Regulation (EU) 2019/472 of the European Parliament and of the Council of 19 March 2019 establishing a multiannual plan for stocks fished in the Western Waters and adjacent waters, and for fisheries exploiting those stocks, amending Regulations (EU) 2016/1139 and (EU) 2018/973, and repealing Council Regulations (EC) No 811/2004, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007 and (EC) No 1300/2008

REGULATION (EU) 2019/472 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 19 March 2019

establishing a multiannual plan for stocks fished in the Western Waters and adjacent waters, and for fisheries exploiting those stocks, amending Regulations (EU) 2016/1139 and (EU) 2018/973, and repealing Council Regulations (EC) No 811/2004, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007 and (EC) No 1300/2008

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 United Nations Convention of 10 December 1982 on the Law of the Sea, to which the Union is a contracting party, provides for conservation obligations, including the maintaining or restoring of populations of harvested species at levels which can produce the maximum sustainable yield (MSY).

(2) At the United Nations Summit on Sustainable Development held in New York in 2015, the Union and its Member States committed themselves, by 2020, to effectively regulate harvesting, to end overfishing, illegal, unreported and unregulated fishing and destructive fishing practices, and to implement science-based management plans, in order to restore fish stocks, in the shortest time feasible, at least to levels that can produce MSY as determined by their biological characteristics.

(3) Regulation (EU) No 1380/2013 of the European Parliament and of the Council[(3)] establishes the rules of the Common Fisheries Policy (CFP) in line with the international obligations of the Union. The CFP is to contribute to the protection of the marine environment, to the sustainable management of all commercially exploited species, and in particular to the achievement of good environmental status by 2020, as set out in Article 1(1) of Directive 2008/56/EC of the European Parliament and of the Council[(4)].

Changes to legislation: *There are outstanding changes not yet made to Regulation (EU) 2019/472 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*

(4) The objectives of the CFP are, inter alia, to ensure that fishing and aquaculture are environmentally sustainable in the long term, to apply the precautionary approach to fisheries management and to implement the ecosystem-based approach to fisheries management.

(5) To achieve the objectives of the CFP, a number of conservation measures are to be adopted, as appropriate, in any combination thereof, such as multiannual plans, technical measures, and the fixing and allocation of fishing opportunities.

(6) Pursuant to Articles 9 and 10 of Regulation (EU) No 1380/2013, multiannual plans are to be based on scientific, technical and economic advice. In accordance with those provisions, the multiannual plan established by this Regulation ('the plan') should contain objectives, quantifiable targets with clear timeframes, conservation reference points, safeguards and technical measures designed to avoid and reduce unwanted catches and to minimise the impact on the marine environment, in particular on vulnerable habitats and protected species.

(7) This Regulation should take into account the constraints related to the size of artisanal and coastal fishing vessels used in the outermost regions.

(8) 'Best available scientific advice' should be understood to refer to publicly available scientific advice that is supported by the most up-to-date scientific data and methods and that has either been issued or reviewed by an independent scientific body that is recognised at Union or international level.

(9) The Commission should obtain the best available scientific advice for the stocks within the scope of the plan. In order to do so, it concludes Memoranda of Understanding with the International Council for the Exploration of the Sea (ICES). The scientific advice issued in particular by ICES or a similar independent scientific body recognised at Union or international level should be based on the plan and should indicate, in particular, ranges of F_{MSY} and biomass reference points, i.e. MSY $B_{trigger}$ and B_{lim}. Those values should be indicated in the relevant stock advice and, where appropriate, in any other publicly-available scientific advice, including, for example, in mixed fisheries advice issued in particular by ICES or a similar independent scientific body recognised at Union or international level.

(10) Council Regulations (EC) No 811/2004[(5)], (EC) No 2166/2005[(6)], (EC) No 388/2006[(7)], (EC) No 509/2007[(8)] and (EC) No 1300/2008[(9)] set out the rules for the exploitation of the northern stock of hake, hake and Norway lobster stocks in the Cantabrian Sea and by the Western Iberian Peninsula, sole in the Bay of Biscay, sole in the Western Channel, herring in the West of Scotland and cod in the Kattegat, the North Sea, the West of Scotland and the Irish Sea. Those and other demersal stocks are taken in mixed fisheries. Therefore, it is appropriate to establish a single multiannual plan taking into account such technical interactions.

(11) In addition, such a multiannual plan should apply to demersal stocks and their fisheries in the Western Waters, comprising the North Western Waters and the South Western Waters. Those are roundfish, flatfish, cartilaginous fish species and Norway lobster (*Nephrops norvegicus*) that live at or near the bottom of the water column.

***Changes to legislation:** There are outstanding changes not yet made to Regulation (EU) 2019/472 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*

(12) Some demersal stocks are exploited both in the Western Waters and in their adjacent waters. Therefore the scope of the provisions of the plan relating to targets and safeguards for stocks that are mainly exploited in the Western Waters should be extended for those areas outside the Western Waters. In addition, for stocks also present in the Western Waters that are mainly exploited outside the Western Waters, it is necessary to establish the targets and safeguards in multiannual plans for areas outside the Western Waters where those stocks are mainly exploited, extending the scope of those multiannual plans so that they also cover the Western Waters.

(13) The geographical scope of the plan should be based on the geographical distribution of stocks indicated in the latest scientific stock advice provided in particular by ICES or a similar independent scientific body recognised at Union or international level. Future changes to the geographical distribution of stocks as set out in the plan may be needed either due to improved scientific information or to migration of stocks. Therefore, the Commission should be empowered to adopt delegated acts adjusting the geographical distribution of stocks set out in the plan if the scientific advice provided in particular by ICES or a similar independent scientific body recognised at Union or international level indicates a change in the geographical distribution of the relevant stocks.

(14) Where stocks of common interest are also exploited by third countries, the Union should engage with those third countries with a view to ensuring that those stocks are managed in a sustainable manner that is consistent with the objectives of Regulation (EU) No 1380/2013, in particular Article 2(2) thereof, and of this Regulation. Where no formal agreement is reached, the Union should make every effort to reach common arrangements for fishing of such stocks with a view to making the sustainable management possible thereby promoting the level-playing field for Union operators.

(15) The objective of the plan should be to contribute to the achievement of the objectives of the CFP and, in particular, to reaching and maintaining MSY for the target stocks, to implementing the landing obligation for demersal stocks subject to catch limits, and to promoting a fair standard of living for those who depend on fishing activities, bearing in mind coastal fisheries and socioeconomic aspects. It should also implement the ecosystem-based approach to fisheries management in order to minimise negative impacts of fishing activities on the marine ecosystem. It should be coherent with the Union's environmental legislation, in particular the objective of achieving good environmental status by 2020 (in accordance with Directive 2008/56/EC) and the objectives of Directive 2009/147/EC of the European Parliament and of the Council[(10)] and Council Directive 92/43/EEC[(11)]. The plan should also specify details for the implementation of the landing obligation in Union waters of the Western Waters for all stocks of species to which the landing obligation applies under Article 15 of Regulation (EU) No 1380/2013.

(16) Article 16(4) of Regulation (EU) No 1380/2013 requires that fishing opportunities be fixed in accordance with the objectives set out in Article 2(2) thereof and comply with the targets, time frames and margins established in the multiannual plans.

(17) It is appropriate to establish the target fishing mortality (F) that corresponds to the objective of reaching and maintaining MSY as ranges of values which are consistent

Changes to legislation: *There are outstanding changes not yet made to Regulation (EU) 2019/472 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*

with achieving MSY(F_{MSY}). Those ranges, based on best available scientific advice, are necessary in order to provide flexibility to take account of developments in the scientific advice, to contribute to the implementation of the landing obligation and to take into account the characteristics of mixed fisheries. The F_{MSY} ranges should be calculated, in particular by ICES, especially in its periodic catch advice, or by a similar independent scientific body recognised at Union or international level. Based on the plan they should be derived to deliver no more than a 5 % reduction in long-term yield compared to MSY The upper limit of the range should be capped, so that the probability of the stock falling below B_{lim} is no more than 5 %. That upper limit should also conform to the ICES 'advice rule', which indicates that when the spawning biomass or abundance is in a poor state, F is to be reduced to a value that does not exceed an upper limit equal to the F_{MSY} point value multiplied by the spawning biomass or abundance in the total allowable catch (TAC) year divided by MSY $B_{trigger}$. ICES uses these considerations and the advice rule in its provision of scientific advice on fishing mortality and catch options.

(18) For the purposes of fixing fishing opportunities, there should be an upper threshold for F_{MSY} ranges in normal use and, provided that the stock concerned is considered to be in a good state, an upper limit for certain cases. It should be possible to fix fishing opportunities at the upper limit only if, on the basis of scientific advice or evidence, it is necessary for the achievement of the objectives laid down in this Regulation in mixed fisheries or necessary to avoid harm to a stock caused by intra- or inter-species stock dynamics, or in order to limit the year-to-year variations in fishing opportunities.

(19) It should be possible for a relevant Advisory Council to recommend to the Commission a management approach that seeks to limit year-to-year variations in the fishing opportunities for a particular stock listed in this Regulation. It should be possible for the Council to take any such recommendations into account when fixing fishing opportunities provided that these fishing opportunities comply with the targets and safeguards under the plan.

(20) For stocks for which targets relating to MSY are available, and for the purpose of the application of safeguard measures, it is necessary to establish conservation reference points expressed as trigger spawning biomass levels for fish stocks, and trigger abundance levels for Norway lobster.

(21) Appropriate safeguard measures should be provided for in case the stock size falls below these levels. Safeguard measures should include the reduction of fishing opportunities and specific conservation measures when scientific advice states that remedial measures are needed. Those measures should be supplemented by all other appropriate measures such as Commission measures in accordance with Article 12 of Regulation (EU) No 1380/2013 or Member State measures in accordance with Article 13 of that Regulation.

(22) It should be possible to set the TAC for Norway lobster in four specific management areas as the sum of the catch limits established for each functional unit and of the statistical rectangles outside the functional units within each management area. However, this should not preclude the adoption of measures to protect specific functional units.

***Changes to legislation:** There are outstanding changes not yet made to Regulation (EU) 2019/472 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*

(23) In order to apply a regional approach to conservation and sustainable exploitation of marine biological resources, it is appropriate to provide for a possibility to take technical measures in the Western Waters regarding all stocks.

(24) The effort limitation regime for sole in the Western Channel has proven to be an efficient management tool complementary to the fixing of fishing possibilities. Such effort limitation should therefore be maintained within the framework of the plan.

(25) When mortality caused by recreational fishing has a significant impact on a stock managed on the basis of MSY, the Council should be able to set non-discriminatory limits for recreational fishermen. The Council should refer to transparent and objective criteria when setting such limits. Where appropriate, Member States should take the necessary and proportionate measures for the monitoring and collection of data for a reliable estimation of actual recreational catch levels.

(26) In order to comply with the landing obligation provided for in Article 15(1) of Regulation (EU) No 1380/2013, the plan should provide for additional management measures to be further specified in accordance with Article 18 of that Regulation.

(27) The deadline for submitting joint recommendations from Member States having direct management interest should be established, as required by Regulation (EU) No 1380/2013.

(28) In accordance with Article 10(3) of Regulation (EU) No 1380/2013, provisions should be established for the periodical assessment by the Commission of the adequacy and effectiveness of the application of this Regulation based on scientific advice. The plan should be evaluated by 27 March 2024, and every five years thereafter. That period allows for the full implementation of the landing obligation, and for regionalised measures to be adopted, implemented and to show effects on the stocks and fishery. It is also the minimum period required by scientific bodies.

(29) In order to adapt to the technical and scientific progress in a timely and proportionate fashion and to ensure flexibility and allow evolution of certain measures, 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 or supplementing this Regulation as regards adjustments concerning the stocks covered by this Regulation following changes in the geographical distribution of the stocks, remedial measures, implementation of the landing obligation and limits regarding the total capacity of the fleets of Member States concerned. 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[(12)]. 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.

(30) In order to provide legal certainty, it is appropriate to clarify that temporary cessation measures that have been adopted in order to attain the objectives of the plan can be