Regulation (EU) 2019/1797 of the European Parliament and of the Council of 24 October 2019 amending Regulation (EU) 2017/2403 as regards fishing authorisations for Union fishing vessels in United Kingdom waters and fishing operations of United Kingdom fishing vessels in Union waters

REGULATION (EU) 2019/1797 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 24 October 2019

amending Regulation (EU) 2017/2403 as regards fishing authorisations for Union fishing vessels in United Kingdom waters and fishing operations of United Kingdom fishing vessels in Union waters

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[(1)],

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) On 29 March 2017, the United Kingdom submitted the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union (TEU). The Treaties will cease to apply to the United Kingdom from the date of entry into force of a withdrawal agreement or, failing that, two years after that notification, unless the European Council, in agreement with the United Kingdom, unanimously decides to extend that period.

(2) Following a request by the United Kingdom, the European Council granted a first extension on 22 March 2019[(3)]. On 11 April 2019, following a request by the United Kingdom, the European Council agreed[(4)] to extend further the period provided for in Article 50(3) TEU until 31 October 2019. Unless a withdrawal agreement concluded with the United Kingdom has entered into force by the day following that on which the Treaties cease to apply to the United Kingdom, or the European Council, in agreement with the United Kingdom, unanimously decides to extend the period provided for in Article 50(3) TEU for a third time, the period provided for in Article 50(3) TEU will end on 31 October 2019, and the United Kingdom will withdraw from the Union without an agreement and will become a third country on 1 November 2019.

(3) The Withdrawal Agreement published in the *Official Journal of the European Union* on 25 April 2019[(5)] (the 'Withdrawal Agreement') contains arrangements for the application of provisions of Union law to the United Kingdom beyond the date on which

the Treaties cease to apply to the United Kingdom. If the Withdrawal Agreement enters into force, the common fisheries policy (CFP) will apply to the United Kingdom during the transition period in accordance with the Withdrawal Agreement and will cease to apply at the end of that period.

(4) As provided for in the United Nations Convention on the Law of the Sea of 10 December 1982[(6)] and in the United Nations Agreement on the implementation of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 August 1995[(7)], the parties are obliged to ensure through proper conservation and management measures that the living marine resources are maintained at levels where they are not endangered by over-exploitation.

(5) Consequently, it is necessary to ensure that the combined catch opportunities available to the Union and to the United Kingdom ensure sustainable management of the relevant stocks.

(6) Regulation (EU) 2017/2403 of the European Parliament and of the Council[(8)] sets out the rules for issuing and managing fishing authorisations for fishing vessels in waters under the sovereignty or jurisdiction of a third country and for third-country fishing vessels conducting fishing operations in Union waters.

(7) Regulation (EU) 2019/498 of the European Parliament and of the Council[(9)] amended Regulation (EU) 2017/1403 as regards fishing authorisations for Union fishing vessels in United Kingdom waters and fishing operation of United Kingdom fishing vessels in Union waters. That amendment would allow for the possibility of continued fishing access by Union and United Kingdom vessels to each other's waters. A flexible system was also provided for which would allow the Union to exchange quotas with the United Kingdom after the Treaties cease to apply to the United Kingdom. The period of application of those provisions needs to be extended to enable the issuing of fishing authorisations for fishing activities in each other's waters in the absence of a fisheries agreement concluded with the United Kingdom as a third country, provided that the management of the relevant stocks continues to be sustainable and in accordance with the conditions set out in the rules of the CFP and in the Council Regulations fixing fishing opportunities.

(8) The fishing opportunities for 2019, and for deep-sea fish stocks for 2019 and 2020, were set[(10)] while the United Kingdom was still a Member State. Those arrangements and the fishing opportunities set out therein provide the basis for sustainability of those fishing activities. For all other fishing opportunities for 2020, it is essential to ensure the sustainability of the fishing opportunities.

(9) Should the Withdrawal Agreement not be ratified by 31 October 2019, and should the United Kingdom withdraw from the Union on 1 November 2019, it may not be feasible for the Union and the United Kingdom to conclude a common arrangement on the fishing opportunities for stocks concerned for 2020 in time for the meeting of the Council of Fisheries Ministers in December 2019, which is scheduled to set the fishing opportunities for the following year. The absence of a common arrangement, however, does not as such prevent the Union and the United Kingdom from granting access to

each other's waters. In that case, they would be able to issue fishing authorisations to each other's fishing vessels provided they both meet the conditions for sustainable management of the relevant stocks.

(10) Therefore, in the light of the provisions and conditions set out in Regulation (EU) 2017/2403, and as a prerequisite for the issuing of fishing authorisations, the Union will need to assess whether the combined effect of fishing operations established in management measures put in place by the Union and the United Kingdom for 2020 is in line with the sustainable management of the stocks concerned.

(11) The consistency of the combined fishing opportunities of the Union and the United Kingdom with the sustainable management of the stocks concerned is to be assessed in the light of the best available scientific advice for the stocks concerned, the relevant provisions of Regulation (EU) No 1380/2013 of the European Parliament and of the Council[(11)] as well as the criteria and parameters set out in applicable management plans in force and the relevant Council Regulations fixing the fishing opportunities for 2020.

(12) In the event that such consistency can be ensured, it is important to maintain the possibility for arrangements for continued reciprocal fishing access by Union and United Kingdom fishing vessels to each other's waters in 2020, given the importance of fisheries for the economic livelihood of many coastal communities.

(13) Therefore, the application of all measures concerning fishing operations provided for in the contingency measures adopted under Regulation (EU) 2019/498 should be extended to cover the year 2020, and Regulation (EU) 2017/2403 should be amended accordingly.

(14) The territorial scope of this Regulation and any reference to the United Kingdom therein does not include Gibraltar.

(15) This Regulation should enter into force as a matter of urgency and should apply from the date following that on which the Treaties cease to apply to the United Kingdom, unless a withdrawal agreement concluded with the United Kingdom has entered into force by that date. It should apply until 31 December 2020.

(16) In view of the urgency entailed by the withdrawal of the United Kingdom from the Union, it was considered to be appropriate to provide for an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the Union, annexed to the TEU, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community.

(17) In order to enable both Union and United Kingdom operators to continue to fish in accordance with the relevant fishing opportunities allocated to them, fishing authorisations for activities in Union waters should only be granted to United Kingdom fishing vessels if and in so far as the Commission satisfies itself that the United Kingdom grants access rights to Union fishing vessels to conduct fishing operations in United Kingdom waters on the basis of reciprocity,

HAVE ADOPTED THIS REGULATION: