Regulation (EU) No 227/2013 of the European Parliament and of the Council of 13 March 2013 amending Council Regulation (EC) No 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms and Council Regulation (EC) No 1434/98 specifying conditions under which herring may be landed for industrial purposes other than direct human consumption

REGULATION (EU) No 227/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 13 March 2013

amending Council Regulation (EC) No 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms and Council Regulation (EC) No 1434/98 specifying conditions under which herring may be landed for industrial purposes other than direct human consumption

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) Council Regulation (EC) No 1288/2009 of 27 November 2009 establishing transitional technical measures from 1 January 2010 to 30 June 2011[(3)] and Regulation (EU) No 579/2011 of the European Parliament and of the Council of 8 June 2011 amending Council Regulation (EC) No 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms and Council Regulation (EC) No 1288/2009 establishing transitional technical measures from 1 January 2010 to 30 June 2011[(4)] provide for the continuation of certain technical measures established in Council Regulation (EC) No 43/2009 of 16 January 2009 fixing for 2009 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required[(5)] on a transitional basis until 31 December 2012.

(2) A new technical conservation measures framework is awaited pending the reform of the Common Fisheries Policy (CFP). The unlikelihood that such a new framework will be in place by the end of 2012 justifies the extension of the application of those transitional technical measures.

Changes to legislation: *Regulation (EU) No 227/2013 of the European Parliament and of the Council is up to date with all changes known to be in force on or before 31 January 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(3) In order to ensure the continuation of proper conservation and management of marine biological resources, Council Regulation (EC) No 850/98[(6)] should be updated by incorporating the transitional technical measures into it.

(4) In order to ensure the continuation of proper conservation and management of marine biological resources in the Black Sea, minimum landing and mesh sizes for the turbot fishery as previously established in Union law should be incorporated into Regulation (EC) No 850/98.

(5) The prohibition of highgrading in all ICES areas should be maintained in order to reduce the discarding of quota species.

(6) On the basis of consultations held in 2009 between the Union, Norway and the Faroe Islands, with a view to reducing unwanted catches, a prohibition on the releasing or slipping of certain species, as well as a requirement to move fishing grounds when 10 % of the catch contains undersized fish, should be introduced,.

(7) In the light of advice from the Scientific, Technical and Economic Committee for Fisheries (STECF), the restrictions on landing or retaining on board herring caught in ICES division IIa should be maintained.

(8) In the light of advice from STECF, an area closure for the protection of spawning herring in ICES division VIa is no longer necessary to ensure the sustainable exploitation of that species, and that closure should therefore be repealed.

(9) In the light of advice from STECF linking low sand eel availability to the poor breeding success of kittiwakes, an area closure in ICES sub-area IV should be maintained, except for a limited fishery each year to monitor the stock.

(10) In the light of advice from STECF, it should be possible to authorise the use of gears that do not catch Norway lobster in certain areas where fishing for Norway lobster is prohibited.

(11) In the light of advice from STECF, an area closure to protect juvenile haddock in ICES division VIb should be maintained.

(12) In the light of advice from ICES and STECF, certain technical conservation measures in the waters west of Scotland (ICES division VIa) to protect cod, haddock and whiting stocks should be maintained in order to contribute to the conservation of fish stocks.

(13) In the light of advice from STECF, the use of handlines and automated jigging equipment for saithe in ICES division VIa should be allowed.

(14) In the light of advice from STECF on the spatial distribution of cod in ICES division VIa which shows that a large majority of cod catches are caught north of 59° N, the use of gillnets south of this line should be allowed.

(15) In the light of advice from STECF, the use of gillnets for lesser spotted dogfish in ICES division VIa should be allowed.

***Changes to legislation:** Regulation (EU) No 227/2013 of the European Parliament and of the Council is up to date with all changes known to be in force on or before 31 January 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(16) The appropriateness of the characteristics of gears in the derogation to fish with trawls, demersal seines or similar gears in ICES division VIa should be periodically reviewed in the light of scientific advice with a view to their amendment or repeal.

(17) In the light of advice from STECF, an area closure to protect juvenile cod in ICES division VIa should be introduced.

(18) The appropriateness of the prohibition on fishing for cod, haddock and whiting in ICES sub-area VI should be periodically reviewed in the light of scientific advice, with a view to its amendment or repeal.

(19) In the light of advice from ICES and STECF, measures to protect cod stocks in the Celtic Sea (ICES divisions VIIf and g) should be maintained.

(20) In the light of advice from STECF, measures to protect spawning aggregations of blue ling in ICES division VIa should be maintained.

(21) Measures established in 2011 by the Northeast Atlantic Fisheries Commission (NEAFC) to protect redfish in international waters of ICES sub-areas I and II should be maintained.

(22) Measures established by NEAFC in 2011 to protect redfish in the Irminger Sea and adjacent waters should be maintained.

(23) In the light of advice from STECF, fishing with beam trawl using electrical pulse current should continue to be allowed in ICES divisions IVc and IVb south under certain conditions.

(24) On the basis of consultations held in 2009 between the Union, Norway and the Faroe Islands, certain measures to restrict the catch handling and discharge capabilities of pelagic vessels targeting mackerel, herring and horse mackerel in the North-East Atlantic should be implemented, on a permanent basis.

(25) In the light of advice from ICES, technical conservation measures to protect adult cod stocks in the Irish Sea during the spawning season should be maintained.

(26) In the light of advice from STECF, the use of sorting grids in a restricted area in ICES division VIIa should be allowed.

(27) In light of advice from STECF, fishing with gillnets and entangling nets in ICES divisions IIIa, VIa, VIb, VIIb, VIIc, VIIj and VIIk and ICES sub-areas VIII, IX, X and XII east of 27° W in waters with a charted depth of more than 200 metres but less than 600 metres should only be allowed under certain conditions that provide protection for biologically sensitive deep-sea species.

(28) It is important to clarify the interaction between the different regimes applicable to fishing with gillnets, especially in ICES sub-area VII. More particularly, it should be made clear that the specific derogation for fishing with gillnets with a mesh size equal to or greater than 100 millimetres in ICES divisions IIIa, IVa, Vb, VIa, VIb, VII b, c, j and k as well as the specific conditions related to that derogation, only applies in waters with a charted depth of more than 200 metres but less than 600 metres and that, consequently, the default rules concerning the mesh-size range and the catch composition set out in

Changes to legislation: *Regulation (EU) No 227/2013 of the European Parliament and of the Council is up to date with all changes known to be in force on or before 31 January 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Regulation (EC) No 850/98 apply in ICES divisions VIIa, VIId, VIIe, VIIf, VIIg and VIIh and in waters with a charted depth of less than 200 metres in ICES divisions IIIa, IVa, Vb, VIa, VIb, VIIb, c, j and k.

(29) In the light of advice from STECF, the use of trammel nets in ICES sub-area IX in waters with a charted depth more than 200 metres but less than 600 metres should be allowed.

(30) The use of certain selective gears should continue to be permitted in the Bay of Biscay in order to ensure the sustainable exploitation of the hake and Norway lobster stocks and to reduce discards of these species.

(31) Restrictions on fishing in certain areas in order to protect vulnerable deep-sea habitats in the NEAFC Regulatory Area adopted by NEAFC in 2004 and in certain areas in ICES divisions VIIc, j and k and ICES division VIIIc, adopted by the Union in 2008, should remain in place.

(32) According to the advice of a joint Union/Norway Working Group on technical measures the weekend ban on fishing for herring, mackerel or sprat with trawls or purse seines in the Skagerrak and Kattegat no longer contributes to the conservation of pelagic fish stocks due to changes in fishing patterns. Consequently, on the basis of consultations held between the Union, Norway and the Faroe Islands in 2011, this ban should be revoked.

(33) For the sake of clarity and better regulation, some obsolete provisions should be deleted.

(34) In order to reflect changes in fishing patterns and the adoption of more selective gears the mesh size ranges, target species and required catch percentages applicable in the Skagerrak and Kattegat should be maintained.

(35) The minimum sizes for short-necked clam should be revised in the light of biological data.

(36) A minimum size for octopus in catches taken in waters under the sovereignty or jurisdiction of third countries and situated in the region of the Fishery Committee for the Eastern Central Atlantic (CECAF) has been set in order to contribute to the conservation of octopus, and in particular to protect juveniles.

(37) An equivalent measure to the minimum landing size for anchovy in terms of the number of fish per kg should be introduced, as this would simplify work on board vessels targeting this species and facilitate control measures ashore.

(38) Specifications for a sorting grid to be used for the reduction of the by-catch in fisheries for Norway Lobster in ICES division IIIa, ICES sub-area VI and ICES division VIIa should be maintained.

(39) Specifications for square mesh panels to be used under certain conditions for fisheries with certain towed gears in the Bay of Biscay should be maintained.

(40) The use of 2 metre square-meshed panels by vessels with an engine power of less than 112 kW in a restricted area in ICES division VIa should be allowed.

(41) The term ‘Community’ used in the enacting terms of Regulation (EC) No 850/98 should be changed, following the entry into force of the Treaty of Lisbon on 1 December 2009.

***Changes to legislation:** Regulation (EU) No 227/2013 of the European Parliament and of the Council is up to date with all changes known to be in force on or before 31 January 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(42) In order to ensure uniform conditions for the implementation of rules on the use of gears having equivalent high selectivity when fishing for Norway lobster in ICES division VIa and of rules excluding specific fisheries of a Member State from the application of the prohibition to use gillnets, entangling or trammel nets in ICES sub-areas VIII, IX and X where the level of shark by-catches and of discards is very low, implementing powers should be conferred on the Commission. Those powers should be exercised without applying Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers[(7)].

(43) Regulation (EC) No 850/98 should therefore be amended accordingly.

(44) Council Regulation (EC) No 1434/98[(8)] provides for specific conditions under which herring may be landed for industrial purposes other than direct human consumption. A specific derogation from the conditions for landing by-catches of herring in small meshed fisheries in ICES division IIIa, sub-area IV, division VIId and Union waters of ICES division IIa, previously included in other Union acts, should be incorporated into that Regulation. Regulation (EC) No 1434/98 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EC) No 850/98

Regulation (EC) No 850/98 is amended as follows:

(1) the following article is inserted:

Article 1a

In Article 4(2)(c), Article 46(1)(b) and in Annex I, footnote (5), the noun "Community", or the corresponding adjective, is replaced by the noun "Union", or the corresponding adjective, and any grammatical adjustments needed as a consequence of this replacement shall be made.;

(2) in Article 2(1) the following point is added:

(i) Region 9

All waters of the Black Sea corresponding to the geographical sub-area 29 as defined in Annex I to Regulation (EU) No 1343/2011 of the European Parliament and of the Council of 13 December 2011 on certain provisions for fishing in the GFCM (General Fisheries Commission for the Mediterranean) Agreement area[(9)] and in Resolution GFCM/33/2009/2.;

(3) in Article 11(1) the following subparagraph is added:

This derogation shall apply without prejudice to Article 34b(2)(c).;

(4) the following article is inserted: