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Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**amending Regulation (EU) 2017/2107 laying down management, conservation and control measures applicable in the Convention area of the International Commission for the Conservation of Atlantic Tunas (ICCAT) and Regulation (EU) .../2022 establishing a multiannual management plan for bluefin tuna in the eastern Atlantic and the Mediterranean**

## **EXPLANATORY MEMORANDUM**

### **1. CONTEXT OF THE PROPOSAL**

#### **• Reasons for and objectives of the proposal**

Pursuant to Council Decision 86/238/EEC<sup>1</sup>, 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 main purpose of the proposal is to implement into Union law the amendments to the conservation and enforcement measures adopted by the International Commission for the Conservation of Atlantic Tunas ('the ICCAT') at its annual meetings of 2006, 2016, 2017, 2018, 2019 and 2021.

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 the ICCAT.

The ICCAT has the authority to adopt 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 Convention, but also contain obligations for operators (e.g. vessel masters). Those apply exclusively to the ICCAT Convention area, covering the high seas and exclusive economic zones of Contracting Parties.

Article VIII(2) of the ICCAT Convention states that ICCAT recommendations become effective for all Contracting Parties six months after the date of the notification from the ICCAT Commission and the Contracting Parties are required to implement them.

Article 3(5) of the Treaty on European Union stipulates that the EU shall contribute to the strict observance of international law. This includes compliance with the ICCAT's management, conservation and control measures.

Regulation (EU) 2017/2107<sup>2</sup> implemented into Union law the ICCAT management, conservation and control measures following ICCAT recommendations. This proposal covers a number of amendments following ICCAT recommendations adopted in 2006, 2016, 2017, 2018 and 2019 and need to be implemented into Union law.

#### **• Consistency with existing policy provisions in the policy area**

The proposal is consistent with Regulation (EU) 2017/2107, and amends it with the most recent ICCAT recommendations concerning not yet implemented into Union law: measures for tropical tunas, North and Southern albacore, sailfish, blue and white marlin, billfish data reporting, shortfin mako sharks, as well as health and safety of observers in the ICCAT regional observer programmes, responsibilities for scientific observers, and update to list of ICCAT species. In addition the proposal also contains an amendment to the Regulation of the European Parliament and of the Council establishing a multiannual management plan for bluefin tuna in the eastern Atlantic and the Mediterranean, amending Regulation (EC) No 1936/2001, (EU) 2017/2107, and (EU) 2019/833 and repealing Regulation (EU) 2016/1627<sup>3</sup>, that is outside of the scope of Regulation (EU) 2017/2107.

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<sup>1</sup> OJ L 162, 18.6.1986, p 33.

<sup>2</sup> OJ L 315, 30.11.2017, p.1.

<sup>3</sup> Proposal not yet adopted by co-legislators – COM (2019) 619 Final of 28.11.2019.

The proposal is in line with Part VI (external policy) of Regulation (EU) No 1380/2013<sup>4</sup> on the common fisheries policy, which provides that the Union conducts its external fisheries in accordance with its international obligations and policy objectives. This includes actively support and contribute to the activities of international organisations dealing with fisheries, including regional fisheries management organisations ('RFMOs) and including through the European Fisheries Control Agency, cooperate with third countries and international organisations dealing with fisheries, including RFMOs, to strengthen compliance.

The proposal complements Regulation (EU) 2017/2403<sup>5</sup> on the sustainable management of external fishing fleets, which, provides that Union fishing vessels are subject to RFMOs special fishing authorisations. The proposal also complements the Council Regulation (EC) No 1005/2008<sup>6</sup> concerning illegal unreported and unregulated fishing providing for inclusion of the ICCAT Illegal, Unreported and Unregulated (IUU) list into the Union IUU vessels list.

This proposal does not cover the EU's fishing opportunities that are decided annually by ICCAT. Under Article 43(3) of the Treaty on the Functioning of the European Union (TFEU), it is the Council's prerogative to adopt measures on fixing prices, levies, aid and quantitative limitations and on the fixing and allocation of fishing opportunities.

- **Consistency with other Union policies**

The proposal is consistent with other Union policies.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

The proposal is based on Article 43(2) TFEU, as it sets out the provisions needed to pursue 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 the Union's ICCAT obligations are met, without going beyond what is necessary to achieve this objective.

- **Choice of the instrument**

The instrument of choice 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.

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<sup>4</sup> OJ L 354; 28.12.2013, p.22.

<sup>5</sup> OJ L 347; 28.12.2017, p. 81.

<sup>6</sup> OJ L 286; 29.10.2008, p.1.

- **Stakeholder consultations**

EU Member States national experts and industry representatives were consulted both during the run-up to the ICCAT annual meetings at which the above-mentioned recommendations were adopted and during the ICCAT negotiations.

- **Collection and use of expertise**

This proposal implements into Union law ICCAT recommendations that were adopted in accordance with the ICCAT standing committees on scientific and control advice.

- **Impact assessment**

Not relevant. This proposal implements into Union law ICCAT recommendations that are binding on Contracting Parties.

- **Regulatory fitness and simplification**

This proposal is not linked to regulatory fitness and simplification (REFIT).

- **Fundamental rights**

This proposal has no impact on the protection of fundamental rights.

#### **4. BUDGETARY IMPLICATIONS**

This proposal has no budgetary implications.

#### **5. OTHER ELEMENTS**

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

Not applicable.

- **Explanatory documents (for directives)**

Not applicable.

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

The proposal contains a number of provisions covering ICCAT Recommendations including the following: (i) definitions of support vessels and fish-aggregating devices, fish-aggregating device ('FAD')-set, floating object, and operational buoy following ICCAT Recommendation 19-02; (ii) for tropical tuna capacity limitations, and prohibition of discards by purse seiners that need to be implemented into Union law following ICCAT Recommendation 17-01; (iii) new provisions for FAD deployment and observer coverage following ICCAT Recommendation 19-02; (iv) Northern and Southern Atlantic Albacore provisions following ICCAT Recommendations 16-06 and 16-07, including carryover provisions, as well as carry-over for North and South Atlantic swordfish following ICCAT Recommendations 17-02 and 17-03; (v) data collection provisions for the sailfish, billfish and marlins following ICCAT Recommendations 16-11, 18-05, 19-05; and (vi) bigeye tuna carryover provisions following ICCAT Recommendation 21-01.

For sharks, the proposal contains updated provisions concerning shortfin mako shark and shark data collection following ICCAT Recommendations 19-06, 19-07 and 19-08. In addition, following ICCAT Recommendations (16-14, 16-15, 18-10, 19-10) the proposal

contains provisions concerning data transmission frequency for purse seine vessels, new provisions concerning ICCAT Record of carrier vessels as well as Member States duties concerning carrying under ICCAT regional observer programme, including minimum observer coverage.

ICCAT Recommendation 19-02 concerning responsibilities for scientific observers requires an update to Regulation 2017/2107, including observer coverage. The proposal also contains duties concerning sighting of vessels following ICCAT Recommendation 19-09, and names of new species covered by ICCAT to amend Annex I to the Regulation (EU) 2017/2107 following ICCAT Recommendation 19-01.

In addition, the proposal proposes to amend the Regulation on the Multi-annual plan for the Bluefin Tuna with the Member States declaration on annual carry-over and certain caging provisions, following ICCAT Recommendation 06-07, as well as annual carry-over of bigeye tuna following ICCAT Recommendation 21-01.

The proposal also proposes to amend the Commission's empowerment to amend the Regulation (EU) 2017/2107 following subsequent changes adopted by ICCAT regarding: (i) tropical tuna capacity limitations and its annual capacity fishing plan reporting; (ii) annual quota carryover for bigeye tuna, North and Southern Atlantic Albacore tuna and North and South Atlantic swordfish; (iii) management plans in respect of fish-aggregating devices; (iv) number of instrumental buoys; (v) FAD requirements; (vi) information to be submitted on FADs by vessels; (vii) prohibition of FAD periods; (viii) restrictions on the number of vessels fishing North Atlantic Albacore; (ix) the North Atlantic swordfish management plan; (x) conditions to authorise catch and retain shortfin mako sharks; (xi) requirements to maximise the sea turtle survival; (xii) minimum percent of observer coverage and percentage coverage measurement; and (xiii) the list of ICCAT species.

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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<sup>1</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Since the adoption of Regulation (EU) 2017/2107 of the European Parliament and of the Council<sup>2</sup>, the International Commission for the Conservation of Atlantic Tunas (ICCAT) adopted at its 2017, 2018, 2019 and 2021 annual meetings a number of legally binding measures for the conservation of fishery resources under its purview. Moreover, the EU has not yet implemented legally binding measures adopted at the ICCAT's 2006 annual meeting concerning the farming activities of the Bluefin tuna.
- (2) Regulation (EU) 2017/2107 should therefore be amended in order to implement into Union law ICCAT measures for tropical tunas, North and Southern albacore, sailfish, blue and white marlin, billfish data reporting, shortfin mako shark, as well as observer programme, responsibilities for scientific observers, and an updated list of ICCAT species.
- (3) Regulation (EU) XX/2022<sup>3</sup> should be amended to implement into Union law concerning Farm Member State annual carryover declaration and certain caging obligations.
- (4) Certain provisions of ICCAT Recommendations are likely to be amended at forthcoming ICCAT annual meetings due to the introduction of new technical and

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<sup>1</sup> OJ C [...], [...], p. [...].

<sup>2</sup> 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 Regulation (EC) No 1936/2001, (EC) 1984/2003 and (EC) No 520/2007 (OJ L 315, 30.11.2017, p.1).

<sup>3</sup> Proposal not yet adopted by co-legislators – COM (2019) 619 Final of 28.11.2019.

management measures for fisheries governed under the ICCAT Convention. Therefore, in order to swiftly implement into Union law future amendments to ICCAT Recommendations before the start of the fishing season, 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 the following aspects: tropical tuna capacity limitations and its annual capacity fishing plan reporting; annual carryover for bigeye tuna, North and Southern Atlantic Albacore tuna and North and South Atlantic swordfish; management plans in respect of fish-aggregating devices (FADs); number of instrumental buoys; FAD's requirements; information to be submitted for FADs by vessels; prohibition of FAD periods; restrictions on the number of vessels fishing for North Atlantic Albacore; North Atlantic swordfish management plan; conditions to authorise catch and retain shortfin mako sharks; requirements to maximise the sea turtle survival; minimum percentage of observer coverage and percentage coverage measurement; and amending the list of ICCAT species.

- (5) Number of support vessels operating in support of purse seiners should not increase from the numbers recorded in June 2020 as set out in ICCAT Recommendation 21-01. Such retroactive application does not affect the principle of legal certainty and the protection of legitimate expectations.
- (6) Regulations (EU) 2017/2107 and XX/2022 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

*Article 1*  
***Amendments to Regulation (EU) 2017/2107***

Regulation (EU) 2017/2107 is hereby amended as follows:

- (1) Article 4 is amended as follows:
  - a) the following sentence in point (20) is added:

“, and deploying, servicing and retrieving a fish-aggregating device.”
  - b) point (24) is replaced by the following:

“(24) ‘fish-aggregating device’ (FAD) means a permanent, semi-permanent or temporary object, structure or device of any material, man-made or natural, which is deployed and/or tracked, and used to aggregate fish for subsequent capture. FADs can either be anchored (aFADs) or drifting (dFADs);”
  - c) point (30) is added:

“(30) ‘FAD set’ means setting a fishing gear around a tuna school associated with a FAD;”
  - d) point (31) is added:

“(31) ‘Floating object’ (FOB) means any natural or artificial floating (i.e. surface or subsurface) object with no capability of moving on its own;”
  - e) point (32) is added:

“(32) ‘Operational buoy’ means any instrumented buoy, previously activated, switched on and deployed at sea, which transmits position and any other available information such as echo-sounder estimates;”

f) point (33) is added:

“(33) ‘Billfish’ means species of the *Istiophoridae* family managed by ICCAT.”

(2) Article 5a is added as follows:

“Article 5a

***Capacity limitation for tropical tunas***

1. By 31 January each year, Member States shall produce an annual capacity/fishing plan.
2. The Member States shall ensure that their overall longline and purse seine fleet capacity is managed in accordance with the annual capacity/fishing plans, in particular to limit the catch of tropical tuna catches, consistent with the catch limits established under Union law.
3. Member States shall not increase their number of support vessels operating in support of purse seiners from the numbers recorded in June 2020.
4. Member States shall report to the Commission the dates when their entire catch limit of tropical tuna species has been utilised. The Commission shall promptly circulate this information to the ICCAT Secretariat.
5. For Union purse seine vessels and large longline vessels (LOA 20 m or greater), Member States shall report tropical tuna catches on a monthly basis to the Commission, increasing to weekly when 80% of their catch limits have been caught.”

(3) Article 6a is added as follows:

“Article 6a

***Prohibition on discards of tropical tunas caught by Union purse seiners***

1. Union purse seiners that are authorised to fish for tropical tuna, shall retain on board, land or tranship to port all tropical tunas caught, except in the cases described in paragraph 3.
2. No tropical tuna caught by a Union purse seiner may be discarded during the set once the net is completely closed and when more than half of the net has been retrieved. If there is a technical problem with the closing or retrieval procedure of the net such that this rule cannot be applied, the crew shall make every effort to release the tunas into the water as quickly as possible.
3. By way of derogation from paragraph 1, tropical tuna may be discarded in the following cases:
  - a) when the vessel master determines that the tropical tunas caught are meshed or crushed in the purse seine net; or are damaged due to depredation; or have died and decomposed in the net due to a gear failure that has prevented the normal activities of retrieval of the net, fishing and releasing the fish alive;
  - b) when the vessel master determines that the tropical tunas have been caught during the last set of a trip and there is not enough storage capacity to store the tunas caught during this set. These fish may only be discarded if it is possible to release the tuna alive and provided that no other fishing operation is



conducted, until such time as the tunas on board the vessel are landed or transhipped.

4. The master of the fishing vessel shall report all discards observed to their flag Member States. Member States shall send the discard reports to the Commission as part of task I and II data.”

(4) Article 7 is amended as follows:

a) paragraph 2 is replaced by the following:

“2. Large-scale fishing vessels not entered into the ICCAT record of authorised tropical tuna vessels, including support vessels, shall not be allowed to fish, retain on board, tranship, transport, transfer, process or land tropical tunas from the ICCAT Convention area or to carry out any kind of support to those activities, including deploying and retrieving FADs and/or buoys. Article 15(1) of Regulation (EU) No 1380/2013 shall not apply in such cases.”

b) paragraph 3 is added:

“3. Union fishing vessels not authorised to fish for tropical tunas pursuant to Article 6 of this Regulation, may be allowed bycatch of tropical tunas in accordance with a maximum on board bycatch limit established for such vessels. Member States shall report to the Commission, as part of the annual report, on the maximum bycatch limit allowed for their vessels and information about how they ensure compliance with the limit.”

(5) Article 8 is replaced by the following:

“Member States shall, by 30 June of each year, submit to the Commission the list of authorised vessels flying their flag which have fished for tropical tunas in the ICCAT Convention area or have offered any kind of support to the fishing activity (support vessels) in the previous calendar year. For purse seiners, this list shall also include the support vessels that have supported the fishing activity, irrespective of their flag. The Commission shall, by 31 July of each year, notify the ICCAT Secretariat of the lists received from the Member States.”

(6) Article 8a is added as follows:

*“Article 8a*

***Underage and overage of bigeye tuna***

1. Any unused portion or excess of a Member State annual quota/catch limit may be added to/shall be deducted from, according to the case, the respective quota/catch limit during or before the adjustment year following ICCAT recommendations in force for big eye tuna.

2. The maximum underage that a Member State may carry-over in any given year cannot exceed the amount permitted in the particular year by ICCAT.”

(7) Article 9 is amended as follows:

a) paragraph 4 is replaced by the following:

“4. Member States shall ensure that no more than 300 FADs per vessel with operational buoys are active at any one time .”

b) paragraph 5 is added:

“5. The number of FADs with operational buoys will be verified through the verification of telecommunication bills. Such verifications shall be conducted by the competent authorities of the Member State.”

c) paragraph 6 is added:

“6. Member States may authorise their purse seine vessels to set on floating objects provided that the fishing vessel has either an observer or a functioning electronic monitoring system on board which is capable of verifying set type, species composition, and providing information on fishing activities to the ICCAT Standing Committee on Research and Statistics.”

(8) Article 10 (2) and (3) are replaced by the following:

“2. When using or designing FADs, Member States shall ensure:

a) that all FADs deployed are non-entangling in line with the guidelines under Annex 5 of the Recommendation 19-02;

b) that all FADs are constructed from biodegradable materials, including non-plastics, with the exception of materials used in the construction of FAD tracking buoys;

3. Member States shall report on an annual basis on the steps undertaken to comply with paragraph 2 in their FADs Management Plans.”

(9) Article 11 is amended as follows:

a) point 2(e) is replaced by the following:

“(e) Log description or FAD identifier (i.e., FAD Marking and buoy ID or any information allowing to identify the owner);”

b) point 2(g) is added:

“(g) Buoy ID.”

c) point 3(c) is replaced by the following:

“(c) FAD identifier (i.e., FAD Marking and buoy ID).”

d) paragraph 4 is replaced by the following:

“4. Union fishing vessels shall keep a list of deployed FADs, updated on a monthly basis and per 1°x1° statistical rectangles, containing at least the information set out in Annex III.”

(10) Article 12 is amended as follows:

a) point (b) is replaced by the following:

“(b) the number and type of beacons/buoys (e.g. radio, sonar only, sonar with echo-sounder) deployed on a monthly basis per 1°x1° statistical rectangles;”

b) point (c) is replaced by the following:

“(c) the average numbers of beacons/buoys activated and deactivated on a monthly basis that have been followed by each vessel;”

c) point (d) is replaced by the following:

“(d) average numbers of lost FADs with active buoys on a monthly basis;”

d) points (f) and (g) are added:

“(f) purse seiner and baitboat catches, effort and number of sets (for purse seines) by fishing mode (floating-object associated schools and free school fisheries) in line with Task II data requirements (i.e. per 1°x1° statistical rectangles and per month);

(g) when the activities of purse seiners are carried out in association with baitboats, report catches and effort of purse seiners associated to baitboats in line with Task I data and Task II data requirements.”

- (11) Article 14 is replaced by the following:

*“Article 14*

***Observer coverage and prohibition of FAD deployment in relation with the protection of juveniles.***

1. Member States shall ensure its vessels do not deploy drifting FADs during a period of 15 days prior to the start of the closure periods established under Union law.

2. Member States whose vessels target tropical tuna shall:

a) for their longline vessels 20 meters length overall or greater, ensure a minimum of 10% observer coverage of fishing effort by 2022, through the presence of a human observer on board in accordance with Annex IV and/or an electronic monitoring system;

b) for their purse seiners, ensure 100% observer coverage of fishing effort, through the presence of an observer on board in accordance with Annex IV or through an approved electronic monitoring system;

c) report the information collected by the observers or the electronic monitoring system from the previous year by 30 April to the ICCAT Secretariat and to ICCAT Standing Committee on Research and Statistics taking into account confidentiality requirements.”

- (12) Article 16 is replaced by the following:

*“Article 16*

***Identification of IUU fishing***

“If the ICCAT Executive Secretary notifies the Commission of a possible violation by Union fishing vessels of Article 7(2) or Article 14(1) or Article 14(2), the Commission shall without delay inform the flag Member State concerned. That Member State shall immediately investigate the situation and, if the vessel is fishing in association with objects that could affect fish aggregation, including FADs, during the period of closure, shall request the vessel to stop fishing and, if necessary, leave the area without delay. The flag Member State concerned shall without delay report to the Commission the results of its investigation and the corresponding measures taken. The Commission shall forward that information to the coastal State and to the ICCAT Executive Secretary.”

- (13) The title of Chapter II is replaced by the following:

**“CHAPTER II**

**Northern and Southern Atlantic albacore”**

- (14) Article 17a is added:

*“Article 17a*

***Specific authorisations for large-scale catching vessels targeting North and Southern Atlantic albacore***

1. Member States shall issue fishing authorisations, in accordance with the provisions laid down in Regulation (EU) 2017/2403,<sup>4</sup> to large-scale catching vessels flying their flag to fish North and Southern Atlantic albacore in the ICCAT Convention area.
2. Large-scale fishing vessels not entered into the ICCAT record of authorised vessels targeting North and Southern Atlantic albacore shall not be allowed to fish, retain on board, tranship, transport, transfer, process or land North and Southern Atlantic albacore from the ICCAT Convention area. Article 15(1) of Regulation (EU) No 1380/2013 shall not apply in such cases.
- 3 Union fishing vessels not authorised to fish for North and Southern Atlantic albacore pursuant to paragraph 1, may be allowed bycatch of North and Southern Atlantic albacore in accordance with a maximum on board bycatch limit for such vessels. Member States shall report to the Commission, as part of the annual report, on the maximum bycatch limit it allows for their vessels.”

- (15) Article 17b is added:

*“Article 17b*

***Underage or overage North Atlantic albacore and Southern Atlantic albacore***

1. Any unused portion or excess of a Member State annual quota/catch limit may be added to/shall be deducted from, according to the case, the respective quota/catch limit during or before the adjustment year following ICCAT recommendations in force for North Atlantic albacore and Southern Atlantic albacore.
2. The maximum underage that a Member State may carry-over in any given year shall not exceed the amount permitted in the particular year by ICCAT.”

- (16) Article 17c is added:

*“Article 17c*

***Southern Atlantic albacore record of catches***

Member States whose vessels catch Southern Atlantic albacore, shall report their accurate and validated Southern Atlantic albacore catch to the ICCAT Secretariat as part of Task I data and Task II data referred to in Article 50.”

- (17) Article 18a is added:

*“Article 18a*

***Specific authorisations for large-scale catching vessels targeting North and South Atlantic swordfish***

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<sup>4</sup> 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).

1. Member States shall issue fishing authorisations, in accordance with the provisions laid down in Regulation (EU) 2017/2403 to large-scale catching vessels flying their flag to fish North and South Atlantic swordfish in the ICCAT Convention area.

2. Large-scale fishing vessels not entered into the ICCAT record of authorised vessels targeting North and South Atlantic swordfish shall not be allowed to fish, retain on board, tranship, transport, transfer, process or land North and South Atlantic swordfish from the ICCAT Convention area. Article 15(1) of Regulation (EU) No 1380/2013 shall not apply in such cases.

3. Union fishing vessels not authorised to fish for North and South Atlantic swordfish pursuant to paragraph 1, may be allowed bycatch of North and South Atlantic swordfish in accordance with a maximum onboard bycatch limit for such vessels. Member States shall report to the Commission, as part of the annual report, on the maximum bycatch limit it allows for their vessels.”

(18) Article 18b is added:

*“Article 18b*

***Underage catch of North and South Atlantic swordfish***

1. Any unused portion of a Member State annual quota/catch limit may be added to the respective quota/catch limit during or before the adjustment year following ICCAT recommendations in force for North and South Atlantic swordfish.

2. The maximum underage of North and South Atlantic swordfish that a Member State may carryover in any given year shall not exceed the amount permitted in the particular year by ICCAT.”

(19) The title of Chapter IV is replaced by the following:

**“CHAPTER IV**

**Sailfish, blue marlin, white marlin, and roundscale spearfish”**

(20) Article 27 is replaced by the following:

*“Article 27a*

***Release of blue marlin, white marlin, roundscale spearfish caught alive***

1. By way of derogation from Article 15(1) of Regulation (EU) No 1380/2013, when 80% of their quota is exhausted, Member States shall ensure that vessels flying their flag release all blue marlin (*Makaira nigricans*), white marlin (*Tetrapturus albidus*), and roundscale spearfish (*Tetrapturus georgei*) that are alive by the time of boarding.

2. Union pelagic longline vessels and Union purse seiners shall promptly release blue marlin and white marlin/roundscale spearfish that are alive at haul-back, giving due consideration to the safety of crew members, in a manner that causes the least harm and maximizes post-release survival.

3. Member States shall encourage implementation of the minimum standards for safe handling and live release procedures specified in Annex 1 to Recommendation 19-05 by producing guidelines for their fleet. The fishing vessels shall have readily available on deck and easily accessible by crew, a lifting device, bolt cutter, dehooker/disgorger and line-cutter for safe release of live marlins caught.

4. Member States shall ensure that captain and crew members of their fishing vessels are adequately trained, aware of and use proper mitigation, identification, handling and releasing techniques and keep on board all equipment necessary for the release of marlins in accordance with the minimum standards for safe handling procedures as specified in Annex 1 to Recommendation 19-05 by producing guidelines for their fleet.

5. Member States shall endeavour to minimise the post-release mortality of marlins/roundscale spearfish in their ICCAT fisheries.

6. Member States may authorise their pelagic longline and purse seiners to fish and retain on board, tranship, or land blue marlin and white marlin/roundscale spearfish that are dead, within their landing limit.”

(21) In Article 29, paragraph 5 is added:

“5. In recreational fisheries any released fish shall be released in a manner that causes the least harm.”

(22) Article 29bis is inserted:

*“Article 29bis*

***Data collection for sailfish***

Member States shall collect data on catches of sailfish, including live and dead discards, and report these data annually as part of their Task I and II data submission to support the stock assessment process.”

(23) Article 29ter is inserted:

*“Article 29ter*

***Data collection and reporting***

1. Member States shall implement data collection programmes that ensure the reporting of accurate billfish catch, effort, size and discard data to ICCAT in full accordance with the ICCAT requirements for the submission of Task I and Task II data.

2. Member States shall submit to the Commission their billfish implementation check sheets pursuant to Annex 1 to Recommendation 18-05, including information on the actions they have taken domestically to monitor catches and to conserve and manage billfish.

3. The failure to report Task I data, including dead discards, for blue marlin and white marlin/round-scale spearfish in accordance with ICCAT Recommendations 01-16 and 11-15 will result in a prohibition of retention of these species.”

(24) Article 33 is replaced by the following:

*“Article 33*

***Shortfin mako sharks (*Isurus oxyrinchus*)***

1. Union fishing vessels shall promptly release North Atlantic shortfin mako sharks in a manner that causes the least harm, while giving due consideration to the safety of crew members.

2. Notwithstanding paragraph 1, Member States may authorise their vessels to fish and retain on board, transship or land North Atlantic shortfin mako, provided that:

(i) the shortfin mako is dead when brought along side for taking on board the vessel;

(ii) the retention of shortfin mako does not exceed the fishing vessel's average shortfin mako landings while an observer is on board and this is verified by mandatory logbooks and landing inspection conducted on the basis of risk assessment.

3. Moreover, for vessels whose length is greater than 12 m, Member States may only authorise their vessels to fish and retain on board, transship or land North Atlantic shortfin mako, if, in addition to the conditions provided in paragraph 2:

a) the vessel has either an observer or a functioning electronic monitoring system on board which can identify whether the fish is dead or alive;

b) the observer collects data on the number of individuals hooked, body length, sex, condition, maturity (whether the individual is pregnant and its litter size) and weight of products for each shortfin mako caught as well as fishing effort; and

c) when shortfin mako is not retained, the number of dead discards and live releases shall be recorded by the observer or estimated from the records of the electronic monitoring system.

4. The observer is also encouraged to collect biological samples such as muscular tissues (for stock identification), reproductive organ with embryo (for identification of pregnancy cycle and reproductive output) and vertebrae (for estimation of growth curve). The biological samples collected by the observer should be analysed by Member States concerned and the result should be submitted to the Standing Committee on Research and Statistics by the Commission.

5. Member States shall also report to the Commission the number of dead discards and live releases of North Atlantic shortfin mako estimated based on the total fishing effort of their relevant fleets using data collected through observer programs or other relevant data collection programs. Member States that do not authorise their vessels to fish and retain on board, transship or land North Atlantic shortfin mako in accordance with paragraphs 2 and 3 shall also record through their observer programs the number of dead discards and live releases of North Atlantic shortfin mako. The Commission shall report it to the Standing Committee on Research and Statistics.

(25) Article 36bis is added:

*“Article 36bis*

***Data collection for sharks***

1. Member States shall implement data collection programmes that ensure the reporting of accurate sharks catch, effort, size and discard data to ICCAT in full accordance with the requirements for provision of Task I data and Task II data.

2. Member States shall submit to the Commission their shark implementation check sheet pursuant to Annex 1 to Recommendation 18-06, including information on the actions they have taken domestically to monitor catches and to conserve and manage sharks.”

(26) New Article 44bis is added:

*“Article 44bis*

***Vessel monitoring system***

“In addition to provisions of Article 9 of the Council Regulation (EC) No 1224/2009 of 20 November 2009<sup>5</sup>, each Member State ensure that the satellite tracking devices of fishing vessels flying its flag, are permanently and continuously operational and that the information is collected and transmitted at least once every hour for purse seine.”

(27) Article 54 is amended as follows, paragraph 4 is replaced by the following:

“4. The notification referred to in paragraphs 2 and 3 shall reflect the format and layout established by the ICCAT Executive Secretary and shall include the following information:

- name of vessel, register number
- ICCAT Record Number (if any)
- IMO number
- previous name (if any)
- previous flag (if any)
- previous details of deletion from other registries (if any)
- international radio call sign
- type of vessels, length, gross registered tonnage (GRT) and carrying capacity
- name and address of owner(s) and operator(s)
- type of transshipment authorised (i.e., in port and/or at sea)
- time period authorised for transshipping.”

(28) New Article 58bis is added:

*Article 58bis*

***Health and safety of observers in the ICCAT regional observer programmes***

“1. Each Member State shall ensure that their vessels that carry on board an ICCAT regional observer are outfitted with appropriate safety equipment for the entirety of each voyage, including the following:

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<sup>5</sup> 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).



- a) a life raft of sufficient capacity for all persons on board and with a certificate of inspection that is valid throughout the observer's deployment;
- b) life jackets or survival suits of sufficient number for all persons on board, and compliant with relevant international standards; and
- c) a properly registered Emergency Position Indicating Radio Beacon (EPIRB) and a Search and Rescue Transponder (SART) that will not expire until after the observer deployment ends.

2. Member States vessels carrying an ICCAT regional observer shall develop and implement an Emergency Action Plan (EAP) to be followed in the event an observer dies, is missing or presumed fallen overboard, suffers from a serious illness or injury that threatens his or her health, safety, or welfare, or has been assaulted, intimidated, threatened or harassed. Such EAPs must include, inter alia, the elements in Annex 1 to Recommendation 19-10.

3. Member States vessels carrying an ICCAT regional observer shall submit EAPs to the Commission for posting on the ICCAT web site. New or amended EAPs shall be provided to the Commission for posting when they become available.

4. Union vessels shall be eligible to carry an observer from an ICCAT regional observer programme only if they have submit an EAP. Furthermore, if the Commission identifies inconsistencies with the standards set out in Annex 1 to Recommendation 19-10 on the basis of the information in the EAP, the Commission may decide that the deployment of an observer on a vessel of the concerned flag Member State shall be delayed until the inconsistency has been sufficiently addressed."

(29) Article 61 shall be amended as follows:

a) in paragraph 1, point (a) is replaced by the following:

"(a) a minimum of 5% observer coverage of fishing effort in each of pelagic longline, purse seine, baitboat, traps, gillnet and trawl fisheries."

b) paragraph 2 is replaced by the following:

"2. The percentage coverage will be measured:

- a) for purse seine fisheries, in number of sets or trips;
- b) for pelagic longline fisheries, in fishing days, number of sets, or trips;
- c) for baitboat and trap fisheries, in fishing days;
- d) for gillnet fisheries, in fishing hours or days; and
- e) for trawl fisheries, in fishing hauls or days."

(30) Article 63 is replaced by the following:

*"Article 63*

***Responsibilities of scientific observers***

1. Each Member State 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 mitigation measures to reduce incidental catches 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 regional observer programme adopted under the multi-annual conservation and management programme for tropical tuna; and

(e) perform any other scientific tasks as recommended by the Standing Committee on Research and Statistics and agreed by the Commission.

2. Each Member State shall ensure that observers:

(a) do not interfere with the electronic equipment of the vessel;

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

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

(d) do not hinder or interfere with the fishing activities and the normal operations of the vessel;

(e) participate in a debriefing session(s) with appropriate representatives of the scientific institute or the domestic authority responsible for implementing the observer program;

3. Masters of the vessels to which the observer is assigned shall:

(a) permit appropriate access to the vessel and its operations;

(b) allow 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.

(c) provide accommodation to observers, including berthing, food and adequate sanitary and medical facilities, equal to those of officers;

(d) provide 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;

4. Each Member State shall:

(a) require its vessels, when fishing for ICCAT species, to carry a scientific observer in accordance with the provisions of this regulation;

(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 Member State or CPCs for the exchange of observer reports and observer data between them;

(d) provide in its annual report for use by the Commission and the Standing Committee on Research and Statistics, specific information on the implementation of ICCAT Recommendation 16-14, 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 it is measured;
- data required to be collected;
- data collection and handling protocols in place;
- information on how vessels are selected for coverage to achieve the Member States' 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 details on how those coverage levels were calculated;

(e) following the initial submission of the information required under point (d)(i), report changes to the structure and/or design of its observer programs in its annual reports only when such changes occur. Member States shall continue to report the information required pursuant to point (d) (ii) to the Commission annually.

(f) each year, using the designated electronic formats that are developed by the Standing Committee on Research and Statistics, report to the Standing Committee on Research and Statistics information collected through domestic

observer programs for use by the 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 1, including, as necessary and appropriate, the use of photography.”

(31) In Article 66, paragraphs 4 and 5 are added:

“4. Each Member State shall inspect annually at least 5% of landing and transshipment operations conducted by third country fishing vessels in their designated ports.

5. Flag Member States shall consider and act on reports of infringements from inspectors of a port State on a similar basis as the reports from their own inspectors, in accordance with their domestic laws.”

(32) Article 66bis is added:

*“Article 66bis*

*Sighting of vessels*

1. Member states shall collect as much information as feasible, through inspection and surveillance operations conducted by their competent authorities in the ICCAT Convention area, when an Union fishing vessel, third country fishing vessel or a vessel without nationality is sighted in fishing or fishing related activities (e.g., transshipment) that are presumed to be engaged in Illegal, Unreported and Unregulated (IUU) fishing.

2. Member states shall collect information on vessel sightings in accordance with the sighting information sheet set out in the annex to ICCAT Recommendation 19-09.

3. When a vessel is sighted pursuant to paragraph 1, the sighting Member state shall without undue delay notify and provide any recorded images of the vessel to the appropriate authorities of the flag Member State or CPC or flag non-CPC of the sighted vessel, and:

a) if the sighted vessel is flagged to a Member State, the flag Member state shall, without undue delay, take appropriate action with respect to the vessel in question. Both the sighting Member State and the flag Member state of the sighted vessel shall provide information on the sighting to the Commission and the European Fisheries Control Agency (EFCA), including details of any follow-up actions taken;

b) if the sighted vessel is flagged to another CPC, a non-CPC, is of indeterminate flag, or is without nationality, the sighting Member State shall, without undue delay, provide to the Commission and the EFCA all appropriate information related to the sighting. The Commission, as appropriate, shall transmit the sighting information to the ICCAT Secretariat.

(33) In Article 71(1), the date “20 August” is replaced by “1 August”.

(34) Article 73 is amended as follows:

- (a) in point (a) “Annex I” is inserted instead of the reference to Annex II,
- (b) the following points are added:
  - “(j) capacity limitations for tropical tunas under Article 5a related to annual capacity fishing plan reporting referred to paragraph 2, as well as number of support vessels referred to in paragraph 3;
  - (k) management plans in respect of FADs under Article 9 concerning number of instrumental buoys referred to in paragraph 4;
  - (l) requirements for FADs under Article 10(1) ;
  - (m) information to be submitted on FAD deployment by vessels under Article 11(1), information and reporting information referred to in paragraph 2, and collection and reporting for loss of FAD referred to in paragraph 3;
  - (n) periods for prohibition of FAD deployment under Article 14(1), and minimum observer coverage under Article 14(2);
  - (o) restrictions on the number of vessels fishing North Atlantic Albacore under Article 17;
  - (p) annual carryover under Article 8a for bigeye tuna;
  - (q) annual carryover under Article 17b of North Atlantic albacore and Southern Atlantic albacore;
  - (r) annual carryover under Article 18b of North and South Atlantic swordfish;
  - (s) North Atlantic swordfish management plan under Article 18;
  - (t) conditions to authorise catch and retain shortfin mako sharks under Article 33(2);
  - (u) requirements to maximise sea turtle survival under Article 41;
  - (v) minimum percent of observer coverage under Article 61(1)(a) and percentage coverage measurement under Article 61(2).”

- (35) Annex I to Regulation (EU) 2017/2107 is replaced by the text in the Annex to this Regulation.

## *Article 2*

### ***Amendments to Regulation (EU) 2017/2107 of the European Parliament and of the Council establishing a multiannual management plan for Bluefin tuna in the eastern Atlantic and the Mediterranean, amending Regulation (EC) No 1936/2001, (EU) 2017/2107, and (EU) 2019/833 and repealing Regulation (EU) 2016/1627***

Regulation (EU) XXX/2022 is hereby amended as follows:

- (1) In Article 7, the following points (a) and (b) are inserted in paragraph (...):
  - “a) farm Member States shall complete and transmit an annual carry-over declaration to the Commission each year by 25 May.
 Such declaration shall include:

- quantities (expressed in kg) and number of fish intended to be carried over,
- year of catch,
- average weight,
- flag CPC,
- references of the BCD corresponding to the catches carried over,
- name and ICCAT number of the farm,
- cage number, and
- information on harvested quantities (expressed in kg), when completed.

b) quantities carried over in accordance with the above paragraph shall be placed in separate cages or series of cages in the farm on the basis of the catch year.”

- (2) In Article 46, the following points (a) and (b) are inserted in the paragraph (...):

“a) Member States shall not place bluefin tuna into a farm not authorised by the Member State or CPC or not listed in the ICCAT record of farming facilities.

b) Farm Member States shall ensure that bluefin tuna catches are placed in separate cages or series of cages and partitioned on the basis of flag Member State or CPC of origin. By derogation, if the bluefin tuna are caught in the context of a joint fishing operation (JFO) between different Member States, farm Member states shall ensure that bluefin tuna are placed in separate cages or series of cages and partitioned based on joint fishing operations.”

### *Article 3* *Entry into force*

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

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

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*