# Regulation (EU) 2019/1154 of the European Parliament and of the Council of 20 June 2019 on a multiannual recovery plan for Mediterranean swordfish and amending Council Regulation (EC) No 1967/2006 and Regulation (EU) 2017/2107 of the European Parliament and of the Council

## REGULATION (EU) 2019/1154 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 20 June 2019

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

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) The objective of the Common Fisheries Policy ('CFP'), as set out in Regulation (EU) No 1380/2013 of the European Parliament and of the Council[(3)], is to ensure exploitation of marine biological resources that provides sustainable economic, environmental and social conditions.

(2) The Union is Party to the International Convention for the Conservation of Atlantic Tunas ('the ICCAT Convention').

(3) At the 2016 Annual Meeting of the International Commission for the Conservation of Atlantic Tunas ('ICCAT') in Vilamoura, Portugal, the ICCAT Contracting Parties and Cooperating non-Contracting Parties, Entities or Fishing Entities recognised the need to address the alarming situation of swordfish (*Xiphias gladius*) in the Mediterranean Sea ('Mediterranean swordfish'), which has been overfished over the last 30 years. To that end, including avoiding the collapse of the stock, and after analysing the scientific advice of the Standing Committee on Research and Statistics (SCRS), ICCAT adopted Recommendation 16-05 establishing a multiannual recovery plan for Mediterranean swordfish ('ICCAT recovery plan'). In view of the fact that the current biology, structure and dynamic of the Mediterranean swordfish stock does not allow the achievement of levels of biomass capable of producing the maximum sustainable yield (MSY) in the short term, even if drastic and urgent management measures such as a total closure of the fishery were adopted, the ICCAT recovery plan is to cover the period 2017–2031.

**Changes to legislation:** *There are currently no known outstanding effects for the Regulation (EU) 2019/1154 of the European Parliament and of the Council. (See end of Document for details)*

ICCAT Recommendation 16-05 entered into force on 12 June 2017 and is binding on the Union.

(4) The Union informed the ICCAT Secretariat by letter, in December 2016, that certain measures laid down in ICCAT Recommendation 16-05 were to enter into force in the Union 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 laid down in ICCAT Recommendation 16-05, together with some of the measures already implemented, should be included in the recovery plan set out in this Regulation.

(5) In accordance with Article 29(2) of Regulation (EU) No 1380/2013, the positions of the Union in regional fisheries management organisations are to be based on the best available scientific advice so as to ensure that fishery resources are managed in accordance with the objectives of the CFP, in particular with the objective of progressively restoring and maintaining populations of fish stocks above biomass levels capable of producing MSY, even if in this particular case the date by which that objective has to be achieved is 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 account is taken of point (d) of Article 28(2) of Regulation (EU) No 1380/2013 which provides that a level playing field for Union operators vis-à-vis third-country operators is to be promoted.

(6) The ICCAT recovery plan takes into account the specificities of the different types of fishing gear and fishing techniques. When implementing the ICCAT recovery plan, the Union and Member States should endeavour to promote coastal fishing activities and the research on and use of fishing gear and techniques which are selective, so as to reduce by-catches of vulnerable species, and which 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 implemented into Union law as minimum conservation reference sizes.

(8) Pursuant to ICCAT Recommendation 16-05, Mediterranean swordfish that have been caught and are below minimum conservation reference size have to be discarded. The same applies to catches of Mediterranean swordfish exceeding 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 ICCAT, Article 5a of Commission Delegated Regulation (EU) 2015/98[(4)] 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) 2015/98 implements certain provisions of ICCAT Recommendation 16-05 which lays down the obligation to discard Mediterranean swordfish for vessels that exceed their allocated quota 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 set out in this Regulation will implement ICCAT Recommendation 16-05, the provisions of Regulation (EU) 2017/2107 of the European Parliament and of the Council[5] concerning Mediterranean swordfish 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, by Council Regulation (EC) No 1239/98[6].

(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 1224/2009[7] 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. Commission Implementing Regulation (EU) No 404/2011[8] lays down detailed rules for the implementation of Regulation (EC) No 1224/2009. Council Regulation (EC) No 1005/2008[9] establishes a Community system to prevent, deter and eliminate IUU fishing. Those Regulations already include provisions that cover a number of the measures laid down in ICCAT Recommendation 16-05. It is therefore not necessary to include those provisions in this Regulation.

(12) In arrangements for the chartering of fishing vessels, the relationships between the owner, the charterer and the flag State are often unclear. Some operators engaging in IUU activities evade controls by abusing those arrangements. Chartering is prohibited by Regulation (EU) 2016/1627 of the European Parliament and of the Council[10] in the context of bluefin tuna fisheries. It is 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 recovery plan set out in this Regulation.

(13) Union legislation should implement 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 ICCAT recommendations amending or supplementing the ICCAT recovery plan, 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 and certain provisions of this Regulation on deadlines for reporting information, time periods for closures, minimum conservation reference size, tolerance levels for incidental catches and by-catches, technical characteristics of fishing gear, percentage of quota uptake for the purpose of informing the Commission, as well as information to be provided on fishing vessels. 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[11]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament

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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 this Regulation, implementing powers should be conferred on the Commission as regards the format for 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 Council[(12)].

(16) The delegated acts and implementing acts provided for in this Regulation should be without prejudice to the implementation of future ICCAT recommendations into Union law through the ordinary legislative procedure.

(17) Annex II to Council Regulation (EC) No 1967/2006[(13)] 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 into Union law it is necessary to amend Regulation (EC) No 1967/2006 accordingly.

(18) Section 2 of Chapter III of Regulation (EU) 2017/2107 lays down certain technical and control measures as regards Mediterranean swordfish. The measures laid down in ICCAT Recommendation 16-05, which are implemented into Union law 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 relevant 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 a multiannual recovery plan for swordfish (*Xiphias gladius*) in the Mediterranean Sea ('Mediterranean swordfish') adopted by ICCAT, starting from 2017 and continuing until 2031.

### *Article 2*

### Scope

This Regulation applies to:

(a) Union fishing vessels, and Union vessels engaged in recreational fisheries, which:

(i) catch Mediterranean swordfish; or

(ii) tranship or carry on board, including outside the ICCAT Convention area, Mediterranean swordfish;

(b) third country fishing vessels, and third country vessels engaged in recreational fisheries, which operate in Union waters and which catch Mediterranean swordfish;

(c) third country vessels which are inspected in Member States ports and which carry on board Mediterranean swordfish or fishery products originating from Mediterranean swordfish that have not been previously landed or transhipped at ports.

*Article 3*

**Objective**

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

*Article 4*

**Relationship to other Union law**

This Regulation applies in addition to the following Regulations or, where those Regulations so provide, by way of derogation therefrom:

(a) Regulation (EC) No 1224/2009;

(b) Regulation (EU) 2017/2403 of the European Parliament and of the Council[(14)];

(c) Regulation (EU) 2017/2107.

*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 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) ‘CPCs’ means Contracting Parties to the ICCAT Convention and Cooperating non-Contracting Parties, Entities or Fishing Entities;