Commission Implementing Regulation (EU) 2017/787 of 8 May 2017 establishing a minimum conservation reference size for red seabream in the North-East Atlantic Ocean

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fisheries resources through technical measures for the protection of juveniles of marine organisms[(1)], and in particular Article 45(1) thereof,

Whereas:

(1) Regulation (EU) No 1380/2013 of the European Parliament and of the Council[(2)] sets out measures for the conservation and sustainable exploitation of marine biological resources, including, inter alia, minimum conservation reference sizes, defined as the size of a living marine aquatic species taking into account maturity, below which restrictions or incentives apply that aim to avoid capture through fishing activity.

(2) According to Article 2(2) of Regulation (EU) No 1380/2013, the Common Fisheries Policy shall aim to ensure that exploitation of living marine biological resources restores and maintains populations of harvested species above levels which can produce the maximum sustainable yield.

(3) In Article 45(1) of Regulation (EC) No 850/98 it is provided that, where the conservation of stocks of marine organisms calls for immediate action, the Commission may, in addition to or by way of derogation from that Regulation, adopt any necessary measures. Annex XII of the same Regulation sets out minimum conservation reference sizes of marine organisms. Currently this Annex does not provide for a minimum conservation reference size for red seabream (*Pagellus bogaraveo*).

(4) Red blackspot seabream (hereinafter 'red seabream') is a long-lived, late-maturing, slow-growth deep-sea species with low productivity and vulnerable to exploitation found in the North-East Atlantic. Tagging data show that red seabream is distributed across a large area. It straddles between the Mediterranean Sea and the Atlantic Ocean. For biological and management reasons the International Council for the Exploration of the Sea (ICES) considers that in the North-East Atlantic there are three different components of this population, namely in: a) ICES subareas VI, VII, and VIII; b) ICES subarea IX and adjacent areas, and c) ICES subarea X (Azores).

(5) According to the latest ICES advice from June 2016 for red seabream (hereafter latest ICES advice)[(3)] in ICES subarea VI, VII and VIII the stock is seriously depleted

and for the first time it is recommended to set the total allowable catches (TAC) at zero. ICES indicated that catches of red seabream in ICES subareas VI, VII and VIII are at 1-2 % of the historical levels of the 1960s and 1970s. Furthermore, on the basis of the findings of the three bottom-trawl surveys in France, Spain and Ireland monitoring this fishery ICES reports that the species is rarely caught during these scientific surveys, which reinforces the assessment that the spawning stock biomass is very low. ICES therefore recommends reducing mortality by all means to allow the stock to rebuild[3]. Moreover, ICES stresses the importance of urgently implementing management measures to protect juveniles, especially by setting a minimum landing size to prevent catching small fish.

(6) According to the latest ICES advice for red seabream in ICES subarea IX it is recommended to decrease catches by 13 % for 2017 and by another 14 % for 2018[4]. ICES finds that catches have stayed significantly below the TAC since 2009 and have fallen from 718 tons in 2009 to 152 tons in 2015[5]. ICES also states that the distribution of the stocks extends to outside subarea IX and catch statistics are incomplete.

(7) According to the latest ICES advice for red seabream in ICES subarea X it is recommended to decrease catches by 12 % for 2017 and by another 12 % for 2018. In ICES subarea X catches of red seabream have been at around two thirds of the level of 2009 and preceding years. In April 2015 the STECF noted that both red seabream catches and catch per unit effort have been declining in recent years, implying that the fishable biomass of red seabream has also been declining, thereby indicating that the current measures in place have not been sufficiently effective to prevent such decline.

(8) ICES recommends the establishment of a management plan that covers the entire stock distribution area, which includes adjacent CECAF (the Fishery Committee for the Eastern Central Atlantic) and GFCM (the General Fisheries Commission for the Mediterranean) areas, especially considering important catches from the area IX stock are taken in adjacent areas not regulated by the current TAC and where stock information is missing. ICES recommends implementing management measures that ensure a balanced exploitation between younger fish and older fish, which can be achieved by setting a minimum landing size.

(9) The above recent developments show that heavy exploitation of red seabream due to overfishing and a lack of sufficient management measures led the stock in ICES subareas VI, VII and VIII to be seriously depleted and has led to the decline of the stock to low levels in ICES subareas IX and X.

(10) In light of the above there are clear indications that the North-East Atlantic red seabream stocks are overexploited and subject to a risk of collapse in all areas, if no immediate action to protect juveniles is taken.

(11) The means used so far by the Union to reduce seabream mortality include the application of TACs since 2003 as well as the introduction of a minimum conservation reference size of 33 cm for the Mediterranean by virtue of Council Regulation (EC) No 1967/2006[6] concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean sea on the basis of scientific advice[7]. Regulation (EC) No 850/98, which establishes minimum conservation reference sizes for certain

marine organisms in other areas, including the Atlantic, does not currently provide any minimum size for Atlantic red seabream.

(12) According to scientific advice, Atlantic red seabream matures between 33 and 36 cm in areas VI, VII, VIII, IX and X. In assessing the proportionality of the measure, and in particular in deciding whether a minimum size of 33 cm should apply to the stock, the Commission examined scientific advice and took into account the need for coherence with the Common Fisheries Policy and the objective to gradually eliminate discards. Scientific advice shows that at 33 cm 75 % of male red seabream and 25 % of female red seabream reach maturity[(8)]. Therefore 33 cm is the size where red seabream can reproduce and replenish the stock. Furthermore setting a minimum size at 36 cm would lead to discards of red seabream and would hence not be coherent with the objective to gradually eliminate discards.

(13) Furthermore a minimum size for red seabream of 33 cm currently applies in the Mediterranean. As red seabream straddles between the Mediterranean and the North-East Atlantic, it is necessary to provide the same level of protection to all stock distribution areas in order for the measures to be effective. This would also prevent misreporting. Allowing catching and landing red seabream below a size of 33 cm has a negative effect on the reproductive capacity of the species causing a serious threat to the conservation of the North-East Atlantic stocks.

(14) The measures provided for in this Regulation relate to the conservation of exhaustible fish stocks. They aim at avoiding over-exploitation of the red seabream stocks and at rebuilding those stocks back to safe biological limits. Setting a minimum size of 33 cm for those stocks equally applies to Union and imported products irrespective of their origin. Furthermore, the measures will be made effective in conjunction with Union conservation measures intended to address similar concerns, including Council Regulation (EU) No 1367/2014[(9)].

(15) The measures provided for in this Regulation are in accordance with the opinion of the Committee for Fisheries and Aquaculture,

HAS ADOPTED THIS REGULATION:

Article 1

For the purpose of Regulation (EC) No 850/98 and in addition to Annex XII thereof, a minimum reference size of 33 cm shall apply to red seabream (*Pagellus bogaraveo*) in Regions 1–5, as defined in Article 2 of that Regulation.

Article 2

Before the end of 2018 the Commission shall assess whether the measures introduced by this Regulation are still necessary.

Article 3

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.