Regulation (EU) 2018/975 of the European Parliament and of the Council of 4 July 2018 laying down management, conservation and control measures applicable in the South Pacific Regional Fisheries Management Organisation (SPRFMO) Convention Area

REGULATION (EU) 2018/975 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 4 July 2018

laying down management, conservation and control measures applicable in the South Pacific Regional Fisheries Management Organisation (SPRFMO) Convention Area

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 that the exploitation of marine biological resources contributes to long-term environmental, economic and social sustainability.

(2) The Union has, by means of Council Decision 98/392/EC[(4)], approved the United Nations Convention on the Law of the Sea, which contains principles and rules with regard to the conservation and management of the living resources of the sea. In the framework of its wider international obligations, the Union participates in efforts made in international waters to conserve fish stocks.

(3) Pursuant to Council Decision 2012/130/EU[(5)], the Union has been a Contracting Party to the Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean ('the SPRFMO Convention'), which established the South Pacific Regional Fisheries Management Organisation (the SPRFMO), since 26 July 2010.

(4) Within the SPRFMO, the Commission of the SPRFMO ('the SPRFMO Commission') is responsible for the adoption of measures designed to ensure the long-term conservation and sustainable use of fishery resources through the application of the precautionary approach to fisheries management and an ecosystem-based approach to fisheries

management, and, in so doing, to safeguard the marine ecosystems in which those resources occur. Such measures may become binding upon the Union.

(5) It is necessary to ensure that the conservation and management measures adopted by the SPRFMO ('SPRFMO conservation and management measures') are fully transposed into Union law and are, therefore, uniformly and effectively implemented within the Union.

(6) The SPRFMO has the authority to adopt conservation and management measures for the fisheries under its purview, which are binding on the Contracting Parties to the SPRFMO Convention ('Contracting Parties'). Those measures are primarily addressed to the Contracting Parties and provide for obligations for operators such as vessel masters.

(7) This Regulation should not cover the fishing opportunities decided by the SPRFMO, as those fishing opportunities are allocated in the framework of the annual Regulation on fishing opportunities adopted pursuant to Article 43(3) of the Treaty on the Functioning of the European Union (TFEU).

(8) When implementing the SPRFMO conservation and management measures, the Union and Member States should endeavour to promote the use of fishing gear and techniques which are selective and which have a reduced environmental impact.

(9) In order to swiftly incorporate into Union law future binding amendments to the SPRFMO conservation and management measures, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of amending the Annexes to and the relevant Articles of this Regulation. 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[(6)]. 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.

(10) 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) activities.

(11) In particular, Council Regulation (EC) No 1224/2009[(7)] establishes a Union system for control, inspection and enforcement with a global and integrated approach to ensure compliance with all the rules of the CFP, and 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. Furthermore, Regulation (EU) 2017/2403 of the European Parliament and of the Council[(10)] lays down rules for issuing and managing fishing authorisations for Union fishing vessels conducting fishing operations in waters under the auspices of a regional fisheries management

***Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2018/975 of the European Parliament and of the Council. (See end of Document for details)*

organisation (RFMO) to which the Union is a contracting party. Those Regulations already implement a number of the provisions laid down in the SPRFMO conservation and management measures. It is therefore not necessary to include those provisions in this Regulation.

(12) Article 15(1) of Regulation (EU) No 1380/2013 introduced a landing obligation which applies from 1 January 2015 to fisheries for small and large pelagic species, fisheries for industrial purposes and fisheries for salmon in the Baltic Sea. However, under Article 15(2) of that Regulation, the landing obligation is without prejudice to the Union's international obligations, such as those resulting from the SPRFMO conservation and management measures,

HAVE ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation lays down management, conservation and control provisions relating to fishing for straddling fish stocks in the SPRFMO Convention Area.

Article 2

Scope

This Regulation shall apply to:

(a) Union fishing vessels operating in the SPRFMO Convention Area;

(b) Union fishing vessels transhipping fishery products harvested in the SPRFMO Convention Area;

(c) third country fishing vessels upon requesting access to, or being the object of an inspection in, Union ports and carrying fishery products harvested in the SPRFMO Convention Area.

Article 3

Relationship to other Union acts

Except where expressly provided otherwise in this Regulation, this Regulation shall apply without prejudice to Regulations (EC) No 1005/2008, (EC) No 1224/2009 and (EU) 2017/2403.

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) 2018/975 of the European Parliament and of the Council. (See end of Document for details)*

Article 4

Definitions

For the purpose of this Regulation, the following definitions shall apply:

(1) 'SPRFMO Convention Area' means the geographical area marked out in Article 5 of the SPRFMO Convention;

(2) 'fishing vessel' means any vessel of any size used or intended for use for the purposes of commercial exploitation of fishery resources, including support ships, fish processing vessels, vessels engaged in transhipment and carrier vessels equipped for the transportation of fishery products, except container vessels;

(3) 'Union fishing vessel' means a fishing vessel flying the flag of a Member State and registered in the Union;

(4) 'SPRFMO fishery resources' means all marine biological resources within the SPRFMO Convention Area excluding:

(a) sedentary species in so far as they are subject to the national jurisdiction of coastal States pursuant to Article 77, paragraph 4 of the United Nations Convention on the Law of the Sea of 10 December 1982 ('UNCLOS');

(b) highly migratory species listed in Annex I to UNCLOS;

(c) anadromous and catadromous species;

(d) marine mammals, marine reptiles and sea birds;

(5) 'SPRFMO fishery products' means aquatic organisms, or products derived therefrom, resulting from any fishing activity within the SPRFMO Convention Area;

(6) 'fishing activity' means searching for fish, shooting, setting, towing, hauling of a fishing gear, taking catch on board, transhipping, retaining on board, processing on board, transferring and landing of fish and fishery products;

(7) 'bottom fishing' means the fishing by any fishing vessel using any gear which is likely to come in contact with the seafloor or benthic organisms during the normal course of operations;

(8) 'bottom fishing footprint' means the spatial extent of bottom fishing in the SPRFMO Convention Area during the period 1 January 2002 to 31 December 2006;

(9) 'IUU fishing' means any illegal, unreported or unregulated fishing activities as defined in points 1 to 4 of Article 2 of Regulation (EC) No 1005/2008;

(10) 'draft SPRFMO IUU vessel list' means the initial list of fishing vessels presumed to have undertaken IUU fishing, as drafted by the SPRFMO Secretariat and submitted to the SPRFMO Compliance and Technical Committee forconsideration;

(11) 'exploratory fishery' means a fishery that has not been subject to fishing or has not been subject to fishing with a particular gear type or technique in the previous 10 years;

(12) 'large-scale pelagic driftnet' means a gillnet or other net, or a combination of nets, which is more than 2,5 kilometres in length the purpose of which is to enmesh, entrap or entangle fish by drifting on the surface or in the water;

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(13) 'deepwater gillnets' e.g. trammel nets, set nets, anchored nets, sink nets, means strings of single, double or triple netting walls, held vertically, on or near the bottom, in which fish will gill, entangle or enmesh. Deepwater gillnets consist of single or, less commonly, double or triple netting mounted together on the same frame ropes. Several types of nets may be combined in one gear. Those nets can be used either alone or, as is more usual, in large numbers placed in line ('fleets' of nets). The gear can be set, anchored to the bottom or left drifting, free or connected with the vessel;

(14) 'SPRFMO Cooperating Non-Contracting Party' (CNCP) means a State or fishing entity that it is not a party to the SPRFMO Convention but has agreed to fully cooperate in the implementation of the SPRFMO conservation and management measures;

(15) 'SPRFMO record of vessels' means the list of fishing vessels authorised to fish in the SPRFMO Convention Area, as notified by the Contracting Parties and CNCPs, which is maintained by the SPRFMO Secretariat;

(16) 'transhipment' means the unloading of all or any fishery products on board a fishing vessel to another fishing vessel;

(17) 'other species of concern' means species listed in Annex XIII;

(18) 'vulnerable marine ecosystem' (VME) means any marine ecosystem the integrity (i.e. ecosystem structure or function) of which is, according to the best scientific information available and to the precautionary principle, threatened by significant adverse impacts resulting from physical contact with bottom gears in the normal course of fishing operations, including reefs, seamounts, hydrothermal vents, cold water corals or cold water sponge beds.

TITLE II

MANAGEMENT, CONSERVATION AND CONTROL MEASURES CONCERNING CERTAIN SPECIES

CHAPTER I

Jack mackerel (*Trachurus murphyi*)

Article 5

Information on quota exhaustion for jack mackerel

Member States shall inform the Commission without delay of the date of the closure of a fishery for jack mackerel that has reached 100 % of its catch limit. The Commission shall promptly transmit that information to the SPRFMO Secretariat.

Article 6

Observer coverage in the jack mackerel fishery

Member States shall ensure a minimum 10 % scientific observer coverage of trips for fishing vessels flying their flag. For fishing vessels undertaking no more than two trips