Regulation (EU) 2019/1241 of the European Parliament and of the Council of 20 June 2019 on the conservation of fisheries resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005

REGULATION (EU) 2019/1241 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 20 June 2019

on the conservation of fisheries resources and the protection of marine ecosystems through technical measures, amending Council Regulations (EC) No 1967/2006, (EC) No 1224/2009 and Regulations (EU) No 1380/2013, (EU) 2016/1139, (EU) 2018/973, (EU) 2019/472 and (EU) 2019/1022 of the European Parliament and of the Council, and repealing Council Regulations (EC) No 894/97, (EC) No 850/98, (EC) No 2549/2000, (EC) No 254/2002, (EC) No 812/2004 and (EC) No 2187/2005

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)],

Having regard to the opinion of the Committee of the Regions[(2)],

Acting in accordance with the ordinary legislative procedure[(3)],

Whereas:

(1) Regulation (EU) No 1380/2013 of the European Parliament and of the Council[(4)] establishes a Common Fisheries Policy (CFP) for the conservation and sustainable exploitation of fisheries resources.

(2) Technical measures are tools to support the implementation of the CFP. However, an evaluation of the current regulatory structure in relation to technical measures showed that it is unlikely to achieve the objectives of the CFP and a new approach should be taken to increase the effectiveness of technical measures, focusing on adapting the governance structure.

(3) There is a need to develop a framework for the regulation of technical measures. That framework should, on the one hand, establish general rules which are to apply across all Union waters and, on the other hand, provide for the adoption of technical measures

Changes to legislation: *There are outstanding changes not yet made to Regulation (EU) 2019/1241 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

that take account of the regional specificities of fisheries through the regionalisation process introduced by Regulation (EU) No 1380/2013.

(4) The framework should cover the taking and landing of fisheries resources as well as the operation of fishing gear and the interaction of fishing activities with marine ecosystems.

(5) This Regulation should apply to fishing operations conducted in Union waters by Union and third-country fishing vessels and by nationals of Member States — without prejudice to the primary responsibility of the flag State — as well as to Union fishing vessels operating in Union waters of the outermost regions referred to in the first paragraph of Article 349 of the Treaty on the Functioning of the European Union (TFEU). It should also apply, in respect of Union fishing vessels and nationals of Member States, in non-Union waters to technical measures adopted for the North East Atlantic Fisheries Commission (NEAFC) Regulatory Area and the General Fisheries Commission for the Mediterranean (GFCM) Agreement Area.

(6) Where relevant, technical measures should apply to recreational fishing, which can have a significant impact on the stocks of fish and shellfish species.

(7) Technical measures should contribute to achieving the CFP objectives to fish at maximum sustainable yield levels, reduce unwanted catches and eliminate discards, and contribute to the achievement of good environmental status as set out in Directive 2008/56/EC of the European Parliament and of the Council[(5)].

(8) Technical measures should specifically contribute to the protection of juveniles and spawning aggregations of marine species through the use of selective fishing gear and measures for the avoidance of unwanted catches. Technical measures should also minimise the impacts of fishing gear on marine ecosystems and in particular on sensitive species and habitats, including where appropriate by using incentives. They should also contribute to having in place management measures for the purposes of complying with obligations under Council Directive 92/43/EEC[(6)], Directive 2008/56/EC and Directive 2009/147/EC of the European Parliament and of the Council[(7)].

(9) To evaluate the effectiveness of technical measures, targets relating to the levels of unwanted catches, in particular catches of marine species below the minimum conservation reference size, to the level of incidental catches of sensitive species and to the extent of seabed habitats adversely affected by fishing should be established. Those targets should reflect the objectives of the CFP, Union environmental legislation — in particular Directive 92/43/EEC and Directive 2000/60/EC of the European Parliament and of the Council[(8)] — and international best practice.

(10) In order to ensure uniformity as regards the interpretation and implementation of technical rules, definitions of fishing gear and fishing operations contained in existing technical measures regulations should be updated and consolidated.

(11) Certain destructive fishing gear or methods which use explosives, poison, stupefying substances, electric current, pneumatic hammers or other percussive instruments, towed devices and grabs for harvesting red coral or other type of corals and coral-like species and certain spear-guns, should be prohibited. It should not be allowed to sell, display

***Changes to legislation:** There are outstanding changes not yet made to Regulation (EU) 2019/1241 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

or offer for sale any marine species caught using such gear or methods where they are prohibited under this Regulation.

(12) The use of electric pulse trawl should remain possible during a transitional period until 30 June 2021 and under certain strict conditions.

(13) In the light of advice from the Scientific, Technical and Economic Committee for Fisheries (STECF), certain common rules setting out restrictions on the use of towed gear and on the construction of codends should be established, in order to prevent bad practices that lead to unselective fishing.

(14) In order to restrict the use of driftnets which can fish over large areas and result in significant catches of sensitive species, the existing restrictions on using such fishing gear should be consolidated.

(15) In the light of advice from STECF, fishing with static nets in ICES divisions 3a, 6a, 6b, 7b, 7c, 7j and 7k and ICES sub-areas 8, 9, 10 and 12 east of 27° W in waters with a charted depth of more than 200 m should continue to be prohibited, in order to provide protection for sensitive deep-sea species, subject to certain derogations.

(16) For certain rare fish species, such as some species of sharks and rays, even limited fishing activity could result in a serious risk for their conservation. To protect such species a general prohibition on fishing for them should be introduced.

(17) To afford the strict protection for sensitive marine species such as marine mammals, seabirds and marine reptiles provided for in Directives 92/43/EEC and 2009/147/EC, Member States should put in place mitigation measures to minimise and where possible eliminate the catching of such species by fishing gear.

(18) In order to provide continued protection for sensitive marine habitats located off the coasts of Ireland, the United Kingdom and around the Azores, Madeira and the Canary Islands, as well as in the NEAFC Regulatory Area, existing restrictions on the use of demersal fishing gear should be maintained.

(19) Where scientific advice identifies other such habitats, there should be a possibility to introduce similar restrictions to protect those habitats.

(20) In accordance with Regulation (EU) No 1380/2013, minimum conservation reference sizes should be established to ensure the protection of juveniles of marine species and for the purpose of establishing fish stock recovery areas, as well as for the purpose of constituting minimum marketing sizes.

(21) The manner in which the size of marine species is to be measured should be defined.

(22) There should be a possibility for Member States to carry out pilot projects with the aim of exploring ways to avoid, minimise and eliminate unwanted catches. Where the results of those projects or scientific advice indicate that there are significant unwanted catches, Member States should endeavour to establish technical measures to reduce such catches.

(23) This Regulation should establish baseline standards for each sea basin. Those baseline standards are derived from existing technical measures, taking account of STECF

Changes to legislation: *There are outstanding changes not yet made to Regulation (EU) 2019/1241 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

advice and the opinions of stakeholders. Those standards should consist of baseline mesh sizes for towed gear and static nets, minimum conservation reference sizes, closed or restricted areas, as well as nature conservation measures to mitigate against catches of sensitive species in certain areas and any other existing regionally specific technical measures.

(24) Member States should have the possibility to develop joint recommendations for appropriate technical measures that differ from these baselines in accordance with the regionalisation process set out in Regulation (EU) No 1380/2013, based on scientific evidence.

(25) Such regional technical measures should as a minimum lead to such benefits for the conservation of marine biological resources that are at least equivalent to the ones provided by the baseline standards, in particular in terms of exploitation patterns and the level of protection provided for sensitive species and habitats.

(26) When developing joint recommendations in relation to size and species selective characteristics of gear alternative to the baseline mesh sizes, regional groups of Member States should ensure that such measures result in similar, as a minimum, or improved selectivity characteristics as the baseline gear.

(27) When developing joint recommendations in relation to restricted areas for the protection of juveniles and spawning aggregations, regional groups of Member States should define the objectives, geographical extent and duration of closures as well as gear restrictions and control and monitoring arrangements in their joint recommendations.

(28) When developing joint recommendations in relation to minimum conservation reference sizes, regional groups of Member States should ensure that the objective of the CFP of ensuring the protection of juveniles of marine species is respected, while ensuring that no distortion is introduced into the market and that no market for fish below minimum conservation reference sizes is created.

(29) The creation of real-time closures in conjunction with moving-on provisions as an additional measure for the protection of sensitive species, juveniles or spawning aggregations should be allowed as an option to be developed through regionalisation. The conditions for the establishment of such areas, including the geographical extent and duration of closures, as well as the control and monitoring arrangements should be defined in the relevant joint recommendations.

(30) On the basis of an assessment of the impacts of innovative gear, the use, or extending the use, of such innovative gear could be included as an option in joint recommendations from regional groups of Member States. The use of innovative fishing gear should not be permitted where scientific assessment indicates that their use would lead to significant negative impacts on sensitive habitats and non-target species.

(31) When developing joint recommendations in relation to the protection of sensitive species and habitats, regional groups of Member States should be allowed to develop additional mitigation measures to reduce the impacts of fishing on such species and habitats. Where scientific evidence shows that there is a serious threat to the conservation status of sensitive species and habitats, Member States should introduce

***Changes to legislation:** There are outstanding changes not yet made to Regulation (EU) 2019/1241 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

additional restrictions on the construction and operation of certain fishing gear or even the introduction of a total prohibition on their use in a given area. In particular, such restrictions could be applied to the use of driftnets which in certain areas has resulted in significant catches of sensitive species.

(32) Regulation (EU) No 1380/2013 allows for the establishment of temporary discard plans for the implementation of the landing obligation, in cases where no multiannual plan is in place for the fishery in question. As part of such plans it should be allowed to establish technical measures which are strictly linked to the implementation of the landing obligation and which aim to increase selectivity and reduce unwanted catches as much as possible.

(33) There should be a possibility to carry out pilot projects on full documentation of catches and discards. Such projects could involve derogations from the rules on mesh sizes laid down in this Regulation insofar as they contribute to achieving the objectives and targets of this Regulation.

(34) Certain provisions on technical measures adopted by NEAFC should be included in this Regulation.

(35) In order not to hinder scientific research or direct restocking and transplantation, the technical measures provided for in this Regulation should not apply to operations which may be necessary for conducting such activities. In particular, where fishing operations for the purposes of scientific research require such a derogation from the technical measures under this Regulation, they should be subject to appropriate conditions.

(36) The power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of adopting certain measures in relation to recreational fishing, restrictions on towed gear, sensitive species and habitats, the list of fish and shellfish for which directed fishing is prohibited, the definition of directed fishing, pilot projects on full documentation on catches and discards, and technical measures as part of temporary discard plans, as well as in relation to minimum conservation reference sizes, mesh sizes, closed areas and other technical measures in certain sea basins, mitigation measures for sensitive species and the list of species of key indicator stocks. 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-Making[(9)]. 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.

(37) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission in respect of the establishment of the specification of devices to reduce wear and tear of and to strengthen towed gear or to limit the escape of catches in the forward part of towed gear; to define the specification of the selection devices attached to defined baseline gear; to define the specifications of the electric pulse trawl; to define restrictions on construction of