (2031) seem in contradiction with the objective of the Common Fisheries Policy whereby the maximum sustainable yield exploitation rate (F_{msy}) shall be achieved at the latest by 2020. However, some elements, in accordance with Articles 28(1) and (2), 29 and 33 of the Basic Regulation, should be taken into consideration to motivate the derogation to Article 2 of the Basic Regulation:

a) the stock is not only exploited by the European Union but by all the riparian countries of the Mediterranean, some of them with direct fisheries (Morocco, Algeria, Tunisia and Turkey) and others as incidental catches;

b) the stock is managed by the International Commission for the Conservation of Atlantic Tunas (ICCAT), of which the European Union is one of the 51 Contracting Parties;

c) it was in November 2016, when at the view of the stock assessment presented by the Standing Committee on Research and Statistics (SCRS, the scientific body of ICCAT), a recovery plan was recommended;

d) the population dynamic and the exploitation pattern of this species does not allow to recover the biomass from now to 2020 and advocates for a longer period which has been fixed by the scientific advice as 15 years;

e) even applying the utmost draconian measures to the EU fleet (i.e. the total closure of the fishery), the biomass levels capable of producing the maximum sustainable yield could not be achieved at the latest by 2020;

f) there is an antecedent of a recovery plan adopted by ICCAT and transposed to the EU legislation. This was the Recovery plan for Bluefin tuna in the Eastern Atlantic and the Mediterranean, established in 2006 by ICCAT Recommendation 06-05 with also 15 years of duration (up to 2022). This Recovery plan was implemented by the Union through Regulation (EU) 2016/1627¹². Already in 2017, in the light of the latest scientific advice by the SCRS, it

¹¹ Council Regulation (EU) 2018/120 of 23 January 2018 fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2017/127 (OJ L 27, 31.1.2018, p. 1).

¹² Regulation (EU) 2016/1627 of the European Parliament and of the Council of 14 September 2016 on a multiannual recovery plan for bluefin tuna in the eastern Atlantic and the Mediterranean, and repealing Council Regulation (EC) No 302/2009 (OJ L 252, 16.9.2016, p. 1).

was agreed that the measures contained in the Recovery plan were no longer necessary (5 years before the date limit to achieve the objective in terms of biomass).

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 proposal falls under the exclusive competence of the Union (Article 3(1)(d) TFEU). The subsidiarity principle, therefore, does not apply.

- **Proportionality**

The proposal will ensure that Union law, with regard to the management of Mediterranean swordfish fisheries, and in particular all the rules and obligations of the recovery plan approved by the ICCAT is in line with its international obligations and that the Union complies with the decisions taken by the RFMOs to which the Union is a Contracting Party. This will be done without exceeding what is necessary to achieve the objective pursued.

- **Choice of the instrument**

The instrument chosen is a Regulation of the European Parliament and of the Council.

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

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

Not relevant.

- **Stakeholder consultations**

Member State administrations were informed about this proposal at the meeting of the Committee for Fisheries and Aquaculture on 8 September 2017. The Mediterranean Advisory Council (MEDAC) has been informed about this proposal at the meeting of 10 October 2017.

- **Collection and use of expertise**

This is a transposition of a recommendation adopted at the level of one Regional Fisheries management Organisation (ICCAT) and in accordance with the scientific advice provided by the Standing Committee on Research and Statistics of ICCAT.

- **Impact assessment**

Not relevant. This is a transposition of a recommendation directly applicable to Member States.

- **Regulatory fitness and simplification**

This proposal is not linked to REFIT.

- **Fundamental rights**

This proposal has no consequences on the protection of fundamental rights of the citizens.

4. BUDGETARY IMPLICATIONS

There are no budgetary implications.

5. OTHER ELEMENTS

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

The Union wrote to the ICCAT Secretariat announcing that the Union applies Recommendation ICCAT 16-05, now transposed since 1st January 2017.

- **Explanatory documents (for directives)**

Not applicable.

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

a) Derogation to the landing obligation

Article 15(2) of the Basic Regulation states that the landing obligation should be implemented without prejudice to the Union's international obligations. The Commission is empowered to adopt delegated acts for the purpose of implementing such international obligations into Union law, including in particular, derogations from the landing obligation.

ICCAT Recommendation 16-05 obliges to discard swordfish on board vessels, including in sport and recreational fisheries that exceed the allocated quota of the vessel, and/or the maximum level of permitted by-catches. Mediterranean swordfish caught on board vessels that are below the minimum conservation reference size will also have to be discarded, with the exception of a given by-catch limit established by Member States in their annual fishing plans.

Commission Delegated Regulation (EU) 2018/191 amending Delegated Regulation (EU) 2015/98 implementing the Union's international obligations as referred to in Article 15(2) of the Basic Regulation, allows discarding Mediterranean swordfish in the cases provided in ICCAT Recommendation 16-05.

b) Transposition of the fishing opportunities for 2017 and 2018

Council Regulation (EU) 2017/127¹³ fixes for 2017 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and, for Union fishing vessels, in certain non-Union waters. These fishing opportunities are usually amended several times during the period in which they are in effect.

With the adoption of ICCAT Recommendation 16-05, a total allowable catch ("TAC") for Mediterranean swordfish was set at 10 500 tonnes. The TAC was, however, not allocated to the CPCs by the ICCAT and hence the Union's share was at the time of publication of Council Regulation (EU) 2017/127 undetermined. The ICCAT was to convene a Working Group to

¹³ Council Regulation (EU) 2017/127 of 20 January 2017 fixing for 2017 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters (OJ L 24, 28.1.2017, p. 1).

define a fair and equitable allocation scheme of the TAC for Mediterranean swordfish, and to establish a quota for the CPCs for 2017.

The Working Group met in Madrid on the 20-22 February 2017, and an agreement was reached between the Parties on the quota allocation for 2017 and a compromise was found for managing the quota uptake for 2017.

It was therefore relevant to amend Council Regulation (EU) 2017/127 to provide legal certainty to operators, both on the quantities of Mediterranean swordfish they could catch in 2017, and on the establishment of areas where catch limitations exist. That was done through Council Regulation (EU) 2017/1398¹⁴.

Council Regulation (EU) 2018/120¹⁵ fixes for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amends Regulation (EU) 2017/127. Following paragraph 4 of Recommendation ICCAT 16-05, the TAC was reduced by 3% with respect to the TAC adopted in 2017.

c) Delegated powers

Article 34 of this Regulation establishes an exhaustive list of cases where delegated powers are requested in order to address frequent changes on the recommendations adopted by the ICCAT. The main factors that could explain the list of situations where delegated powers are requested could be summarise as follows:

- a) The fact that a plan is established for 15 years does not mean that Contracting Parties do not try to rebuild the biomass and bring the stock to safe biological limits as soon as possible, with the objective of achieving as soon as possible the biological objectives of the plan. In this context, the experience shows that after a few years, measures adopted, and in particular technical and control measures need to be reinforced, particularly when trends show that the objectives of recovery are not getting closer and that the stock is not rebuilding at the expected pace. Therefore, specific and regular changes may need to be implemented in short term and request a fast track way to be adopted;
- b) Experienced achieved with Recovery plans, in ICCAT and elsewhere, shows that the changes on the text are quite frequent and the need to fully enter into force of the rules quite urgent. As a matter of example for the Recovery plan for Bluefin tuna in the eastern Atlantic and on the Mediterranean the text has been changed 6 times (2006, 2008, 2010, 2012, 2014 and 2017) since it was recommended by ICCAT in 2006.

¹⁴ Council Regulation (EU) 2017/1398 of 25 July 2017 amending Regulation (EU) 2017/127 as regards certain fishing opportunities (OJ L 199, 29.7.2017, p. 2).

¹⁵ Council Regulation (EU) 2018/120 of 23 January 2018 fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters, and amending Regulation (EU) 2017/127 (OJ L 27, 31.1.2018, p. 1).

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on a multiannual recovery plan for Mediterranean swordfish and amending Regulations (EC) No 1967/2006 and (EU) 2017/2107

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

Having regard to the Opinion of the European Economic and Social Committee,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The objective of the common fisheries policy (the 'CFP'), as set out in Regulation (EU) No 1380/2013¹⁶ of the European Parliament and of the Council, is to ensure exploitation of marine living biological resources that provides sustainable economic, environmental and social conditions.
- (2) The Union is Party to the International Commission for the Conservation of Atlantic Tunas (the 'ICCAT').
- (3) At the 2016 Annual Meeting in Vilamoura (Portugal), the ICCAT contracting parties and cooperating non-contracting parties, entities or fishing entities (the 'CPCs') recognised the need to address the alarming situation of Mediterranean swordfish (*Xiphias gladius*). To that end, ICCAT adopted a recovery plan starting in 2017 and continuing until 2031, considering that the current biology, structure and dynamic of the population of the Mediterranean stock of swordfish does not allow to achieve levels of biomass capable of producing the maximum sustainable yield (MSY) in the short term, even if drastic and urgent management measures (total closure of the fishery) were adopted. The ICCAT recommendation on the recovery plan was adopted at its 20th Special meeting, after analysing the scientific advice of the Standing Committee on Research and Statistics (SCRS). That Recommendation 16-05¹⁷ entered into force in 12 June 2017 and it is binding on the Union.
- (4) The Union informed the ICCAT Secretariat by letter, in December 2016, that certain measures in Recommendation 16-05 were to enter into force in January 2017, in particular in relation to the closure period established from 1 January to 31 March, and the allocation of quotas for Mediterranean swordfish fisheries. All other measures of Recommendation 16-05 should be included in the Union recovery plan.
- (5) According to Article 29(2) of Regulation (EU) No 1380/2013, the position of the Union in Regional Fisheries Management Organisations is to be based on the best available scientific advice so as to ensure that fishery resources are managed in accordance with the objectives

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

¹⁷ ICCAT Recommendation 16-05 adopted at the ICCAT's 2016 Annual Meeting replacing the Recommendation [13-04] and establishing a Multi-annual recovery plan for Mediterranean swordfish.

of the CFP, in particular with the objective of progressively restoring and maintaining populations of fish stocks above biomass levels capable of producing maximum sustainable yield, even if the deadline established continues until 2031, and with the objective of providing conditions for economically viable and competitive fishing capture and processing industry and land-based fishing related activity at the same time in line with 28(1) and (2), 29 and 33 of Regulation (EU) No 1380/2013 promoting a level playing field for Union operators.

- (6) The recovery plan takes into account the specificities of the different types of gear and fishing techniques. When implementing the recovery plan, the Union and Member States should endeavour to promote coastal fishing activities and the use of fishing gear and techniques which are selective and have a reduced environmental impact, including gear and techniques used in traditional and artisanal fisheries, thereby contributing to a fair standard of living for local economies.
- (7) Regulation (EU) No 1380/2013 establishes the concept of minimum conservation reference sizes. In order to ensure consistency, the ICCAT concept of minimum sizes should be transposed into Union law as minimum conservation reference sizes.
- (8) Mediterranean swordfishes that have been caught and are below minimum conservation reference size will have to be discarded pursuant to point 17 of ICCAT Recommendation 16-05, unless they fall within the by-catch limits established by Member States in their annual fishing plans. For the purpose of the Union's compliance with its international obligations under the ICCAT, Delegated Regulation (EU) 2018/191 provides for derogations from the landing obligation for Mediterranean swordfish in accordance with Article 15(2) of Regulation (EU) No 1380/2013. Delegated Regulation (EU) 2018/191 implements certain provisions of ICCAT Recommendation 16-05 laying down the obligation to discard swordfish on board vessels that exceed their allocated quota and/or their maximum level of permitted by-catches. The scope of that Delegated Regulation includes vessels engaged in recreational fishing.
- (9) Taking into consideration that the recovery plan will implement ICCAT Recommendation 16-05, the provisions concerning Mediterranean swordfish in Regulation (EU) 2017/2107 should be deleted.
- (10) Fishing activities using driftnets have in the past undergone a rapid increase in terms of fishing effort and lack of sufficient selectivity. The uncontrolled expansion of those activities posed a serious risk for the target species and their use was prohibited for catching highly migratory fish, including swordfish fisheries, by Council Regulation 1239/98¹⁸.
- (11) To ensure compliance with the CFP, Union legislation has been adopted to establish a system of control, inspection and enforcement, which includes the fight against illegal, unreported and unregulated (IUU) fishing. In particular, Council Regulation (EC) No 1224/2009¹⁹ establishes a Union system for control, inspection and enforcement with a global and integrated approach so as to ensure compliance with all the rules of the CFP.

¹⁸ Council Regulation (EC) No 1239/98 of 8 June 1998 amending Regulation (EC) No 894/97 laying down certain technical measures for the conservation of fishery resources (OJ L 171, 17.6.1998, p. 1).

¹⁹ Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).

Commission implementing Regulation (EU) No 404/2011²⁰ lays down detailed rules for the implementation of Regulation (EC) No 1224/2009. Council Regulation (EC) No 1005/2008²¹ establishes a Community system to prevent, deter and eliminate IUU fishing. Those Regulations already include a number of measures laid down in ICCAT Recommendation 16-05. It is therefore not necessary to include those provisions in this Regulation.

- (12) In chartering arrangements the relationships between the owner, the charterer and the flag State are often unclear and some IUU fishers evade controls by abusing the arrangements for the chartering of fishing vessels. Chartering is prohibited in Regulation (EU) 2016/1627²² establishing a multiannual recovery plan for Bluefin tuna in the Atlantic and Mediterranean. It is therefore appropriate, as a preventive measure to protect a stock under recovery and for sake of consistency with Union law, to adopt a similar prohibition in the multiannual recovery plan for Mediterranean swordfish.
- (13) Union legislation should implement the ICCAT recommendations in order to place Union and third country fishermen on an equal footing and to ensure that the rules can be accepted by all.
- (14) In order to swiftly implement into Union law future amendments to the ICCAT recommendations, 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 to this Regulation as well as provisions listed in Article 34 (1) of this Regulation. 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 Making²³. 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.
- (15) In order to ensure uniform conditions for the implementation of the provisions of this Regulation, implementing powers should be conferred on the Commission as regards the annual report on the implementation of this Regulation submitted by the Member States. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council²⁴.
- (16) The delegated acts and implementing acts provided for in this Regulation are without prejudice to the implementation of future ICCAT recommendations into Union law through the ordinary legislative procedure.

²⁰ Commission Implementing Regulation (EU) No 404/2011 of 8 April 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system, for ensuring compliance with the rules of the Common Fisheries Policy (OJ L 112, 30.4.2011, p. 1).

²¹ Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999 (OJ L 286, 29.10.2008, p. 1).

²² Regulation (EU) 2016/1627 of the European Parliament and of the Council of 14 September 2016 on a multiannual recovery plan for bluefin tuna in the eastern Atlantic and the Mediterranean, and repealing Council Regulation (EC) No 302/2009 (OJ L 252, 16.9.2016, p. 1).

²³ Interinstitutional Agreement of 13 April 2016 on Better Law Making (OJ L 123, 12.5.2016, p. 1).

²⁴ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

- (17) Annex II to Council Regulation (EC) No 1967/2006²⁵ allows for a maximum of 3 500 hooks that can be set or taken on board of vessels targeting swordfish, while ICCAT Recommendation 16-05 allows for a maximum of 2 500 hooks. In order to properly implement that Recommendation in Union law it is necessary to amend Council Regulation (EC) No 1967/2006 accordingly.
- (18) Section 2 of Chapter III of Regulation (EU) 2017/2107 of the European Parliament and of the Council²⁶ lays down certain technical and control measures on Mediterranean swordfish. The measures adopted by ICCAT Recommendation 16-05, which are transposed by this Regulation, are more restrictive or more precise to allow the recovery of the stock. Section 2 of Chapter III of Regulation (EU) 2017/2107 should therefore be deleted and replaced by the measures laid down in this Regulation.

HAVE ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1 *Subject matter*

This Regulation lays down general rules for the implementation by the Union of the multiannual recovery plan for Mediterranean swordfish (*Xiphias gladius*) recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT), starting from 2017 and continuing through 2031 ('the recovery plan').

Article 2 *Scope*

This Regulation applies to:

- (a) Union fishing vessels, and Union vessels engaged in recreational fisheries which:
- (i) operate in the ICCAT Convention area fishing swordfish in the Mediterranean; or
 - (ii) tranship, also outside the ICCAT Convention area, swordfish caught in the Mediterranean Sea;
- (b) Third country fishing vessels and third country vessels engaged in recreational fisheries which operate in Union waters fishing swordfish in the Mediterranean;
- (c) Third country vessels which are inspected in Member States ports and which carry on board swordfish caught in the Mediterranean or fishery products originating from swordfish caught in the Mediterranean that have not been previously landed or transhipped at ports.

²⁵ Council Regulation (EC) No 1967/2006 of 21 December 2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 1626/94 (OJ L 409, 30.12.2006, p. 11).

²⁶ Regulation (EU) 2017/2107 of the European Parliament and of the Council of 15 November 2017 laying down management, conservation and control measures applicable in the Convention area of the International Commission for the Conservation of Atlantic Tunas (ICCAT), and amending Council Regulations (EC) No 1936/2001, (EC) No 1984/2003 and (EC) No 520/2007 (OJ L 315, 30.11.2017, p. 1).

Article 3
Objective

By way of derogation from Article 2, paragraph 2, of Regulation (EU) No 1380/2013, the objective of this Regulation is to achieve a biomass of swordfish in the Mediterranean corresponding to the maximum sustainable yield by 2031, with at least 60% probability of achieving that objective.

Article 4
Relationship to other Union law

The provisions of this Regulation apply in addition to the provisions laid down in the following Regulations or, where those Regulations so provide, by way of derogation therefrom:

- (1) Council Regulation (EC) No 1224/2009²⁷, establishing a Community control system for ensuring compliance with the rules of the common fisheries policy;
- (2) Regulation (EU) No 2017/2403 of the European Parliament and of the Council²⁸ on the Sustainable Management of the External Fleets;
- (3) Regulation (EU) 2017/2107 of the European Parliament and of the Council²⁹ laying down management, conservation and control measures applicable in the Convention area of the International Commission for the Conservation of Atlantic Tunas (ICCAT).

Article 5
Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) ‘fishing vessel’ means any vessel equipped for commercial exploitation of marine living biological resources;
- (2) ‘Union fishing vessel’ means a fishing vessel flying the flag of a Member State and registered in the Union;
- (3) ‘ICCAT Convention area’ means all waters of the Atlantic Ocean and adjacent seas;
- (4) ‘Mediterranean Sea’ means Maritime Waters of the Mediterranean to the East of line 5°36' West;
- (5) ‘CPC’ means contracting parties to the ICCAT Convention and cooperating non-contracting parties, entities or fishing entities;

²⁷ Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).

²⁸ Regulation (EU) 2017/2403 of the European Parliament and of the Council, of 12 December 2017, on the sustainable management of external fishing fleets, and repealing Council Regulation (EC) No 1006/2008 (OJ L 347, 28.12.2017, p. 81).

²⁹ Regulation (EU) 2017/2107 of the European Parliament and of the Council of 15 November 2017 laying down management, conservation and control measures applicable in the Convention area of the International Commission for the Conservation of Atlantic Tunas (ICCAT), and amending Council Regulations (EC) No 1936/2001, (EC) No 1984/2003 and (EC) No 520/2007 (OJ L 315, 30.11.2017, p. 1).

- (6) 'fishing authorisation' means an authorisation issued in respect of a Union fishing vessel entitling it to carry out specific fishing activities during a specified period, in a given area or for a given fishery under specific conditions;
- (7) 'special fishing authorisation' means an authorisation issued in respect of a Union fishing vessel entitling it to carry out specific fishing activities with specific gear during a specified period, in a given area and for a given fishery under specific conditions;
- (8) 'fishing opportunity' means a quantified legal entitlement to fish, expressed in terms of catches and/or fishing effort;
- (9) 'stock' means a marine biological resource that occurs in a given management area;
- (10) 'fishery products' means aquatic organisms resulting from any fishing activity or products derived therefrom;
- (11) 'discards' are catches that are returned to the sea;
- (12) 'recreational fishery' means non-commercial fishing activities exploiting marine living biological resources for recreation, tourism or sport;
- (13) 'vessel monitoring system data' means data on the fishing vessel identification, geographical position, date, time, course and speed transmitted by satellite-tracking devices installed on board fishing vessels to the fisheries monitoring centre of the flag Member State;
- (14) 'landing' means the initial unloading of any quantity of fisheries products from on board a fishing vessel to land;
- (15) 'transhipment' means the unloading of all or any fisheries products on board a vessel to another vessel;
- (16) 'chartering' means an arrangement by which a fishing vessel flying the flag of a Member State is contracted for a defined period by an operator in either another Member State or a third country without a change of flag;
- (17) 'large-scale pelagic longline vessel' means a pelagic longline vessel greater than 24 metres in length overall;
- (18) 'longlines' means a fishing gear which comprises a main line carrying numerous hooks on branch lines (snoods) of variable length and spacing depending on the target species;
- (19) 'hook' means a bent, sharpened piece of steel wire;
- (20) 'rod and line' means a fishing-line placed in a rod used by anglers and wound on a turning mechanism (reel) used to wind the line.

TITLE II MANAGEMENT, TECHNICAL CONSERVATION MEASURES AND CONTROL

CHAPTER 1 Management Measures

Article 6 Fishing effort

1. Each Member State shall take the necessary measures to ensure that the fishing effort of fishing vessels flying its flag is commensurate with the fishing opportunities for Mediterranean swordfish available to that Member State.
2. The carrying-over of any unused quota shall be prohibited.

Article 7 Allocation of fishing opportunities

1. In accordance with Article 17 of Regulation (EU) No 1380/2013, when allocating the fishing opportunities available to them, Member States shall use transparent and objective criteria, including those of an environmental, social and economic nature, and shall also endeavour to distribute national quotas fairly among the various fleet segments giving consideration to traditional and artisanal fishing, and to provide incentives to Union fishing vessels deploying selective fishing gear or using fishing techniques with reduced environmental impact.
2. Each Member State shall make provision for by-catch of swordfish within its swordfish quota and shall inform the Commission thereof when transmitting its fishing plan in accordance with Article 9. Such provision shall ensure that all dead fish are deducted from the quota.

Article 8 Capacity limitations

1. A capacity limitation by gear type for fishing vessels shall apply for the duration of the recovery plan. Member States shall limit the number of fishing vessels by gear type flying their flag and authorised to fish for Mediterranean swordfish by either of the following measures, whichever results in an inferior number:
 - (a) The average yearly number of their vessels that fished for, retained on board, transhipped, transported, or landed Mediterranean swordfish over the period 2013-2016;
or
 - (b) The number of their fishing vessels that fished for, retained on board, transhipped, transported, or landed Mediterranean swordfish in 2016.
2. Member States may apply a tolerance of 5% to the capacity limit referred to in paragraph 1 for the years 2018-2019.

3. Member States shall inform the Commission of the measures taken to limit the number of fishing vessels flying their flag and authorised to fish for Mediterranean swordfish by 15 February of each year.

Article 9
Annual fishing plans

1. Member States shall submit their fishing plans to the Commission by 1 March of each year. Such plans shall be in accordance with the ICCAT Guidelines for submitting data and information, and shall include detailed information regarding the quota of Mediterranean swordfish allocated by gear type, including to recreational fisheries, where relevant, and to by-catches.
2. The Commission shall compile the plans referred to in paragraph 1 and integrate them into the Union fishing plan. The Commission shall transmit the Union fishing plan to the ICCAT Secretariat by 15 March each year.

CHAPTER 2

Technical Conservation Measures

SECTION 1

FISHING SEASONS

Article 10
Closed fishing seasons

1. Mediterranean swordfish shall not be caught, either as targeted species or as by-catch, retained on board, transhipped or landed during the period from 1 January to 31 March of each year.
2. In order to protect Mediterranean swordfish, a closure period shall apply to longline vessels targeting Mediterranean albacore (*Thunnus alalunga*) from the 1 October to 30 November of each year.
3. Member States shall monitor the effectiveness of the closures referred to in paragraphs 1 and 2 and shall submit to the Commission, at least two months and 15 days before the ICCAT annual meeting each year, all relevant information on appropriate controls and inspections carried out the previous year to ensure compliance with those paragraphs. The Commission shall forward that information to the ICCAT Secretariat at least two months before the ICCAT annual meeting each year.

SECTION 2

MINIMUM CONSERVATION REFERENCE SIZE, INCIDENTAL CATCH AND BY-CATCH

Article 11
Minimum conservation reference size for Mediterranean swordfish

1. By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, it shall be prohibited to target, retain on board, tranship, land, transport, store, sell or display or offer for sale catches and by-catches of swordfish, including in recreational fisheries:
 - (a) Measuring less than 100 cm Lower Jaw to Fork Length (LJFL);
or

- (b) Weighing less than 11,4 kg of round weight, or 10,2 kg of gilled and gutted weight.
2. Only entire specimens of swordfish, without removal of any external part, or gilled and gutted specimens, may be retained on board, landed, transhipped, or carried in the first transport after landing.

Article 12

Incidental by-catches of swordfish below the minimum conservation reference size

Notwithstanding paragraph 1 of Article 11, catching vessels fishing actively for swordfish may retain on board, tranship, transfer, land, transport, store, sell, display or offer for sale incidental catches of swordfish below the minimum conservation reference size, provided such catches do not exceed 5 % by weight or number of pieces of the total swordfish catch of such vessels.

Article 13

By-catches

1. By-catches of swordfish shall not exceed at any time following a fishing operation the total catch on board by weight or number of specimens caught in longline fisheries.
2. By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, catching vessels not fishing actively for swordfish shall not retain on board swordfish exceeding the by-catch limit that Member States establish in their annual fishing plans for the total catch on board by weight or number of pieces.
3. By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, it shall be prohibited to catch, retain on board, tranship or land more than one swordfish per vessel per day for recreational fisheries. Member States shall take the necessary measures to ensure and facilitate the release of swordfish caught alive in the framework of recreational fishing.
4. By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, if the quota allocated to the flag Member State is exhausted, any swordfish caught alive shall be released.
5. Where the quota allocated to the flag Member State is exhausted, dead swordfish shall be landed whole and unprocessed and shall be subject to confiscation and the appropriate follow-up action. Member States shall provide information on the quantity of such dead swordfish on an annual basis to the Commission who shall forward it to the ICCAT Secretariat, in accordance with Article 21.

SECTION 3

TECHNICAL CHARACTERISTICS OF THE FISHING GEAR

Article 14

Technical characteristics of the fishing gear

1. The maximum number of hooks that may be set by or taken on board of fishing vessels targeting Mediterranean swordfish shall be fixed at 2 500 hooks.
2. By way of derogation from paragraph 1, additional 2 500 replacement unrigged hooks shall be allowed on board fishing vessels for trips longer than 2 days.
3. The hook size shall not be smaller than 7 cm of height.
4. The length of the pelagic longlines shall not exceed 30 nautical miles (55.56 km).

CHAPTER 3

Control Measures

SECTION 1

RECORD OF VESSELS

Article 15

Fishing authorisations

1. Member States shall issue fishing authorisations to catch Mediterranean swordfish to vessels flying their flag, in accordance with the provisions laid down in Regulation (EU) 2017/2403 for:
 - (a) Fishing vessels targeting Mediterranean swordfish;
 - (b) Fishing vessel catching Mediterranean swordfish as by-catch; and
 - (c) Vessels engaged in recreational fisheries.
2. Member States shall issue a special fishing authorisation to Union fishing vessels targeting Mediterranean swordfish using harpoons or pelagic longline.
3. Only Union vessels included in the ICCAT record of vessels according to the procedure laid down in Articles 16 and 17, shall be authorised to target, retain on board, tranship, transport, process or land Mediterranean swordfish.
4. Large scale fishing vessels authorised by Member States shall be registered in the ICCAT record of fishing vessels greater than 20 metres length overall, to be authorised by the ICCAT to target, retain on board, tranship or land tuna and tuna-like species.

Article 16

Information on vessels authorised to catch swordfish and albacore tuna in the current year

1. Member States shall submit electronically each year to the Commission, the following information in the format set out in the ICCAT Guidelines for submitting data and information:
 - (a) By 1 January, the information on catching vessels flying their flag and authorised to catch Mediterranean swordfish, including as by-catch and in the context of recreational fisheries. The Commission shall send that information to the ICCAT Secretariat by 15th January of each year;
 - (b) By 1 March, the information on catching vessels flying their flag and authorised to target Mediterranean albacore tuna. The Commission shall send that information to the ICCAT Secretariat by 15th March of each year.
2. The information on catching vessels referred to in paragraph 1(a) and (b) shall contain the vessel's name and Union fleet register number (CFR) as defined in Annex I to Commission Implementing Regulation (EU) 2017/218³⁰ on the Union fishing fleet register.
3. In addition to the information referred in paragraph 2, Member States shall notify the Commission, at the latest within 30 days, of any addition to, deletion from or modification of the information on catching vessels referred to in paragraph 1. The Commission shall transmit, at the latest within 45 days from the date of the addition to, deletion from or

³⁰ OJ L 34, 9.2.2017, p. 9.

modification of the information on those catching vessels, inform thereof the ICCAT Secretariat.

4. In accordance with Article 7(6) of Regulation (EU) 2017/2403, the Commission shall, if necessary, modify during the year the information on catching vessels referred to in paragraph 1, by providing updated information to the ICCAT Secretariat.

Article 17

Scientific information on vessels authorised to target Mediterranean swordfish using harpoons or pelagic longlines in the preceding year

1. By 30 June of each year, Member States shall submit electronically to the Commission the following information concerning catching vessels flying their flag that were authorised to carry out pelagic longline fisheries or harpoon fisheries targeting Mediterranean swordfish during the preceding year:
 - (a) Name of the vessel (in the absence of the name, the registry number without country initials shall be indicated);
 - (b) Union fleet register number as defined in Annex I to Commission Implementing Regulation (EU) 2017/218;
 - (c) ICCAT record number.
2. The information referred to in paragraph 1 shall be submitted in the format set out in the last version of the ICCAT Guidelines for submitting data and information.
3. The Commission shall send that information to the ICCAT Secretariat by 31 July of each year.

SECTION 2 MONITORING AND SURVEILLANCE

Article 18

Vessel Monitoring System

1. Union fishing vessels included in the ICCAT record of vessels and authorised to fish Mediterranean swordfish, and third country vessels authorised to fish Mediterranean swordfish in Union waters which are greater than 12 metres length overall, shall have installed on board a fully functioning device which allows the vessel to be automatically located and identified through the vessel monitoring system (VMS), by transmitting position data at regular intervals, in accordance with Article 9 of Regulation (EC) No 1224/2009.
2. For control purposes, the transmission of VMS data from catching vessels that are authorised to fish Mediterranean swordfish shall not be interrupted when vessels are in port.
3. Member States shall ensure that their fisheries monitoring centres forward to the Commission and a body designated by it, in real time and using the format "https data feed", the VMS messages received from the fishing vessels flying their flag. The Commission shall send those messages electronically to the ICCAT Secretariat.
4. Member States shall ensure that:
 - (a) VMS messages from the fishing vessels flying their flag are forwarded to the Commission at least every two hours;

- (b) In the event of technical malfunction of the VMS, alternative messages from the fishing vessel flying their flag received under Article 25(1) of Implementing Regulation (EU) No 404/2011 are forwarded to the Commission within 24 hours of receipt by their fisheries monitoring centres;
 - (c) Messages forwarded to the Commission are sequentially numbered (with a unique identifier) in order to avoid duplication;
 - (d) Messages forwarded to the Commission are in accordance with Article 24(3) of Implementing Regulation (EU) No 404/2011.
5. Each Member State shall take the necessary measures to ensure that all messages made available to its inspection vessels are treated in a confidential manner and are limited to inspection at sea operations.

Article 19
Chartering of Union fishing vessels

The chartering of Union fishing vessels for Mediterranean swordfish shall be prohibited.

Article 20
National observer programmes in pelagic longline vessels

1. Each flag Member State with a Mediterranean swordfish quota shall implement a national observer programme for pelagic longline vessels targeting Mediterranean swordfish in accordance with this Article. The national observer programme shall comply with the minimum standards laid down in Annex I.
2. Each Member State concerned shall ensure that national scientific observers are deployed on at least 20% of pelagic longline vessels targeting Mediterranean swordfish. The percentage coverage will be measured in fishing days, number of sets or trips.
3. By way of derogation from paragraph 2, for vessels less than 15 metres in length overall, where an extraordinary safety concern may exist that precludes deployment of an on board observer, a Member State may deploy an alternative scientific monitoring approach. That alternative approach shall ensure coverage comparable to that specified in paragraph 2 and an equivalent collection of data. The Member State concerned shall present the details of the alternative approach to the Commission without undue delay.
4. The Commission shall immediately submit the details of the alternative approach referred to in paragraph 3, to the ICCAT Standing Committee on Research and Statistics for evaluation. Alternative approaches shall be subject to the approval of the ICCAT Commission at the ICCAT annual meeting prior to their implementation.
5. Member States shall issue national observers with an official identification document.
6. In addition to the tasks of scientific observers laid down in Annex I, Member States shall require scientific observers to assess and report the following data on Mediterranean swordfish:
 - (a) The level of discards of undersized specimens;
 - (b) Region specific size and age at maturity;
 - (c) Habitat use for comparison of the availability of swordfish to the various fisheries, including comparisons between traditional and mesopelagic longlines;

- (d) The impact of the mesopelagic longline fisheries in terms of catch composition, CPUE series, size distribution of the catches; and
 - (e) Monthly estimation of the proportion of spawners and recruits in the catches.
7. By 30 June of each year Member States shall submit to the Commission the information collected under their national scientific observer programmes of the previous year. The Commission shall forward that information to the ICCAT Secretariat by 31 July of each year.

SECTION 3

CONTROL OF CATCHES

Article 21

Recording and reporting of catches

1. The master of each vessel authorised to catch Mediterranean swordfish shall keep a fishing logbook in accordance with the requirements laid down in Annex II and shall submit the logbook information to the flag Member State.
2. Without prejudice to the reporting obligations for Member States established in Regulation (EC) No 1224/2009, Member States shall send quarterly reports to the Commission of all catches of Mediterranean swordfish made by authorised vessels flying their flag. Those quarterly reports shall be sent no later than 15 days following the end of each quarter period (15 April, 15 July and 15 October of each year and by 15 January of the following year). The Commission shall send that information to the ICCAT Secretariat by 30 April, 30 July and 30 October of each year and by 30 January of the following year.
3. In addition to the information referred to in paragraph 1, Member States shall submit to the Commission, by 30 June of each year, the following information concerning Union fishing vessels that were authorised to carry out pelagic longline fisheries or harpoon fisheries targeting Mediterranean swordfish during the preceding year:
 - (a) Information related to fishing activities, based on sampling or on the whole fleet, including:
 - (i) fishing period(s) and total annual number of fishing days of the vessel, by target species and area;
 - (ii) geographical areas, by ICCAT statistical rectangles, for the fishing activities carried out by the vessel, by target species and area;
 - (iii) type of vessel, by target species and area;
 - (iv) number of hooks used by the vessel, by target species and area;
 - (v) number of longline units used by the vessel, by target species and area;
 - (vi) overall length of all longline units for the vessel, by target species and area.
 - (b) Data on the catches, in the smallest time-area possible, including:
 - (i) size and, if possible, age distributions of the catches;
 - (ii) catches and catch composition per vessel;
 - (iii) fishing effort (average fishing days per vessel, average number of hooks per vessel, average longline units per vessel, average overall length of longline per vessel).

4. The Commission shall forward that information to the ICCAT Secretariat by 31 July of each year.
5. The information referred to in paragraphs 1, 2 and 3 shall be submitted in the format set out in the last version of the ICCAT Guidelines for submitting data and information.

Article 22

Information on quota exhaustion and closure of the fishery

1. Without prejudice to Article 34 of Regulation (EC) No 1224/2009, each Member State shall inform the Commission without delay, when the quota allocated to a gear type is deemed to have reached 80%.
2. When accumulated catches of Mediterranean swordfish have reached the 80% threshold of the national quota, the flag Member States shall send data on catches to the Commission on a weekly basis.

SECTION 4 LANDINGS AND TRANSHIPMENTS

Article 23

Designated ports

1. Mediterranean swordfish catches, including by-catches and Mediterranean swordfish caught in the context of recreational fisheries with no tag affixed to each piece as referred to in Article 30 shall only be landed in designated ports.
2. Each Member State shall designate ports in which landings referred to in paragraph 1 shall take place and shall specify the permitted landing and transshipping times and places and inspection and surveillance procedures applicable in those ports.
3. By 15 February of each year, Member States shall transmit a list of designated ports to the Commission. By 1 March of each year, the Commission shall transmit that information to the ICCAT Secretariat.

Article 24

Prior notification

1. Article 17 of Regulation (EC) No 1224/2009 shall apply to masters of Union fishing vessels of 12 metres length overall or more, included in the list of vessels referred to in Article 16 of this Regulation. The prior arrival notification referred to in Article 17 of Regulation (EC) No 1224/2009 shall be sent to the competent authority of the Member State (including the flag Member State) or CPC whose ports or landing facility they intend to use.
2. Masters of Union fishing vessels under 12 metres length overall included in the list of vessels referred to in Article 16 shall, at least four hours before the estimated time of arrival at the port, notify the competent authority of the Member State (including the flag Member State) or the CPC whose ports or landing facility they wish to use, the following information:
 - (a) Estimated time of arrival;
 - (b) Estimated quantity of Mediterranean swordfish retained on board; and
 - (c) The information on the geographical area where the catch was taken.

3. Authorities of the port Member States shall maintain a record of all prior notifications for the current year.

Article 25
Transshipments

1. Transshipment by Union fishing vessels carrying on board Mediterranean swordfish at sea shall be prohibited in all circumstances.
2. Without prejudice to Articles 51, 52, 54 and 57 of Regulation (EU) 2017/2107, fishing vessels shall only tranship Mediterranean swordfish in designated ports.

SECTION 5
INSPECTIONS

Article 26
Annual inspection plans

1. By 31 January each year, Member States shall transmit their annual inspection plans to the Commission. The inspection plans shall be set up in accordance with:
 - (a) The objectives, priorities, and procedures as well as benchmarks for inspection activities set up in Commission Implementing Decision (EU) 2018/17³¹; and
 - (b) The national control action programme for Mediterranean swordfish established under Article 46 of Regulation (EC) No 1224/2009.
2. The Commission shall compile the national inspection plans and integrate them into the Union inspection plan. The plan shall be transmitted by the Commission to the ICCAT Secretariat, for endorsement by ICCAT, together with the annual fishing plans referred to in Article 9.

Article 27
ICCAT Scheme for Joint International Inspection

1. Joint international inspection activities shall be carried out in accordance with the ICCAT Scheme for Joint International Inspection ("the ICCAT Scheme") set out in Annex III.
2. Member States whose fishing vessels are authorised to fish Mediterranean swordfish shall assign inspectors and carry out inspections at sea under the ICCAT Scheme. The Commission or a body designated by it may assign Union inspectors to the ICCAT Scheme.
3. When, at any time, more than 50 fishing vessels flagged to a Member State are engaged in the Convention area fishing swordfish in the Mediterranean, that Member State shall deploy an inspection vessel for the purpose of inspection and control at sea in the Mediterranean Sea throughout the period that those vessels are there. That obligation shall also be deemed to have been complied with where Member States cooperate to deploy an inspection vessel or where a Union inspection vessel is deployed in the Mediterranean Sea.
4. The Commission or a body designated by it shall coordinate the surveillance and inspection activities for the Union. The Commission may draw up, in coordination with the

³¹ Commission Implementing Decision (EU) 2018/17 of 5 January 2018 amending Implementing Decision 2014/156/EU establishing a specific control and inspection programme for fisheries exploiting stocks of bluefin tuna in the Eastern Atlantic and the Mediterranean, swordfish in the Mediterranean and for fisheries exploiting stocks of sardine and anchovy in the Northern Adriatic Sea (OJ L 4, 9.1.2018, p. 20).

Member State concerned, joint inspection programmes to enable the Union to fulfil its obligation under the ICCAT Scheme. Member States whose fishing vessels are engaged in Mediterranean swordfish fisheries shall adopt the necessary measures to facilitate the implementation of those programmes, in particular as regards the human and material resources required and the periods when and geographical areas where those resources are to be deployed.

5. Member States shall inform the Commission, by 1 December of each year, of the names of the inspectors and the inspection vessels they intend to assign to the ICCAT Scheme during the following year. Using that information, the Commission shall draw up, in collaboration with the Member States, an annual plan for the Union participation in the ICCAT Scheme, which it shall send to the ICCAT Secretariat by 1 January of each year.

Article 28

Inspections in case of infringements

1. Each flag Member State shall take the action under paragraph 2 of this Article if a vessel flying its flag has committed an infringement of the provisions of this Regulation.
2. Each flag Member State shall ensure that a physical inspection takes place under its authority in its ports or, when a fishing vessel flying its flag is not in one of its ports, by a person designated by it.

CHAPTER 4

Recreational Fisheries

Article 29

Management measures

1. Each Member State shall make provision for a recreational fisheries quota within its national quota and shall inform the Commission thereof when transmitting its fishing plan in accordance with Article 9. Such provision shall ensure that all dead fish are deducted from the quota.
2. In recreational fisheries, it shall be prohibited to catch, retain on board, tranship or land more than one swordfish per vessel per day.
3. Member States shall take the necessary measures to ensure, to the greatest extent possible, the release of swordfish caught alive in the framework of recreational fisheries.
4. The selling and any other form of marketing of Mediterranean swordfish caught in recreational fisheries shall be prohibited.

Article 30

Control measures

1. Only 'rod and line' vessels shall be authorised to catch Mediterranean swordfish in recreational fisheries.
2. The information on authorised recreational vessels sent to the ICCAT Secretariat in accordance with Article 16(1)(a) shall include the following:
 - (a) Name of the vessel (in the absence of the name, the registry number without country initials shall be indicated);

- (b) Union fleet register number as defined in Annex I to Commission Implementing Regulation (EU) 2017/218;
 - (c) Previous name of the vessel, where relevant;
 - (d) Vessel's length overall;
 - (e) Name and address of owner(s) and operator(s) of the fishing vessel.
3. Catch data, including round weight and length (LJFL) of each Mediterranean swordfish caught, retained on board and landed in the context of recreational fisheries shall be recorded and reported in accordance with Article 21.
 4. Mediterranean swordfish may only be landed whole or gilled and gutted, and either in a designated port in accordance with Article 23, or with a tag affixed to each piece. Each tag shall have a unique country specific number and be tamper proof.
 5. Member States shall establish a tagging programme for the purposes of this Regulation and include the specifications of such programme in the annual fishing plans referred in Article 9 of this Regulation.
 6. Member States shall only authorise the use of tags when the accumulated catch amounts are within the quota allocated to them.
 7. Member States shall send to the Commission an annual report of the implementation of the tagging programme two months and 15 days before the ICCAT annual meeting, each year. The Commission shall compile the information from Member States and send it to the ICCAT Secretariat two months before the ICCAT annual meeting, each year.

TITLE III

FINAL PROVISIONS

Article 31

Annual report

1. By 15 September of each year, Member States shall submit to the Commission an annual report, for the preceding calendar year, on their implementation of this Regulation, and any additional information as appropriate.
2. The annual report shall include information on the steps taken to mitigate by-catch and reduce discards of undersized Mediterranean swordfish, and on any relevant research in that field.
3. The Commission shall compile the information received pursuant to paragraphs 1 and 2, and shall forward it to the ICCAT Secretariat by 15 October of each year.
4. The Commission may adopt implementing acts as regards detailed requirements for the format of the annual report referred to in this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 36.

Article 32

Review

The Commission shall report to the European Parliament and to the Council on the functioning of the Recovery plan for Mediterranean swordfish under this Regulation by 31 December 2025.

Article 33
Financing

For the purposes of Regulation (EU) No 508/2014 of the European Parliament and of the Council, the multiannual recovery plan for Mediterranean swordfish shall be deemed to be a multiannual plan within the meaning of Article 9 of Regulation (EU) No 1380/2013.

Article 34
Procedure for amendments

1. Where necessary in order to implement into Union law amendments to or supplement the existing ICCAT recommendations which become binding on the Union, and insofar as amendments to Union law do not go beyond ICCAT recommendations, the Commission is empowered to adopt delegated acts in accordance with Article 35 for the purpose of amending:
 - (a) Deadlines for reporting information as laid down in Articles 9(1) and (2), 10(3), 16(1) and (3), 17(1) and (3), 21(2) and (3), 22(2), 23(3), 26(1), 27(5) and 31(1) and (3);
 - (b) Time periods for closures as provided in Article 10(1) and (2);
 - (c) The minimum conservation reference size set in Article 11(1);
 - (d) The tolerance levels referred to in Articles 12 and 13;
 - (e) The technical characteristics of the fishing gear in Article 14(1) to (4);
 - (f) The percentage of quota exhaustion laid down in Article 22(1) and (2);
 - (g) The information on catching vessels referred to in Articles 16(2), 17(1), 21(1), (2), (3) and (4) and 23(3); and
 - (h) Annexes I, II and III of this Regulation.
2. Any amendments adopted in accordance with paragraph 1 shall be strictly limited to the implementation of amendments and/or supplements to the respective ICCAT recommendations into Union law.

Article 35
Exercise of delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 34 shall be conferred on the Commission for a period of five years from the date of entry into force of this Regulation. The Commission shall draw up a report in respect of the delegation of power no 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 no 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 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 act 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 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 or the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 36
Committee procedure

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.

Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 37
Amendments to Regulation (EU) 2017/2107

In Regulation (EU) 2017/2107, Articles 20 to 26 are deleted.

Article 38
Amendments to Regulation (EC) No 1967/2006

In Annex II to Regulation (EC) No 1967/2006, point 6(2) is replaced by the following:

- “2. 2 500 hooks for vessels targeting swordfish (*Xiphias gladius*) where this species account for at least 70% of the catch in live weight after sorting;”

Article 39

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



Council of the
European Union

Brussels, 25 April 2018
(OR. en)

**Interinstitutional File:
2018/0109 (COD)**

**8251/18
ADD 1**

**PECHE 133
CODEC 614**

PROPOSAL

| | |
|------------------|---|
| From: | Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director |
| date of receipt: | 24 April 2018 |
| To: | Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union |
| No. Cion doc.: | COM(2018) 229 final - ANNEX 1 |
| Subject: | ANNEX to the Proposal for a Regulation of the European Parliament and of the Council on a multiannual recovery plan for Mediterranean swordfish and amending Regulations (EC) No 1967/2006 and (EU) 2017/2107 ICCAT Minimum standards for fishing vessels scientific observer programs |

Delegations will find attached document COM(2018) 229 final - ANNEX 1.

Encl.: COM(2018) 229 final - ANNEX 1



Brussels, 24.4.2018
COM(2018) 229 final

ANNEX 1

ANNEX

to the

**Proposal for a Regulation of the European Parliament and of the Council
on a multiannual recovery plan for Mediterranean swordfish and amending Regulations
(EC) No 1967/2006 and (EU) 2017/2107**

ICCAT Minimum standards for fishing vessels scientific observer programs

ANNEX I

ICCAT Minimum standards for fishing vessels scientific observer programs

General Provisions

1. These are the minimum standards for fishing vessels scientific observer programmes laid down in ICCAT Recommendation 16-14.

Qualifications of Observers

2. Without prejudice to any training or technical qualifications recommended by the SCRS, CPCs shall ensure that their observers have the following minimum qualifications to accomplish their tasks:

- a) Sufficient knowledge and experience to identify ICCAT species and fishing gear configurations;
- b) The ability to observe and record accurately the information to be collected under the Program;
- c) The capability of performing the tasks set forth in paragraph 7 below;
- d) The ability to collect biological samples; and
- e) Minimum and adequate training in safety and sea survival.

3. In addition, in order to ensure the integrity of their domestic observer program, CPCs shall ensure the observers:

- a) Are not crew members of the vessel being observed;
- b) Are not employees of the owner or beneficial owner of the fishing vessel being observed ; and
- c) Do not have current financial or beneficial interests in the fisheries being observed.

Observer Coverage

4. Each CPC shall ensure the following with respect to its domestic observer programs:

- a) A minimum of 5% observer coverage of fishing effort in each of the pelagic longline and as defined in the ICCAT glossary, baitboat, traps, gillnet and trawl fisheries. The percentage coverage will be measured:
 - i. For pelagic longline fisheries, in fishing days, number of sets, or trips;
 - ii. For baitboat and trap fisheries, in fishing days;
 - iii. For gillnet fisheries, in fishing hours or days; and
 - iv. For trawl fisheries, in fishing hauls or days.
- b) Notwithstanding paragraph a), for vessels less than 15 meters, where an extraordinary safety concern may exist that precludes deployment of an onboard observer, a CPC may employ an alternative scientific monitoring approach that will collect data equivalent to that specified in this recommendation in a manner that ensures comparable coverage. In any such cases, the CPC wishing to avail itself of an alternative approach must present the details of the approach to the SCRS for evaluation. The SCRS will advise the ICCAT Commission on the suitability of the alternative approach for carrying out the data collection obligations set forth in this Recommendation. Alternative approaches implemented pursuant to this provision shall be subject to the approval of the ICCAT Commission at the annual meeting prior to implementation.

c) Representative temporal and spatial coverage of the operation of the fleet to ensure the collection of adequate and appropriate data as required under this Recommendation and any additional domestic CPC observer program requirements, taking into account characteristics of the fleets and fisheries;

d) Data collection on pertinent aspects of the fishing operation, including catch, as detailed in paragraph 7.

5. CPCs may conclude bilateral arrangements whereby one CPC places its domestic observers on vessels flying the flag of another CPC, as long as all provisions of this Recommendation are complied with.

6. CPCs shall endeavour to ensure that observers alternate vessels between their assignments.

Tasks of the Observer

7. CPCs shall require, *inter alia*, observers to:

a) Record and report upon the fishing activity of the observed vessel, which shall include at least the following:

i. Data collection, that includes quantifying total target catch, discards and by-catch (including sharks, sea turtles, marine mammals, and seabirds), estimating or measuring size composition as practicable, disposition status (i.e., retained, discarded dead, released alive), the collection of biological samples for life history studies (e.g., gonads, otoliths, spines, scales);

ii. Collect and report on all tags found;

iii. Fishing operation information, including:

- Location of catch by latitude and longitude;

- Fishing effort information (e.g., number of sets, number of hooks, etc.);

- Date of each fishing operation, including, as appropriate, the start and stop times of the fishing activity;

- Use of fish aggregating objects, including FADs; and

- General condition of released animals related to survival rates (i.e. dead/alive, wounded, etc.).

b) Observe and record the use of by-catch mitigation measures and other relevant information;

c) To the extent possible, observe and report environmental conditions (e.g., sea state, climate and hydrologic parameters, etc.).

d) Observe and report on FADs, in accordance with the ICCAT Observer program adopted under the multi-annual conservation and management programme for tropical tuna; and

e) Perform any other scientific tasks as recommended by SCRS and agreed by the ICCAT Commission.

Obligations of the Observer

8. CPCs shall ensure that the observer:

a) Does not interfere with the electronic equipment of the vessel;

b) Is familiar with the emergency procedures aboard the vessel, including the location of life rafts, fire extinguishers and first aid kits;

c) Communicates as needed with the Master on relevant observer issues and tasks;

- d) Does not hinder or interfere with the fishing activities and the normal operations of the vessel;
- e) Participates in a debriefing session(s) with appropriate representatives of the scientific institute or the domestic authority responsible for implementing the observer program.

Obligations of the Master

9. CPCs shall ensure that the Master of the vessel to which the observer is assigned:

- a) Permits appropriate access to the vessel and its operations;
- b) Allows the observer to carry out his/her responsibilities in an effective way, including by:
 - i. Providing appropriate access to the vessel's gear, documentation (including electronic and paper logbooks), and catch;
 - ii. Communicating at any time with appropriate representatives of the scientific institute or domestic authority;
 - iii. Ensuring appropriate access to electronics and other equipment pertinent to fishing, including but not limited to:
 - Satellite navigation equipment;
 - Electronic means of communication.
 - iv. Ensuring that no one on board the observed vessel tampers with or destroys observer equipment or documentation; obstructs, interferes with, or otherwise acts in a manner that could unnecessarily prevent the observer from performing his/her duties; intimidates, harasses, or harms the observer in any way; or bribes or attempts to bribe the observer.
- c) Provides accommodation to observers, including lodging, food and adequate sanitary and medical facilities, equal to those of officers;
- d) Provides the observer adequate space on the bridge or pilot house to perform his/her tasks, as well as space on deck adequate for carrying out observer tasks.

Duties of the CPCs

10. Each CPC shall:

- a) Require its vessels, when fishing for ICCAT species, to carry a scientific observer in accordance with the provisions of this recommendation;
- b) Oversee the safety of its observers;
- c) Encourage, where feasible and appropriate, their scientific institute or domestic authority to enter into agreements with the scientific institutes or domestic authorities of other CPCs for the exchange of observer reports and observer data between them;
- d) Provide in its Annual Report for use by the ICCAT Commission and the SCRS, specific information on the implementation of this recommendation, which shall include:
 - i. Details on the structure and design of their scientific observer programs, including, *inter alia*:
 - The target level of observer coverage by fishery and gear type as well as how measured;
 - Data required to be collected;
 - Data collection and handling protocols in place;

- Information on how vessels are selected for coverage to achieve the CPC's target level of observer coverage;
 - Observer training requirements; and
 - Observer qualification requirements.
- ii. The number of vessels monitored, the coverage level achieved by fishery and gear type; and
- iii. Details on how those coverage levels were calculated.
- e) Following the initial submission of the information required under paragraph 10(d)(i), report changes to the structure and/or design of its observer programs in its Annual Reports only when such changes occur. CPCs shall continue to report the information required pursuant to paragraph 10(d)(ii) to the ICCAT Commission annually;
- f) Each year, using the designated electronic formats that are developed by the SCRS , report to the SCRS information collected through domestic observer programs for use by the ICCAT Commission, in particular for stock assessment and other scientific purposes, in line with procedures in place for other data reporting requirements and consistent with domestic confidentiality requirements;
- g) Ensure implementation of robust data collection protocols by its observers, when carrying out their tasks referred to in paragraph 7, including, as necessary and appropriate, the use of photography.

Duties of the Executive Secretary

11. The Executive Secretary facilitates access by SCRS and the ICCAT Commission to relevant data and information submitted pursuant to this recommendation.

Duties of the SCRS

12. The SCRS shall:

- a) Develop, as needed and appropriate, an observer working manual for voluntary use by CPCs in their domestic observer programs, that includes model data collection forms and standardized data collection procedures, taking into account observer manuals and related materials that may already exist through other sources, including CPCs, regional and sub-regional bodies, and other organizations;
- b) Develop fisheries specific guidelines for electronic monitoring systems;
- c) Provide the ICCAT Commission with a summary of the scientific data and information collected and reported pursuant to this recommendation and any relevant associated findings;
- d) Make recommendations, as necessary and appropriate, on how to improve the effectiveness of scientific observer programs in order to meet the data needs of the ICCAT Commission, including possible revisions to this Recommendation and/or with respect to implementation of these minimum standards and protocols by CPCs.

Electronic Monitoring Systems

13. Where they have been determined by SCRS to be effective in a particular fishery, electronic monitoring systems may be installed on board fishing vessels to complement or, pending SCRS advice and an ICCAT Commission decision, to replace the human observer on board.

14. CPCs should consider any applicable guidelines that are endorsed by SCRS on the use of electronic monitoring systems.

15. CPCs are encouraged to report to the SCRS their experiences in the use of electronic monitoring systems in their ICCAT fisheries to complement human observer programs. CPCs who have not yet implemented such systems are encouraged to explore their use and report their findings to the SCRS.



Council of the
European Union

Brussels, 25 April 2018
(OR. en)

**Interinstitutional File:
2018/0109 (COD)**

**8251/18
ADD 2**

**PECHE 133
CODEC 614**

PROPOSAL

| | |
|------------------|--|
| From: | Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director |
| date of receipt: | 24 April 2018 |
| To: | Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union |
| No. Cion doc.: | COM(2018) 229 final - ANNEX 2 |
| Subject: | ANNEX to the Proposal for a Regulation of the European Parliament and of the Council on a multiannual recovery plan for Mediterranean swordfish and amending Regulations (EC) No 1967/2006 and (EU) 2017/2107 Logbook requirements for catching vessels |

Delegations will find attached document COM(2018) 229 final - ANNEX 2.

Encl.: COM(2018) 229 final - ANNEX 2



Brussels, 24.4.2018
COM(2018) 229 final

ANNEX 2

ANNEX

to the

**Proposal for a Regulation of the European Parliament and of the Council
on a multiannual recovery plan for Mediterranean swordfish and amending Regulations
(EC) No 1967/2006 and (EU) 2017/2107**

Logbook requirements for catching vessels

ANNEX II

Minimum specifications for fishing logbooks:

1. The logbook shall be numbered by sheet.
2. The logbook shall be completed every day (midnight) or before port arrival.
3. The logbook shall be completed in case of at-sea inspections.
4. One copy of the sheets shall remain attached to the logbook.
5. Logbooks shall be kept on board to cover a period of one year of operation.

Minimum standard information for fishing logbooks:

1. Master's name and address.
2. Dates and ports of departure, dates and ports of arrival.
3. Vessel's name, register number, ICCAT number, international radio call sign and IMO number (if available).
4. Fishing gear:
 - (a) Type FAO code;
 - (b) Dimension (e.g. length, mesh size, number of hooks).
5. Operations at sea with one line (minimum) per day of trip, providing:
 - (c) Activity (e.g. fishing, steaming);
 - (d) Position: exact daily positions (in degree and minutes), recorded for each fishing operation or at midday when no fishing has been conducted during that day;
 - (e) Record of catches, including:
 - FAO code;
 - Round (RWT) weight in kg per day;
 - Number of pieces per day.
6. Master's signature.
7. Means of weight measure: estimation, weighing on board.
8. The logbook shall be kept in equivalent live weight of fish and shall mention the conversion factors used in the evaluation.

Minimum information for fishing logbooks in case of landing or transshipment:

1. Dates and port of landing/transshipment.
2. Products:
 - (b) Species and presentation by FAO code;
 - (c) Number of fish or boxes and quantity in kg.
3. Signature of the master or vessel agent.
4. In case of transshipment: receiving vessel name, its flag and ICCAT number.



Council of the
European Union

Brussels, 25 April 2018
(OR. en)

**Interinstitutional File:
2018/0109 (COD)**

**8251/18
ADD 3**

**PECHE 133
CODEC 614**

PROPOSAL

| | |
|------------------|---|
| From: | Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director |
| date of receipt: | 24 April 2018 |
| To: | Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union |
| No. Cion doc.: | COM(2018) 229 final - ANNEX 3 |
| Subject: | ANNEX to the Proposal for a Regulation of the European Parliament and of the Council on a multiannual recovery plan for Mediterranean swordfish and amending Regulations (EC) No 1967/2006 and (EU) 2017/2107 ICCAT Scheme of Joint International Inspection |

Delegations will find attached document COM(2018) 229 final - ANNEX 3.

Encl.: COM(2018) 229 final - ANNEX 3



Brussels, 24.4.2018
COM(2018) 229 final

ANNEX 3

ANNEX

to the

**Proposal for a Regulation of the European Parliament and of the Council
on a multiannual recovery plan for Mediterranean swordfish and amending Regulations
(EC) No 1967/2006 and (EU) 2017/2107**

ICCAT Scheme of Joint International Inspection

ANNEX III

ICCAT Scheme of Joint International Inspection

Pursuant to paragraph 3 of Article IX of the Convention, the ICCAT Commission recommends the establishment of the following arrangements for international control outside the waters under national jurisdiction for the purpose of ensuring the application of the Convention and the measures in force thereunder:

I. Serious violations

1. For the purposes of these procedures, a serious violation means the following violations of the provisions of the ICCAT conservation and management measures adopted by the Commission:

- (a) Fishing without a license, permit or authorization issued by the flag CPC;
- (b) Failure to maintain sufficient records of catch and catch-related data in accordance with the Commission's reporting requirements or significant misreporting of such catch and/or catch-related data;
- (c) Fishing in a closed area;
- (d) Fishing during a closed season;
- (e) Intentional taking or retention of species in contravention of any applicable conservation and management measure adopted by the ICCAT;
- (f) Significant violation of catch limits or quotas in force pursuant to the ICCAT rules;
- (g) Using prohibited fishing gear;
- (h) Falsifying or intentionally concealing the markings, identity or registration of a fishing vessel;
- (i) Concealing, tampering with or disposing of evidence relating to investigation of a violation;
- (j) Multiple violations which taken together constitute a serious disregard of measures in force pursuant to the ICCAT;
- (k) Assault, resist, intimidate, sexually harass, interfere with, or unduly obstruct or delay an authorized inspector or observer;
- (l) Intentionally tampering with or disabling the vessel monitoring system;
- (m) Such other violations as may be determined by the ICCAT, once these are included and circulated in a revised version of these procedures;
- (n) Interference with the satellite monitoring system and/or operation of a vessel without a VMS system;
- (o) Transshipment at sea

2. In the case of any boarding and inspection of a fishing vessel during which the authorized inspectors observe an activity or condition that would constitute a serious violation, as defined in paragraph 1, the authorities of the flag State of the inspection vessel shall immediately notify the flag State of the fishing vessel, directly as well as through the ICCAT Secretariat. In such situations, the inspector should, also inform any inspection ship of the flag State of the fishing vessel known to be in the vicinity.

3. ICCAT inspectors should register the inspections undertaken and the infringements detected (if any) in the fishing vessel logbook.

4. The flag State CPC shall ensure that, following the inspection referred to in paragraph 2 of this Annex, the fishing vessel concerned ceases all fishing activities. The flag State CPC shall require the fishing vessel to proceed within 72 hours to a port designated by it, where an investigation shall be initiated.

5. In the case where an inspection has detected an activity or condition that would constitute a serious violation, the vessel should be reviewed under the procedures described in the Recommendation by ICCAT Further Amending Recommendation 09-10 Establishing a List of Vessels Presumed to Have Carried Out Illegal, Unreported and Unregulated Fishing Activities in the ICCAT Convention Area [Rec. 11-18], taking into account any response actions and other follow up.

II. Conduct of inspections

6. Inspections shall be carried out by inspectors designated by the Contracting Governments. The names of the authorized government agencies and individual inspectors designated for that purpose by their respective governments shall be notified to the ICCAT Commission.

7. Ships carrying out international boarding and inspection duties in accordance with this Annex shall fly a special flag or pennant approved by the ICCAT Commission and issued by the ICCAT Secretariat. The names of the ships so used shall be notified to the ICCAT Secretariat as soon as practical in advance of the commencement of inspection activities. The ICCAT Secretariat shall make information regarding designated inspection vessels available to all CPCs, including by posting on its password-protected website.

8. Inspectors shall carry appropriate identity documentation issued by the authorities of the flag State, which shall be in the form shown in paragraph 21 of this Annex.

9. Subject to the arrangements agreed under paragraph 16 of this Annex, a vessel flagged to a Contracting Government and fishing for tuna or tuna-like fishes in the Convention area outside waters under national jurisdiction shall stop when given the appropriate signal in the International Code of Signals by a ship flying the ICCAT pennant described in paragraph 7 and carrying an inspector unless the vessel is actually carrying out fishing operations, in which case it shall stop immediately once it has finished such operations. The master of the vessel shall permit the inspection party, as specified in paragraph 10 of this Annex, to board it and must provide a boarding ladder. The master shall enable the inspection party to make such examination of equipment, catch or gear and any relevant documents as an inspector deems necessary to verify compliance with the ICCAT Commission's recommendations in force in relation to the flag State of the vessel being inspected. Further, an inspector may ask for any explanations that he or she deems necessary.

10. The size of the inspection party shall be determined by the commanding officer of the inspection vessel taking into account relevant circumstances. The inspection party should be as small as possible to accomplish the duties set out in this Annex safely and securely.

11. Upon boarding the vessel, inspectors shall produce the identity documentation described in paragraph 8 of this Annex. Inspectors shall observe generally accepted international regulations, procedures and practices relating to the safety of the vessel being inspected and its crew, and shall minimize interference with fishing activities or stowage of product and, to the extent practicable, avoid action which would adversely affect the quality of the catch on board; Inspectors shall limit their enquiries to the ascertainment of the observance of the ICCAT Commission's recommendations in force in relation to the flag State of the vessel concerned. In making the inspection, inspectors may ask the master of the fishing vessel for any assistance they may require. Inspectors shall draw up a report of the inspection in a form approved by the ICCAT Commission. Inspectors shall sign the report in the presence of the master of the vessel who shall be entitled to add or have added to the report any observations which he or she may think suitable and must sign such observations.

12. Copies of the report shall be given to the master of the vessel and to the government of the inspection party, which shall transmit copies to the appropriate authorities of the flag State of the inspected vessel and to the ICCAT Commission. Where any infringement of ICCAT recommendations is discovered, the inspector should, where possible, also inform any inspection ship of the flag State of the fishing vessel known to be in the vicinity.

13. Resistance to inspectors or failure to comply with their directions shall be treated by the flag State of the inspected vessel in a manner similar to such conduct committed with respect to a national inspector.

14. Inspectors shall carry out their duties under these arrangements in accordance with the rules set out in this recommendation, but they shall remain under the operational control of their national authorities and shall be responsible to them.

15. Contracting Governments shall consider and act on inspection reports, sighting information sheets as per Recommendation [94-09] and statements resulting from documentary inspections of foreign inspectors under these arrangements on a similar basis in accordance with their national legislation to the reports of national inspectors. The provisions of this paragraph shall not impose any obligation on a Contracting Government to give the report of a foreign inspector a higher evidential value than it would possess in the inspector's own country. Contracting Governments shall collaborate in order to facilitate judicial or other proceedings arising from a report of an inspector under these arrangements.

16.

a) Contracting Governments shall inform the ICCAT Commission by 1 January each year of their provisional plans for conducting inspection activities under this recommendation in that calendar year and the Commission may make suggestions to Contracting Governments for the coordination of national operations in this field including the number of inspectors and ships carrying inspectors;

b) The arrangements set out in this recommendation and the plans for participation shall apply between Contracting Governments unless otherwise agreed between them, and such agreement shall be notified to the ICCAT Commission. Provided, however, that implementation of the scheme shall be suspended between any two Contracting Governments if either of them has notified the ICCAT Commission to that effect, pending completion of such an agreement.

17.

a) The fishing gear shall be inspected in accordance with the regulations in force for the subarea for which the inspection takes place. Inspectors will state the subarea for which the inspection took place, and a description of any violations found, in the inspection report;

b) Inspectors shall have the authority to inspect all fishing gear in use or on board.



18. Inspectors shall affix an identification mark approved by the ICCAT Commission to any fishing gear inspected which appears to be in contravention of the ICCAT Commission's recommendations in force in relation to the flag State of the vessel concerned and shall record this fact in his/her report.

19. Inspectors may photograph the gears, equipment, documentation and any other element he/she considers necessary in such a way as to reveal those features which in their opinion are not in conformity with the regulation in force, in which case the subjects photographed should be listed in the report and copies of the photographs should be attached to the copy of the report to the flag State.

20. Inspectors shall, as necessary, inspect all catch on board to determine compliance with ICCAT recommendations.

21. The model Identity Card for inspectors is as follows:

Dimensions: Width 10.4cm, Height 7cm

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|---|---|
| <p>INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNA</p>  <p>ICCAT</p> <p>Inspector Identity Card</p> <p>Contracting Party:</p> <p>Inspector Name:</p> <p>Card n°:</p> <p>Issue Date: Valid five years</p> <p>Photograph</p> |  <p>ICCAT</p> <p>The holder of this document is an ICCAT inspector duly appointed under the terms of the Scheme of Joint International Inspection and Surveillance of the International Commission for the Conservation of the Atlantic Tuna and has the authority to act under the provision of the ICCAT Control and Enforcement measures.</p> <p>..... ICCAT Executive Secretary Issuing Authority</p> <p>..... Inspector</p> |
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