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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

laying down management, conservation and control measures applicable in the Indian Ocean Tuna Commission (IOTC) Area of Competence, amending Council Regulations (EC) No 1936/2001, (EC) No 1984/2003 and (EC) No 520/2007

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The purpose of this proposal is to transpose into EU law the control, conservation and management measures adopted by the Indian Ocean Tuna Commission (IOTC), to which the European Union has been a contracting party since 1995. The IOTC is the regional fisheries management organisation (RFMO) responsible for managing tuna and tuna-like fishery resources in the Indian Ocean. In 2019, the EU had 62 active fishing vessels operating in the IOTC Agreement area; most were purse-seine and longline vessels, principally targeting tropical tuna species, and to a lesser extent swordfish, blue shark and albacore.

All IOTC contracting parties are members of the IOTC. The IOTC has a mandate to adopt conservation and enforcement measures ('resolutions') for the fisheries under its purview, and these are binding on its contracting parties.

Under Article IX(4) of the Agreement for the Establishment of the Indian Ocean Tuna Commission, resolutions become binding on members 120 days from the date of notification by the IOTC. The Commission, on behalf of the EU, draws up negotiating guidelines on the basis of a 5-year mandate set by Council Decision and of scientific advice. In line with the mandate, these guidelines are presented, discussed and endorsed at the Council working party and further adjusted, to take account of real-time developments, at coordination meetings with Member States held in the margins of IOTC annual meetings. Annual meetings of the EU Delegation to the IOTC bring together the Commission, the Council and stakeholders' representatives.

Under Article IX(5) of the IOTC Agreement, contracting parties can raise objections to an IOTC decision within 120 days of being notified of it by the IOTC Executive Secretary. All measures are binding if no objection is raised or any objections are subsequently withdrawn. The objection procedure also falls under Article 218(9) of the Treaty on the Functioning of the European Union (TFEU), as IOTC conservation and management measures (CMMs) have legal effect (i.e. they become binding on contracting parties). Before deciding to raise an objection to a measure, the Commission asks the relevant Council bodies to endorse the decision. Article 3(5) of the Treaty on European Union (TEU) stipulates that the EU must abide strictly by international law; this includes compliance with IOTC conservation and enforcement measures.

Though aimed mainly at the contracting parties, IOTC resolutions also impose obligations on operators (e.g. vessel masters).

This proposal covers the measures that the IOTC has adopted since 2008, as amended (in some cases) at its annual meetings. The EU must ensure compliance with these measures, as international obligations, as soon as they enter into force. This proposal is designed to transpose the most recent version of the IOTC resolutions and establish a mechanism for transposing and implementing them in the future.

The legislative process of transposing into EU law CMMs adopted by RFMOs, from the first draft Commission proposal to the adoption of a final act by the Council and the European Parliament, takes an average of 18 months. Delegated powers ensure that, in line with directives from the co-legislator, the Union is able quickly to transpose measures that will benefit the EU fleet, improve the level playing-field and further support the long-term sustainable management of stocks. This proposal provides for delegated powers to be granted

to the Commission under Article 290 TFEU, to cater for (probably frequent) amendments to IOTC measures and ensure that EU fishing vessels are on an equal footing with those of other contracting parties. Examples of such measures are mitigation measures for marine turtles caught by certain fishing gears, requirements for information on vessels fishing for tuna and swordfish, minimum observer and field sampler coverage for certain fisheries, conditions of chartering, minimum information on government-to-government agreements and foreign-flagged vessels, and reporting deadlines.

The reporting deadlines set out in this proposal have been established on the basis of deadlines in the IOTC resolutions. The aim is to enable the EU to make timely submissions of reports to the IOTC Secretariat.

- **Consistency with existing policy provisions in the policy area**

This proposal complements and is generally consistent with other provisions of Union law in this area. Derogations from existing acts are however established in certain instances due to the nature of the more specific measures proposed.

Specific provisions of some IOTC resolutions were last transposed through Title IV of Council Regulation (EC) No 520/2007 laying down technical measures for the conservation of certain stocks of highly migratory species¹. For reasons of clarity, simplification and legal certainty, it is therefore preferable to amend that Regulation (by deleting its Title III) to take account of developments since its adoption that are not yet covered by EU law.

IOTC resolutions on fishing periods for purse-seine vessels and limits of active drifting fish aggregating devices are transposed in Council Regulation (EU) 2020/123².

This proposal is in line with Part VI (External Policy) of Regulation (EU) No 1380/2013 on the common fisheries policy (CFP), which provides for the Union to conduct its external fisheries relations in accordance with its international obligations, base its fishing activities on regional fisheries cooperation and charge the European Fisheries Control Agency with ensuring compliance.

The proposal complements Regulation (EU) 2017/2403³ on external fleet management, which provides that EU fishing vessels are subject to the list of fishing authorisations under the conditions and rules of the RFMO in question, and Council Regulation (EC) No 1005/2008⁴ on illegal, unreported and unregulated (IUU) fishing.

This proposal does not cover fishing opportunities for the EU, as decided by the IOTC. Under Article 43(3) TFEU, it is the Council's prerogative to adopt measures on prices, levies, aid and quantitative limitations, and on the fixing and allocation of fishing opportunities.

¹ Council Regulation (EC) No 520/2007 of 7 May 2007 laying down technical measures for the conservation of certain stocks of highly migratory species and repealing Regulation (EC) No 973/2001 (OJ L 123, 12.5.2007, p. 3).

² Council Regulation (EU) 2020/123 of 27 January 2020 fixing for 2020 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, for Union fishing vessels, in certain non-Union waters (OJ L 25, 30.1.2020, p. 1).

³ Regulation (EU) 2017/2403 of the European Parliament and of the Council of 12 December 2017 on the sustainable management of the external fleets, and repealing Council Regulation (EC) No 1006/2008 (OJ L 347, 28.12.2017, p. 81).

⁴ Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999 (OJ L 286, 29.10.2008, p. 1).

- **Consistency with other Union policies**

Not applicable.

2. **LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

The proposal is based on Article 43(2) TFEU, as it sets out provisions necessary for the pursuit of the objectives of the CFP.

- **Subsidiarity (for non-exclusive competence)**

As the proposal falls under the exclusive competence of the Union (Article 3(1)(d) TFEU), the subsidiarity principle does not apply.

- **Proportionality**

The proposal will ensure that EU law is in line with international obligations adopted by the IOTC and that the EU complies with decisions taken by an RFMO to which it is a contracting party. The proposal does not exceed what is necessary to achieve these objectives.

- **Choice of instrument**

The instrument chosen is a Regulation of the European Parliament and of the Council.

3. **RESULTS OF *EX POST* EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- ***Ex post* evaluations/fitness checks of existing legislation**

Not relevant.

- **Stakeholder consultations**

The purpose of this proposal is to transpose and implement IOTC measures that are binding on the contracting parties. National experts and industry representatives from the EU countries are consulted both during the run-up to the IOTC annual meetings at which the measures are adopted and throughout negotiations at the meetings. Consequently, it was not considered necessary to hold a stakeholder consultation on this proposal.

- **Collection and use of expertise**

Not applicable.

- **Impact assessment**

Not relevant. This concerns the transposition of measures directly applicable to Member States.

- **Regulatory fitness and simplification**

This proposal is not linked to REFIT.

- **Fundamental rights**

This proposal has no consequences for the protection of citizens' fundamental rights.

4. BUDGETARY IMPLICATIONS

There are no budgetary implications.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Not applicable.

- **Explanatory documents (for directives)**

Not applicable.

- **Detailed explanation of the specific provisions of the proposal**

Chapter I contains general provisions on the Regulation's subject matter, scope and objective. It also sets out definitions. The Regulation is applicable to EU vessels fishing in the IOTC Agreement area.

Chapter II deals with conservation and management measures, including provisions on fishing for tropical (e.g. yellowfin and bigeye) tunas, blue sharks, the deployment and design of fish aggregating devices, the prohibition of fishing on data buoys, and transshipment at port.

Chapter III sets out measures to protect certain marine species (elasmobranchs, including sharks and rays) and ensure the conservation of cetaceans, marine turtles and seabirds. These include data provisions, release duties and mitigation measures.

Chapter IV contains provisions on control measures, fishing authorisations, a regional observer scheme and requirements relating to fishing vessel records, communication, a vessel monitoring system, vessel management standards and marking, and the chartering of fishing vessels.

Chapter V concerns catch and effort data controls and lays down obligations relating to access agreements, reporting duties under the data statistical programme and requirements for the bigeye tuna document programme.

Chapter VI deals with port state measures and inspection, and lays down provisions on enforcement, infringements and IUU fishing.

Chapter VII contains final provisions on matters including reporting, the confidentiality of electronic reports and messages, the procedure for tabling amendments, delegated powers and amendments to existing EU legislation.

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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,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The objective of the Common Fisheries Policy ('CFP'), as set out in Regulation (EU) No 1380/2013⁵ of the European Parliament and of the Council, is to ensure the exploitation of living aquatic resources contributes to long-term environmental, economic and social sustainability.
- (2) The Union has, by means of Council Decision 98/392/EC⁶, approved the United Nations Convention of 10 December 1982 on the Law of the Sea. By means of Council Decision 98/414/EC, the Union has approved the Agreement for the Implementation of that Convention relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks⁷, which contain 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 European Union participates in efforts made in international waters to conserve fish stocks.

⁵ Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

⁶ Council Decision 98/392/EC of 23 March 1998 concerning the conclusion by the European Community of the United Nations Convention of 10 December 1982 on the Law of the Sea and the Agreement of 28 July 1994 relating to the implementation of Part XI thereof (OJ L 179, 23.6.1998, p. 1).

⁷ Council Decision 98/414/EC of 8 June 1998 on the ratification by the European Community of the Agreement for the implementing of the provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling stocks and highly migratory fish stocks (OJ L 189, 3.7.1998, p. 14).

- (3) Pursuant to Council Decision 95/399/EC of 18 September 1995⁸, the Union is a contracting party to the Agreement for the establishment of the Indian Ocean Tuna Commission (IOTC).
- (4) The IOTC adopts annual conservation and management measures (CMMs) by way of resolutions that are binding on contracting parties and cooperating non contracting parties to the IOTC, including on the Union. At its most recent annual meeting held in June 2019, several new resolutions were adopted. This Regulation implements resolutions of the IOTC, adopted between 2000 and 2019, except for measures which already form a part of Union law.
- (5) 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 1224/2009⁹ 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 404/2011¹⁰ lays down detailed rules for the implementation of Council Regulation (EC) No 1224/2009. Council Regulation (EC) No 1005/2008¹¹ establishes a Community system to prevent, deter and eliminate IUU fishing. Those regulations already include provisions covering a number of the measures laid down in IOTC resolutions. It is therefore not necessary to include those provisions in this Regulation.
- (6) 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 Common Fisheries Policy (CFP), in particular with the objective of progressively restoring and maintaining populations of fish stocks above biomass levels capable of producing maximum sustainable yield ('MSY'), and with the objective of providing conditions for economically viable and competitive fishing capture and processing industry and land-based fishing related activity.
- (7) In order to swiftly implement into Union law future IOTC resolutions amending or supplementing the ones established in this Regulation, 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 provisions concerning information list per vessel for the list of active vessels for tuna and swordfish,

⁸ Council Decision 95/399/EC of 18 September 1995 on the accession of the Community to the Agreement for the establishment of the Indian Ocean Tuna Commission (OJ L 236, 5.10.1995, p. 24).

⁹ Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).

¹⁰ Commission Implementing Regulation (EU) No 404/2011 of 8 April 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system, for ensuring compliance with the rules of the Common Fisheries Policy (OJ L 112, 30.4.2011, p. 1).

¹¹ Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999 (OJ L 286, 29.10.2008, p. 1).

percentage of observer coverage and field samplers coverage for artisanal fisheries, conditions of chartering, percentage of inspections for port landings, reporting deadlines and Annexes 1 to 6 of the Regulation that cover IOTC requirement for catch reporting, birds mitigation measures, data collections and fish aggregating devices and charter requirements, as well as references to IOTC Conservation and Management Measures that relate to transshipment declaration, to principles for design and deployment of FADs related to reduction of entanglement as well as FAD reporting, to non-entangling and biodegradable FAD design, IOTC port designation procedure, mobulid rays handling procedures, handling guidelines and mitigation measures for marine turtles caught by certain fishing gears, to marking and identification of vessels, IUU reporting documents, bigeye tuna statistical programme documents, port state entry notifications, minimum standard port Member State inspection procedures, reporting forms for infringements, and catch and fishing measures reporting templates.

- (8) It is of particular importance that the Commission carries 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-Making¹². 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.
- (9) As this Regulation provides a new and comprehensive set of rules, the provisions concerning IOTC CMM's laid down in Regulations (EC) No 1936/2001¹³, (EC) No 1984/2003¹⁴ and (EC) No 520/2007¹⁵, should be deleted. These regulations should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Chapter I

General Provisions

Article 1

Subject matter

This Regulation lays down provisions concerning management, conservation and control measures relating to fishing in the area covered under the Agreement for the establishment of the Indian Ocean Tuna Commission (IOTC).¹⁶

¹² Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

¹³ Council Regulation (EC) No 1936/2001 of 27 September 2001 laying down control measures applicable to fishing for certain stocks of highly migratory fish (OJ L 263, 3.10.2001, p. 1).

¹⁴ Council Regulation (EC) No 1984/2003 of 8 April 2003 introducing a system for the statistical monitoring of trade in bluefin tuna, swordfish and bigeye tuna within the Community (OJ L 295, 13.11.2003, p. 1).

¹⁵ Council Regulation (EC) No 520/2007 of 7 May 2007 laying down technical measures for the conservation of certain stocks of highly migratory species and repealing Regulation (EC) No 973/2001 (OJ L 123, 12.5.2007, p. 3).

¹⁶ Council Decision 95/399/EC of 18 September 1995 on the accession of the Community to the Agreement for the establishment of the Indian Ocean Tuna Commission (OJ L 236, 5.10.1995, p. 24).

Article 2

Scope

This Regulation shall apply to:

- (1) Union fishing vessels which operate in the Area;
- (2) Union fishing vessels in the case of transshipments and landings of IOTC species outside the Area;
- (3) and to third country fishing vessels making use of ports in Member States and which carry IOTC species or fishery products originating from such species.

Article 3

Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) 'The Agreement' means the Agreement for the establishment of the Indian Ocean Tuna Commission;
- (2) 'The Area' means those parts of the Indian Ocean as defined in the Agreement (Article II and Annex A);
- (3) 'Union fishing vessel' means any vessel of any size flying the flag of a Member State, used or intended for use for the purposes of commercial exploitation of fishery resources, including support vessels, fish processing vessels, vessels engaged in transshipment and carrier vessels equipped for the transportation of fishery products, except container vessels;
- (4) 'IOTC species' means tuna and tuna-like species and sharks listed in Annex B to the Agreement, and other species caught in association with those species;
- (5) 'CPC' means a contracting party to the Agreement or a cooperating non-contracting party;
- (6) 'CMM' means a conservation and management measure in force adopted by the IOTC pursuant to Articles V(2)(c) and IX(1) of the Agreement, as amended periodically;¹⁷
- (7) 'Unfit for human consumption' means fish that is meshed or crushed in the purse seine, or is damaged due to depredation, or has died and spoiled in the net where a gear failure has prevented both the normal retrieval of the net and catch, and efforts to release the fish alive. Unfit for human consumption does not include fish that is considered undesirable in terms of size, marketability, or species composition; or is spoiled or contaminated as the result of an act or omission of the crew of the Union fishing vessel;
- (8) 'Fish aggregating device' (FAD) means a permanent, semi-permanent or temporary object, structure or device of any material, man-made or natural, which is deployed and/or tracked, for the purpose of aggregating target tuna species for consequent capture;
- (9) 'Drifting FAD' means a FAD not tethered to the bottom of the ocean;
- (10) 'Anchored FAD' means a FAD tethered to the bottom of the ocean;

¹⁷

<https://www.iotc.org/cmms>

- (11) 'Data buoys' means floating devices, either drifting or anchored, that are deployed by governmental or recognised scientific organisations or entities for the purpose of electronically collecting and measuring environmental data, and not for the purpose of fishing activities;
- (12) 'IOTC transshipment declaration' means the document in Annex III to CMM 19/06;
- (13) 'IMO number' means a 7 digit number, which is assigned to a vessel under the authority of the International Maritime Organisation;
- (14) 'Chartering' means an agreement or an arrangement by which a fishing vessel flying the flag of a CPC is contracted for a defined period of time by an operator in another CPC without the change of flag. The 'chartering CPC' refers to the CPC that holds the quota allocation or fishing possibilities and the 'flag CPC' refers to the CPC in which the chartered vessel is registered;
- (15) 'Carrier vessel' means a support vessel engaged in transshipment and receiving IOTC species from another vessel.

Chapter II

Management and Conservation

SECTION 1

TROPICAL TUNAS

Article 4

Discard ban

1. Union purse seine vessels shall retain on board and land all catches of tropical tunas (bigeye tuna, yellowfin tuna and skipjack tuna), excepts where the master of the vessel determines that:
 - (a) fish are unfit for human consumption, or
 - (b) there is insufficient storage capacity to accommodate tropical tuna and the non-targeted species caught during the final set of a trip.
2. Fish referred to in point (b) of paragraph 1 may only be discarded if the master and crew attempt to release the tropical tuna and the non-targeted species alive as soon as possible; and no further fishing is undertaken after the discard until the tropical tuna and the non-targeted species on board the vessel have been landed or transhipped.
3. The master of a Union fishing vessel shall record the exceptions referred to in paragraph 1(a) and (b) in the relevant logbook including estimated tonnage, and species composition of discarded fish; and estimated tonnage and species composition of retained fish from that set.
4. For the purpose of this Article non-targeted species includes not targeted tuna species, as well as rainbow runner, dolphinfish, triggerfish, billfish, wahoo, and barracuda.

Article 5
Prohibition of fishing on data buoys

1. Union fishing vessels shall not fish within one nautical mile of a data buoy or interact with a data buoy in the Area, in particular by:
 - (a) encircling the buoy with fishing gear;
 - (b) tying up to or attaching the vessel, or any fishing gear, part or portion of the vessel, to a data buoy or its mooring; or
 - (c) cutting a data buoy anchor line.
2. By way of derogation from paragraph 1, Member States scientific research programmes notified to the IOTC may operate Union fishing vessels within one nautical mile of a data buoy provided they do not interact with those data buoys.
3. Union fishing vessels shall not take on board a data buoy in the Area, unless its owner has explicitly authorised or requested them to do so.
4. Union fishing vessels operating in the Area, shall keep watch for moored data buoys at sea and shall take all reasonable measures to avoid fishing gear entanglement or directly interacting in any way with those data buoys. When a Union fishing vessel's gear becomes entangled with a data buoy, they shall remove the entangled fishing gear with as little damage to the data buoy as possible.
5. Union fishing vessels shall report to their flag Member States any data buoy that they have observed to be damaged or otherwise inoperable, along with the details of observation, the buoy's location, and any discernible identifying information on it. Member States shall send such reports, and information on the location of data buoys assets that they have deployed throughout the Area to the Commission, in accordance with Article 51(5).

SECTION 2
BILLFISHES

Article 6
Management and conservation measures

1. Union fishing vessels shall not retain on board, tranship, or land, any specimens of striped marlin, black marlin, blue marlin or Indo pacific sailfish with a lower jaw fork length of less than 60 cm. If they catch such fish, they shall return them immediately to the sea.
2. Union fishing vessels catching striped marlin, black marlin, blue marlin or Indo pacific sailfish shall record the relevant catch and effort data in accordance with Annex 1 to this Regulation.
3. Member States shall implement a data collection programme to ensure accurate reporting of striped marlin, black marlin, blue marlin or Indo pacific sailfish catches in accordance with Article 51(1).
4. Member States shall report on actions taken to monitor catches and to manage fisheries for the sustainable exploitation and conservation of striped marlin, black marlin, blue marlin and Indo-pacific sailfish in their national scientific report in accordance with Article 51(6).

SECTION 3

BLUE SHARKS

Article 7

Blue sharks

1. Catches of blue shark (*Prionace glauca*) by Union fishing vessels shall be recorded in the logbook in accordance with Article 14 of Regulation (EC) No 1224/2009.
2. Member States shall implement data collection programmes that ensure improved reporting of accurate blue shark catch, effort, size and discard data. Member States shall report data on catches of blue sharks in accordance with Article 51(1).
3. Member States shall include in their implementation report information on the actions taken to monitor catches of blue sharks in accordance with Article 51 (5).
4. Member States are encouraged to undertake scientific research on blue shark that would provide information on key biological, ecological, behavioural characteristics, life-history, migrations, post-release survival and guidelines for safe release and identification of nursery grounds, as well as improving fishing practices. Such information shall be included in the reports that are sent to the Commission in accordance with Article 51(6).

SECTION 4

FISHING USING AIRCRAFTS, FADS AND ARTIFICIAL LIGHTS

Article 8

Prohibition of the use of aircrafts to catch fish

1. Union fishing, support and supply vessels shall not use aircrafts or unmanned aerial vehicles as fishing aids. Any occurrence of a fishing operation undertaken in the Area with the aid of aircraft or an unmanned aerial vehicle shall be immediately reported to the flag Member State and the Commission. The Commission shall inform the IOTC Secretariat thereof without delay.
2. By way of derogation from paragraph 1, aircrafts and unmanned aerial vehicles may be used for scientific, monitoring, control and surveillance purposes.

Article 9

Fish aggregating devices (FADs)

1. Union fishing vessels shall record fishing activities in association with drifting FADs and anchored FADs, separately, using the specific data elements in Annex 2. Member States shall send this information to the Commission, in accordance with Article 51.
2. Daily information on all active FADs shall be transmitted to the Commission containing the information of date, instrumented buoy identification, assigned vessel and daily position, compiled at monthly intervals, submitted at least 60 days later but no longer than 90 days later. The Commission will send this information to the IOTC Secretariat.
3. Member States shall draw up management plans for the use of drifting FADs by each of their purse seine vessels. The management plans shall:

- (a) as a minimum follow the guidelines provided in Annex 2;
 - (b) include initiatives or surveys to investigate, and to the extent possible, minimise the capture of small bigeye and yellowfin tuna and non-target species associated with FADs;
 - (c) include guidelines to prevent, to the extent possible, the loss or abandonment of FADs; and
 - (d) be based on the principles set out in Annex V to CMM 19/02 for reducing the entanglement of sharks, marine turtles or any other species.
4. No later than 75 days before the IOTC annual meeting, Member States shall send the Commission, in accordance with Article 51(5), a report on the progress of the management plans of FADs, including reviews of the initially submitted management plans, and including reviews of the application of the principles of Annex V to CMM 19/02. The Commission shall send this information to the IOTC Secretariat not later than 60 days before the IOTC annual meeting.

Article 10

Non-entangling and biodegradable FADs

Union fishing vessels shall use non-entangling designs and materials for the construction of FADs, as outlined in Annex V to CMM 19/02.

Article 11

Prohibition of the use of artificial lights to attract fish

- 1. Union fishing vessels shall not use, install or operate surface or submerged artificial lights for the purpose of aggregating tuna and tuna-like species.
- 2. The use of lights on drifting FADs is prohibited.
- 3. Where Union fishing vessels encounter drifting FADs equipped with artificial lights in the Area, they shall immediately remove them and bring them back to port.
- 4. Union fishing vessels shall not conduct fishing activities around or near any vessel or drifting FAD equipped with artificial lights for the purpose of attracting tuna and tuna-like species in the Area.
- 5. Navigation lights and lights necessary to ensure safe working conditions are not subject to the prohibition in paragraph 1.

SECTION 5

TRANSHIPMENTS IN PORT

Article 12

Transshipment

- 1. All transshipment operations of IOTC species shall take place in ports designated in accordance with Article 5 of Council Regulation (EC) No 1005/2008 or paragraph 5 of CMM 16/11.
- 2. Union fishing vessels engaged in fisheries of IOTC species shall not tranship their catches to any other vessel unless the catches have been weighed in accordance with Article 60 of Regulation (EC) No 1224/2009.

Article 13
Transshipment operations

1. Transshipment operations in port may only be undertaken in accordance with the following procedure:
 - (a) prior to transshipping, the master of a Union fishing vessel must notify the following information to the port state authorities, at least 48 hours in advance:
 - the name of the fishing vessel and its number in the IOTC record of fishing vessels;
 - the name of the carrier vessel, and the product to be transhipped;
 - the tonnage by product to be transhipped;
 - the date and location of transshipment;
 - the major fishing grounds of the tuna and tuna-like species and sharks catches.
 - (b) the master of a Union fishing vessel shall record and transmit in the electronic logbook a transshipment declaration in accordance with Article 22 of Regulation (EC) No 1224/2009 and the procedures in Regulation (EU) No 404/2011.
 - (c) No later than 15 days after the transshipment, the master of the Union fishing vessel concerned shall complete the IOTC transshipment declaration and transmit to its flag Member State, along with the vessel's number in the IOTC record of fishing vessels
2. The master of a Union carrier vessel shall record and transmit a transshipment declaration in the electronic logbook, in accordance with Article 22 of Regulation (EC) No 1224/2009 and the procedures in Regulation (EU) No 404/2011. The master shall also, within 24 hours, complete and transmit to the competent port state authorities the IOTC transshipment declaration.

Article 14
Landing of transhipped catches by Union carrier vessels

1. By way of derogation from Article 17(1) of Regulation (EC) No 1224/2009, the period for prior notification shall be at least 48 hours before the estimated time of arrival at the port.
2. Member States where transshipments are landed shall take the appropriate measures to verify the accuracy of the information received and shall cooperate with the flag Member State of the carrier vessel, the port State where the transshipment took place and the flag states of the catching fishing vessels involved to ensure that landings are consistent with the catch amount reported for each fishing vessel. This verification shall be carried out in such a way that the carrier vessel suffers the minimum interference and inconvenience and that degradation of the fish is avoided.
3. The master of a Union carrier vessel landing in a third country shall, at least 48 hours before entry into port and in addition to the prior notification referred to in paragraph 1, give prior notification in accordance with the national legislation of the third country in whose port the vessel intends to land transshipments. The master shall also send the IOTC transshipment declaration to the competent authorities of the State in

which transshipments are to be landed and shall not land before being authorised to do so.

4. Where landings take place in a third country the master of the carrier vessel shall cooperate with the port state authorities.
5. Flag Member States of the Union fishing vessels shall include details on the transshipments by its vessels, in their reports in accordance with Article 51(5).

Chapter III

Protection of Certain Marine Species

SECTION 1

ELASMOBRANCHS

Article 15

General conservation measures for sharks

1. Union fishing vessels shall use the IOTC identification guides and handling practices.
2. Union fishing vessels shall, to the extent possible, promptly release unharmed unwanted shark species caught alive on board of vessels, with exception of blue sharks.
3. Such catches shall be reported in the logbook in accordance with Article 14 of Regulation (EC) No 1224/2009, including the status on release (dead or alive).
4. Member States shall report data on all catches of sharks, including all available historical data, estimates and life status of discards and release (dead or alive) and size frequencies of sharks caught by their fishing vessels to the Commission, in their report, in accordance with Article 51(1).

Article 16

Oceanic whitetip sharks

1. Union fishing vessels shall not retain on board, tranship, land, store, sell or offer for sale any part or whole carcass of oceanic whitetip sharks.
2. By way of derogation from paragraph 1, scientific observers shall be allowed to collect biological samples from oceanic whitetip sharks taken in the Area that are dead at haul back, provided that the samples are a part of a research project approved by the IOTC Scientific Committee or the IOTC Working Party on Ecosystems and Bycatch.
3. Where possible, Member States and the Commission shall endeavour to conduct research on oceanic whitetip sharks taken in the Area, in order to identify potential nursery areas.

Article 17

Thresher sharks

1. Union fishing vessels shall not retain on board, tranship, land, store, sell or offer for sale any part or whole carcass of thresher sharks of all species of the family *Alopiidae*.

2. By way of derogation from paragraph 1, scientific observers shall be allowed to collect biological samples from thresher sharks taken in the Area that are dead at haul back, provided that the samples are a part of a research project approved by the IOTC Scientific Committee or the IOTC Working Party on Ecosystems and Bycatch.
3. Recreational and sport fishing shall release all thresher sharks alive. In no circumstances shall they retain them on board, tranship, land, store, sell or offer them for sale. Member States shall ensure that recreational and sport fishermen carrying out fishing with risk of catching thresher sharks are equipped with instruments suitable for releasing the animals alive.
4. Member States and the Commission shall endeavour to conduct research on thresher sharks taken in the Area, in order to identify potential nursery areas.

Article 18
Mobulid rays

1. Union fishing vessels shall not intentionally set any gear type around a mobulid ray if the animal is sighted prior to commencement of the set.
2. Union fishing vessels shall not retain on board, tranship, land, store, sell or offer for sale any part or whole carcass of a mobulid ray.
3. Union fishing vessels shall promptly release alive and unharmed, to the extent practicable, mobulid rays caught unintentionally as soon as they are seen in the net, on the hook, or on the deck, in a manner that will result in the least possible harm to the individual rays captured, and take all reasonable steps to apply handling procedures of Annex I to CMM 19/03, while taking into consideration the safety of the crew.
4. Notwithstanding paragraph 3, where a Union purse seine vessel unintentionally catches and freezes a mobulid ray in the course of its operations, it shall surrender the whole mobulid ray to the responsible governmental authorities, or other competent authority, or discard it at the point of landing. Mobulid rays surrendered in this manner may not be sold or bartered but may be donated for the purposes of domestic human consumption.
5. Union fishing vessels shall use proper mitigation, identification, handling and releasing techniques and keep on board all necessary equipment to release mobulid rays.

Article 19
Whale sharks

1. Union fishing vessels, shall be prohibited from intentionally setting a purse seine net around a whale shark in the Area, if it is sighted prior to the commencement of the set.
2. Where a whale shark is unintentionally encircled or entangled in the fishing gear, Union fishing vessels shall:
 - (a) take all reasonable steps to ensure its safe release, in line with available IOTC Scientific Committee's best practice guidelines for the safe release and handling of whale sharks;

- (b) report the incident to the vessel's flag Member State, with the following information:
- the number of individuals;
 - a short description of the interaction, including details of how and why the interaction occurred, if possible;
 - the location of the encirclement;
 - the steps taken to ensure safe release; and
 - an assessment of the life status of the whale shark on release, including whether it was released alive but subsequently died.

SECTION 2

OTHER SPECIES

Article 20 ***Cetaceans***

1. Union fishing vessels shall not set a purse seine net around a cetacean in the Area, if it is sighted prior to the commencement of the set.
2. Where a cetacean is unintentionally encircled in a purse seine net, or caught by other gear types fishing for tuna and tuna-like species associated with cetaceans, Union fishing vessels shall:
 - (a) take all the reasonable steps to ensure its safe release, which should include following the IOTC Scientific Committee's available best practice guidelines for the safe release and handling of cetaceans;
 - (b) report the incident to the relevant authority of the flag State, with the following information:
 - the species (if known);
 - the number of individuals;
 - a short description of the interaction, including details of how and why the interaction occurred, if possible;
 - the location of the encirclement;
 - the steps taken to ensure safe release; and
 - an assessment of the life status of the animal on release, including whether the cetacean was released alive but subsequently died.
3. Member States shall report the information referred to in under point (b) of paragraph 2, through logbooks in accordance with Article 14 of Regulation (EC) No 1224/2009 including the status upon release (dead or alive), or when an observer is on board through observer programmes and send it to the Commission, in accordance with Article 51(1) and (5).

Article 21 ***Marine turtles***

1. Union fishing vessels shall apply the following mitigation measures:

- (a) longline vessels shall carry line cutters and de-hookers in order to facilitate the appropriate handling and prompt release of marine turtles that have been caught or entangled, taking all reasonable steps to ensure safe release and handling following the IOTC handling guidelines.¹⁸
- (b) purse seine vessels shall, to the extent practicable:
 - avoid encirclement of marine turtles, and if a marine turtle is encircled or entangled, take practicable measures to safely release the turtle in accordance with the IOTC handling guidelines;
 - release all marine turtles found entangled in fish aggregating devices (FADs) or other fishing gears;
 - where a marine turtle is entangled in the net, stop the net roll as soon as the turtle comes out of the water. Before resuming the net roll, the operator shall disentangle the turtle without injuring it, and assist its recovery before returning it to the water; and
 - carry and employ dip nets, when appropriate, to handle marine turtles.
2. Union fishing vessels shall bring aboard, if practicable, any captured marine turtle that is comatose or inactive as soon as possible and foster its recovery, including aiding in its resuscitation, before safely returning it to the water.
3. Member States shall ensure that Union fishing vessels use proper mitigation, identification, handling and de-hooking techniques and keep on board all necessary equipment for the release of marine turtles, taking all reasonable steps in accordance with handling guidelines in the IOTC Marine Turtle Identification Cards provided in IOTC handling guidelines referred to in paragraph 1 point (a).
4. Member States shall report on the implementation the FAO Guidelines to Reduce Sea Turtle Mortality in Fishing Operations¹⁹.
5. Member States shall send all data on their vessels interactions with marine turtles to the Commission, in accordance with Article 51(1). The data shall include the level of logbook or observer coverage and an estimate of total mortality of marine turtles incidentally caught in their fisheries.
6. Union fishing vessels shall record all incidents involving marine turtles during fishing operations, including status on release (dead or alive) in the logbooks in accordance with Article 14 of Regulation (EC) No 1224/2009. They shall report such incidents to their flag Member States with information, where possible, on the species, location of capture, conditions, actions taken on board and location of release. Member States shall send this information to the Commission, in accordance with Article 51(1).

Article 22

Seabirds

1. Union fishing vessels shall use mitigation measures to reduce in levels of seabird bycatch across all fishing areas, seasons and fisheries:

¹⁸ https://www.iotc.org/sites/default/files/documents/2018/11/IOTC_turtles_for_web.pdf

¹⁹ <http://www.fao.org/publications/card/en/c/525d1262-f0ae-5270-bd6e-ac4ab03bbaf9/>

- (a) in the area south of 25 degrees South latitude, all longline vessels shall use at least two of the three mitigation measures of Annex 4 and shall comply with the minimum standards for those measures;
 - (b) the design and deployment of bird scaring lines shall comply with the additional specifications in Annex 5.
2. Union fishing vessels shall record data on incidental seabird bycatch by species, in particular through Regional Observer Scheme referred to in Article 30, and report these to the Commission in accordance with Article 51(1). Observers shall, to the extent possible, take photographs of seabirds caught by Union fishing vessels and transmit them to national seabird experts or the IOTC Secretariat for confirmation of identification.
3. Member States shall inform the Commission how the Regional Observer Scheme referred to in paragraph Article 30 is implemented, in accordance with Article 51(5).

Chapter IV

Control Measures

SECTION 1

GENERAL CONDITIONS

Article 23

Documentation on board Union fishing vessels

1. Union fishing vessels shall maintain fishing logbooks in accordance with this Regulation. The original recording contained in the fishing logbooks shall be kept on board the fishing vessel for at least 12 months.
2. Union fishing vessels shall carry on board valid documents issued by the competent authority of the flag Member State including:
 - (a) license, permit or authorisation to fish and terms and conditions attached to the license, permit of authorisation;
 - (b) vessel's name;
 - (c) port in which the vessel is registered and the registration number(s);
 - (d) international call sign;
 - (e) names and addresses of the owner(s) and if applicable , the charterer;
 - (f) overall length; and
 - (g) engine power, in kw/horsepower, where appropriate.
3. Member States shall verify the validity of the documents to be carried on board fishing vessels regularly, at least once a year.
4. Member States shall ensure that all documents carried on board and any further amendments to them are issued and certified by the competent authority and are marked in such a way that they can be readily identified with generally accepted

standards such as the FAO Standard Specification for the Marking and Identification of Fishing Vessels.²⁰

SECTION 2

RECORD OF VESSELS

Article 24

Record of authorised fishing vessels

1. The following Union fishing vessels shall be registered in the IOTC record of fishing vessels:
 - (a) vessels of 24 metres or more in overall length;
 - (b) vessels of less than 24 metres in overall length if the Union fishing vessels fish outside the exclusive economic zone (EEZ).
2. Union fishing vessels that are not registered in the IOTC record referred to in paragraph 1, shall not be authorised to fish for, retain on board, tranship or land IOTC species or support any fishing activity or set drifting FADs in the Area. This provision shall not apply to vessels of less than 24 metres in overall length operating inside the EEZ of a Member State.
3. Member States shall submit to the Commission the list of vessels complying with the requirements of paragraph 1, which are authorised to operate in the Area. This list shall include the following information for each vessel:
 - (a) name of vessel(s), register number(s);
 - (b) IMO number;
 - (c) previous name(s) (if any) or indicate non-availability;
 - (d) previous flag(s) (if any) or indicate non-availability;
 - (e) details of previous deletion from other registries (if any) or indicate non-availability;
 - (f) international radio call sign(s) (if any), or indicate non-availability;
 - (g) port of registration;
 - (h) type of vessel(s), overall length (m) and gross tonnage (GT);
 - (i) total volume of fish hold(s) in cubic metres;
 - (j) name and address of owner(s) and operator(s);
 - (k) name and address of beneficial owner(s), if known and different from vessel owner/operator or indicate non-availability;
 - (l) name, address and registration number of company operating the vessel (if any);
 - (m) gear(s) used;
 - (n) time period(s) authorised for fishing and/or transshipping;
 - (o) colour photographs of the vessel showing:

²⁰

<http://www.fao.org/3/a-i7783e.pdf>

- the starboard and portsides, each showing the whole structure;
- the bow;
- at least one photograph clearly showing at least one of the external markings specified in point (a).

For vessels not authorized to operate outside the EEZ of the Member State, requirement laid down in paragraph 3(o) shall apply from 1 January 2022.

4. Member States shall promptly notify the Commission of any addition to, deletion from, or amendment of the IOTC Record. The Commission shall send this information to the IOTC Secretariat without delay.
5. During the year, the Commission shall, if necessary, provide the IOTC Secretariat with updated information on Union fishing vessels registered in the IOTC record referred to in paragraph 1.

Article 25

Communication of information

The information to be notified by the Member States to the Commission, in accordance with Article 24, shall be carried out in an electronic format in accordance with Article 39 of the Regulation (EU) 2017/2403.

Article 26

Authorisation of fishing vessels

1. Member States shall issue an authorisation to fish for the IOTC species for fishing vessels flying their flag in accordance with Article 21 of Regulation (EU) 2017/2403.
2. Member States shall submit to the Commission an updated template of the official authorisation to fish outside national jurisdictions, and update this information whenever this information changes. The Commission shall send this information to the IOTC Secretariat without delay. The template shall include the following information:
 - (a) name of the competent authority;
 - (b) name and contact of personnel of the competent authority;
 - (c) signature of the personnel of the competent authority; and
 - (d) official stamp of the competent authority.
3. The template referred in paragraph 2 shall be used exclusively for monitoring, control and surveillance purposes and a difference between the template and the authorisation carried onboard the vessel does not constitute an infraction, but will prompt the controlling State to clarify the issue with the identified Competent Authority of the flag State of the vessel in question.

Article 27

Obligations for Member States issuing fishing authorisations

1. Member States shall:

- (a) authorise their vessels to operate in the Area only if they are able to fulfil the requirements and responsibilities under the IOTC Agreement, this Regulation and CMM;
 - (b) take necessary measures to ensure that their fishing vessels comply with this Regulation and CMM;
 - (c) take the necessary measures to ensure that their auxiliary fishing vessels keep on board valid certificates of vessel registration and valid authorisations to fish or tranship;
 - (d) ensure that their authorised fishing vessels have no history of IUU fishing activities or that, if a vessels has such a history, the new owner has provided sufficient evidence demonstrating that:
 - the previous owners and operators have no legal, beneficial or financial interest in, or control over that vessels;
 - the parties of the IUU incident have officially resolved the matter and sanctions have been completed;
 - having taken into account all relevant facts, their auxiliary fishing vessels are not engaged in or associated with IUU fishing;
 - (e) ensure, to the extent possible under national legislation, that the owners and operators of their auxiliary fishing vessels are not engaged in or associated with tuna fishing activities conducted by vessels not registered in the IOTC record referred to in Article 24(1);
 - (f) take necessary measures to ensure, to the extent possible under national legislation, that the owners of auxiliary fishing vessels on the IOTC record referred to in Article 24(1) are citizens of, or legal entities in the flag Member State, so that any control or punitive action can be taken against them where required.
2. Member States shall report the results of the review of the actions and measures taken pursuant to paragraph 1 to the Commission, in accordance with Article 51(5).
 3. Member States which issue licenses to their authorised fishing vessels shall report annually to the Commission all measures taken in accordance with Annex I to CMM 05/07, using the format set out in Annex II of CMM 05/07, and in accordance with Article 51 of this Regulation.

Article 28

Measures against vessels not registered in the IOTC record of vessels

1. Union fishing vessels not registered in the IOTC record referred to in Article 24(1), shall not fish for, retain on board, tranship or land IOTC species in the Area.
2. To ensure the effectiveness of this Regulation pertaining to species covered by statistical document programmes Member States:
 - (a) shall validate statistical documents only for Union vessels on the IOTC record;
 - (b) shall require that, when imported into the territory of a CPC, the species covered by statistical document programmes caught by Union fishing vessels in the Area, shall be accompanied by statistical documents; and

- (c) shall cooperate, when importing catch of species covered by statistical document programmes, with the flag Member States of vessels catching those species to ensure that statistical documents are not forged or do not contain misinformation.
- 3. Member States shall notify the Commission of any factual information showing that there are reasonable grounds for suspecting vessels not registered in the IOTC record to be engaged in fishing for or transshipment of IOTC species in the Area. The Commission shall notify the IOTC Secretariat of this information immediately.

Article 29

Record of active vessels fishing for tuna and swordfish

1. Member States with vessels fishing for tunas and swordfish in the Area shall, using the appropriate IOTC report template, submit to the Commission by 1st February of each year a list of fishing vessels flying their flag that were active in the Area during the previous year:
 - (a) which are larger than 24 metres in overall length,
 - (b) or in case of vessels shorter than 24 metres, those operating in waters outside the EEZ of the flag State.
2. The Commission shall forward this information to the IOTC Secretariat before the 15 February of each year.
3. The list of vessels referred to in paragraph 1 shall contain the following information for each vessel:
 - (a) the IOTC number;
 - (b) name and registration number;
 - (c) IMO number, if available;
 - (d) previous flag (if any);
 - (e) international radio call sign (if any);
 - (f) vessel type, length and gross tonnage (GT);
 - (g) name and address of owner, charterer or operator (where relevant);
 - (h) main target species; and
 - (i) period of authorisation.

SECTION 3

REGIONAL OBSERVER SCHEME

Article 30

Regional Observer Scheme

1. Union fishing vessels of 24 meters overall length and over, and under 24 meters fishing outside of their EEZ, shall ensure that at least 5% of the number of operations/sets for each gear type while fishing in the Area are covered by observers endorsed by the regional observer scheme.

2. When purse seine vessels are carrying an observer as referred to in paragraph 1, this observer shall also monitor the catches at landing to identify the composition of bigeye tuna catches.
3. The requirement in paragraph 2 is not applicable to Member States that already have a sampling scheme, the coverage of which fulfil requirements set out in paragraph 1.

Article 31

Observers' obligations

1. Observers on board Union fishing vessels shall:
 - (a) record and report their fishing activities and, verify positions of the vessel;
 - (b) observe and estimate catches as far as possible with a view to identifying catch composition and monitoring discards, by-catches and size frequency;
 - (c) record gear type, mesh size and attachments employed by the master;
 - (d) collect information to enable the cross-checking of entries made to the logbooks (species composition and quantities, live and processed weight and location, where available); and
 - (e) carry out scientific work as requested by the IOTC Scientific Committee.
2. The observer shall, within 30 days of completion of each trip, provide a report to the flag Member State. The report shall be provided by area of 1°latitude by 1°longitude. Member States shall send to the Commission within 140 days from reception, each report, but shall ensure that the reports from observer placed on the longline fleet are sent in continuous flow through the year. The Commission shall forward within 10 days the reports to the IOTC Secretariat.

Article 32

Field samplers

1. Field samplers shall monitor the number of landings by Union artisanal fishing vessels at the landing place. As regards artisanal fishing vessels, the samplers should cover at least 5% of the total number of fishing trips by such vessels or of the total number of active fishing vessels.
2. Field samplers shall collect information on land during unloading of fishing vessels. Field sampling programmes can be used for quantifying catch, retained bycatch and collecting tag returns.
3. Field samplers shall monitor catches at the landing place with a view to estimating catch-at-size by type of boat, gear and species, or carry out such scientific work as requested by the IOTC Scientific Committee.

Article 33

Member States obligations

1. Member States shall recruit qualified observers to place on-board vessels flying their flag.
2. Member States shall:
 - (a) take the necessary measures to ensure that observers are able to carry out their duties in a competent and safe manner;

- (b) ensure that observers alternate vessels between their assignments;
 - (c) ensure that the vessel on which an observer is placed shall provide suitable food and lodging during the observer's deployment of the same level as that of the officers, where possible;
 - (d) ensure that the master of a vessel cooperates with observers in order for them to carry out their duties safely including providing access, as required, to the retained catch, and catch which is intended to be discarded; and
 - (e) bear the cost of the observer scheme.
3. Member States shall report the number of vessels monitored and the coverage achieved by gear type to the Commission, in accordance with Article 51(6).

SECTION 4

MONITORING AND SURVEILLANCE

Article 34

Vessel monitoring system

1. Member States shall, no later than two working days following detection or notification of technical failure or non-functioning of the vessel monitoring device on board a Union fishing vessel, forward the geographical position of the vessel to the IOTC Secretariat, or shall ensure that these positions are forwarded to the IOTC Secretariat by the master or the owner of the vessel, or their representative.
2. Where a Member State suspects that one or more on-board vessel monitoring device on board the vessel of another flag Member State or another CPC does not meet required operational conditions, or have been tampered with, it shall immediately notify the Commission that will forward the notification to IOTC Secretariat and the vessel's flag State.

Article 35

Chartering

1. Chartering shall be subject to the following conditions:
 - (a) the flag CPC has consented in writing to the chartering agreement;
 - (b) the duration of the fishing operation under the chartering agreement does not exceed 12 months cumulatively in any calendar year;
 - (c) fishing vessels to be chartered shall be registered with the responsible CPC which explicitly agree to comply with the CMM and enforce them on their vessels. All flag CPC shall effectively fulfil their duty to control their fishing vessels to ensure compliance with CMM;
 - (d) fishing vessels to be chartered shall be on the IOTC record referred to in Article 24, authorised to operate in the Area;
 - (e) if the chartered vessel is allowed by the chartering CPC to operate in the high seas, the flag CPC shall be responsible for controlling the high seas fishing conducted pursuant to the charter arrangement;
 - (f) chartered vessels shall report Vessels Monitoring Scheme (VMS) and catch data to both the chartering CPC and flag CPC, and to the IOTC Secretariat, as provided in the Charter Notification Scheme detailed in Annex 6;

- (g) all catches, including bycatches and discards, taken pursuant to the chartering agreement shall be counted against quota or fishing possibilities of the chartering CPC. The observer coverage on board such chartered vessels shall be counted against the coverage rate of the chartering CPC for its fishing activity under the charter agreement;
- (h) the chartering CPC shall report to the IOTC all catches, including bycatches and discards, and other information required by the IOTC;
- (i) chartered vessels shall be duly equipped with VMS, and fishing gear shall be marked for effective fishery management;
- (j) observer coverage of at least 5% of fishing effort;
- (k) chartered vessels shall have a fishing license issued by the chartering CPC, and shall not be on the IOTC IUU list;
- (l) chartered vessels shall not be authorised to use the quota of the flag CPC, and in no case, shall the vessel be authorised to fish under more than one chartering agreement at the same time;
- (m) landing shall take place in the ports of the CPC, or under the direct supervision of CPC, in order to assure that the activities of the chartered vessels do not undermine CMM.

Article 36

Charter notification scheme

1. The chartering Member State shall notify the Commission of any vessel to be identified as chartered in accordance with this Article without delay and no later than 50 hours before commencement of fishing activities under a charter agreement, by submitting electronically and without delay the following information with respect to each chartered vessel:
 - (a) the name (in both original registration language and Latin alphabets) and registration of the chartered vessel, and IMO number;
 - (b) the name and contact address of the beneficial owner of the vessel;
 - (c) the description of the vessel, including the length overall, type of vessel and the type of fishing method(s) to be used under the charter;
 - (d) a copy of the chartering agreement and any fishing authorisation or license it has issued to the vessel, including the quota allocation or fishing possibility assigned to the vessel, and the duration of the chartering arrangement;
 - (e) its consent to the chartering agreement; and
 - (f) the measures adopted to implement these provisions.
2. The flag Member State shall notify the Commission of any vessel to be identified as chartered in accordance with this Article, without delay and no later than 50 hours before commencement of fishing activities under a charter agreement by submitting electronically the information with respect to each chartered vessel referred to in paragraph 1.
3. Upon receiving the information from Member States set out in paragraph 1 or 2, the Commission shall forward the following information to the IOTC Secretariat:

- (a) its consent to the chartering agreement;
 - (b) the measures adopted to implement these provisions; and
 - (c) its agreement to comply with CMM.
4. Member States referred to in paragraph 1 and 2 shall immediately inform the Commission of the start, suspension, resumption and termination of the fishing operations under the chartering agreement.
5. Member States chartering fishing vessels shall report to the Commission by 10 February of each year the particulars of charter agreements made in the previous calendar year, including information of catches taken and fishing effort deployed by the chartered vessels as well as the level of observer coverage achieved on the chartered vessels in accordance with Article 35(1)(j). The Commission shall forward that information to the IOTC Secretariat by 28 February of each year.

Article 37

Vessels with no nationality

Where a Member State's vessel or aircraft makes any sighting of fishing vessels that are suspected of, or confirmed as, being without nationality that may be fishing in the high seas of the Area, that Member State shall report the sighting to the Commission, which shall forward the information to the IOTC Secretariat immediately.

Article 38

Fishing vessels with flags of convenience

Member States shall, as regards large scale tuna longline vessels with flags of convenience:

- (a) refuse landing and transshipment by flag of convenience vessels which are engaged in fishing activities diminishing the effectiveness of measures of this Regulation or adopted by the IOTC;
- (b) take every possible action to urge their importers, transporters and other concerned operators to refrain from transacting in and transshipping tunas and tuna-like species caught by vessels carrying out flag of convenience fishing activities;
- (c) urge their manufacturers and other concerned business people to prevent their vessels and equipment/devices from being used for flag of convenience longline fishing operations; and
- (d) monitor and exchange information concerning flag of convenience fishing vessels activities including the port sampling activities conducted by the IOTC Secretariat.

Chapter V

Catch Data and Access Agreements

SECTION 1

CONTROL OF CATCH DATA

Article 39

Record of catch and effort data

1. Union fishing vessels shall keep an electronic logbook to record data that includes, as minimum requirements, the information and data set out in Annex 1.
2. The logbook shall be completed by the master of the fishing vessel and be submitted to the flag Member State, as well as to the coastal State in whose EEZ the Union fishing vessel has fished. Only the part of the logbook corresponding to the activity deployed in the coastal State EEZ shall be provided to the coastal State.
3. Member States shall report to the Commission all the data for any given year on an aggregated basis in their annual reports, in accordance with Article 51(1).

Article 40

Bigeye tuna catch certificate

1. All bigeye tuna imported into the territory of a Member State, shall be accompanied by an IOTC Bigeye Tuna Statistical Document, as provided in Appendix 1 of Annex I to CMM 01/06, or an IOTC bigeye tuna re-export certificate which meets the requirements of Appendix 2 of Annex I to CMM 01/06.
2. By way of derogation from paragraph 1, bigeye tuna caught by purse seine vessel or pole and line (bait) vessels and destined principally for the canneries in the Area are not subject to this statistical requirement.
3. The documents referred to paragraph 1 shall be validated in accordance with the format set out in Appendix 4 of Annex I to CMM 01/06, in accordance with the following:
 - (a) IOTC bigeye tuna statistical document shall be validated by the flag Member State of the vessel that caught the tuna, or if the vessel is operating under a charter arrangement, by the State that exported the tuna; and
 - (b) IOTC bigeye tuna re-export certificate shall be validated by the State that re-exported the tuna;
 - (c) statistical documents for bigeye tuna caught by Union vessels, may be validated by the Member State where the products are landed, provided the corresponding quantities of bigeye tuna are exported outside the Union from the territory of the Member States of landing.
4. By 15 March of each year (for the period from 1 July to 31 December of the previous year) and 15 September (for the period from 1 January to 30 June of the current year) Member States that import bigeye tuna shall report to the Commission the data collected under the bigeye tuna statistical document programme, using the format of Appendix 3 of Annex I to CMM 01/06. The Commission shall examine the

information and shall transmit it to the IOTC Secretariat by 1 April and 1 October respectively.

5. Member States which export bigeye tuna shall examine export data upon receiving the import data referred to in paragraph 4, and shall report the results to the Commission annually, in accordance with Article 51(5).

Chapter VI

Port State Measures, Inspection, Enforcement and IUU

SECTION 1

PORT STATE MEASURES

Article 41

Points of contact and designated ports

1. A Member State wishing to grant access to its ports to third country fishing vessels carrying IOTC species caught in the Area or fishery products originating from IOTC species that have not been previously landed or transhipped shall:
 - (a) designate the port to which third country fishing vessels may request entry pursuant to Article 5 of Regulation (EC) No 1005/2008;
 - (b) designate a point of contact for the purposes of receiving prior notice pursuant to Article 6 of Regulation (EC) No 1005/2008;
 - (c) designate a point of contact for the purposes of receiving inspection reports pursuant to Article 11(3) of Regulation (EC) No 1005/2008.
2. Member States shall transmit any changes to the list of designated points of contact and designated ports to the Commission at least 30 days before the changes take effect. The Commission shall forward that information to the IOTC Secretariat at least 15 days before the changes take effect.

Article 42

Prior notice

1. By way of derogation from Article 6 (1) of Regulation (EC) No 1005/2008, the period for prior notification shall be at least 48 hours before the estimated time of arrival at the port.
2. By way of derogation from Article 6(1) of Regulation (EC) No 1005/2008, the information to be provided by masters of third country fishing vessels or their representatives, shall be that required under Annex I to CMM 16/11 which shall be accompanied by a catch certificate validated in accordance with Chapter III of Regulation (EC) No 1005/2008 if the third country fishing vessel carries on board IOTC fishery products.
3. The prior notice referred to in Article 6 of Regulation (EC) No 1005/2008 and the information required under paragraph 2 of this Article may be transmitted electronically by means of the e-PSM application.²¹

²¹

<https://www.iotc.org/compliance/port-state-measures>

4. Port Member States may request any additional information in order to determine whether the fishing vessels referred to in paragraph 1 have engaged in IUU fishing or related activities.

Article 43

Authorisation to enter, land and tranship in ports

1. After receiving the relevant information pursuant to Article 42 of this Regulation, a port Member State shall decide whether to authorise or deny the third country fishing vessel entry into and use of its ports. Where a third country fishing vessel has been denied entry, the port Member State shall inform the flag State of the vessel and the Commission which shall forward the information to the IOTC Secretariat without delay. Port Member States shall deny entry to fishing vessels included in the IOTC list of IUU vessels.
2. Where a prior notice has been received by means of the e-PSM the port Member State shall communicate its decision to authorise or deny entry into port through the same application.
3. Pursuant to Article 8(1) of Regulation (EC) No 1005/2008, in the case of carrier vessels, the declaration required shall be an IOTC transhipment declaration and shall submit such declaration at least 48 hours prior to the intended time of landing. The Member States where transhipments are to be landed shall take the appropriate measures to verify the accuracy of the information received and shall cooperate with the flag State of the carrier vessel, any port State involved in the transhipments to be landed and the flag states of the catching fishing vessels involved to ensure that landings are consistent with the reported catch amount of each catching fishing vessel. This verification shall be carried out in such a way that the carrier vessel suffers the minimum interference and inconvenience and that degradation of the fish is avoided.
4. Where a landing or transhipment declaration is received by the port Member State from a catching fishing vessel pursuant to Article 8(1) of Regulation (EC) No 1005/2008, the port Member States shall take the appropriate measures to verify the accuracy of the information received and shall cooperate with the flag CPC to ensure that landings and/or transhipments are consistent with the amount of catches reported for each catching vessel.
5. Each port Member State shall submit to the Commission by 15 June of each year, the list of fishing vessels that are not flagged to that port Member State, which have landed in their ports tuna and tuna-like species caught in the Area in the preceding calendar year. This information shall be included in the appropriate IOTC report template and shall detail the catch composition by weight and species landed. The Commission shall examine such reports and transmit it to the IOTC Secretariat by 30 June of each year.

SECTION 2

INSPECTION

Article 44

Port inspection

1. Each year, port Member State shall inspect in their designated ports at least 5% of all landings or transshipments related to IOTC species made by fishing vessels that are not flagged to that port Member State.
2. Inspections shall involve the monitoring of the entire landing or transshipment and include a cross-check between the quantities, by species, recorded in the prior notice and the quantities by species actually landed or transhipped. When the landing or transshipment is completed, the inspector shall verify and note the quantities (by species) of fish remaining on board.

Article 45

Inspection procedure

1. This Article shall apply in addition to the rules on the inspection procedure laid down in Article 10 of Regulation (EC) No 1005/2008.
2. Inspectors from port Member States shall be properly qualified inspectors authorised for that purpose, and shall carry a valid document of identity that they shall present to the master of the vessel to be inspected.
3. As a minimum standard port Member States shall ensure that their inspectors carry out the tasks set out in Annex II to CMM 16/11. Port Member States, in carrying out inspections in their ports, shall require the master of the vessel to give inspectors all necessary assistance and information, and to present relevant material and documents as may be required, or certified copies thereof.
4. In the written report of the results of each inspection, each port Member State shall, as a minimum, include the information set out in Annex III to CMM 16/11. Within 3 working days of the completion of the inspection, the port Member State shall transmit a copy of the inspection report and, upon request, an original or certified copy thereof, to the master of the inspected vessel, to the flag State, and to the Commission, which shall forward the report to the IOTC Secretariat.
5. By 15 June of each year, port Member States shall submit to the Commission, the list of fishing vessels not flagged to that port Member State, which have landed in their ports tuna and tuna-like species caught in the IOTC area the preceding calendar year. This information shall detail the catch composition by weight and species landed. The Commission shall forward this information to the IOTC Secretariat by 1 July of each year.

SECTION 3

ENFORCEMENT

Article 46

Procedure in case of evidence of infringements of IOTC measures during port inspections

1. If the information collected during the inspection provides evidence that a fishing vessel has committed a breach of the IOTC measures, this Article shall apply in addition to Article 11 of Regulation (EC) No 1005/2008.
2. The competent authorities of the port Member State shall forward a copy of the inspection report to the Commission as soon as possible and in any case within three working days. The Commission shall transmit that report to the IOTC Secretariat and to the flag CPC point of contact without delay.
3. Port Member States shall promptly notify the action taken in the event of infringements to the competent authority of the flag CPC and to the Commission who shall transmit that information to the IOTC Secretariat.

Article 47

Alleged infringements reported by Member States

1. Member States shall submit to the Commission, using the reporting form of Annex I to CMM 18/03, any documented information that indicates possible instances of non-compliance by any fishing vessel with IOTC conservation and management measures in the Area over the past two years at least 40 days in advance of the annual meeting of the IOTC. The Commission shall examine that information and, if appropriate, forward it to the IOTC Secretariat at least 30 days in advance of the annual meeting.
2. The documented information referred to in paragraph 1, shall be accompanied by information concerning the IUU fishing activity of each of the listed vessels including but not limited to:
 - (a) reports regarding the alleged IUU fishing activity relating to CMM in force;
 - (b) trade information obtained on the basis of relevant trade statistics such as those from statistical documents and other verifiable national or international statistics;
 - (c) an information obtained from other sources or gathered from fishing grounds such as:
 - information gathered from inspections undertaken in port or at sea; or
 - information from coastal states including VMS transponder or Automatic Identification System (AIS) data, surveillance data from satellites or airborne or seaborne assets; or
 - IOTC programmes, except where such a programme stipulates that information gathered is to be kept confidential; or
 - information and intelligence collected by third parties.

Article 48

Alleged infringements reported by CPC and the IOTC Secretariat

1. Where the Commission receives from a CPC or the IOTC Secretariat any information indicating alleged IUU fishing activities by a Union fishing vessel, it shall transmit that information to the concerned Member State without delay.
2. The concerned Member State shall provide the Commission with the findings of any investigation undertaken in relation to the allegations of non-compliance by fishing vessels flying its flag, and any actions taken to address compliance concerns, at least 45 days in advance of the annual meeting of the IOTC. The Commission shall forward that information to the IOTC at least 15 days in advance of the annual meeting.

Article 49

Draft IOTC IUU vessel list

1. If the Commission receives official notification of the inclusion of a Union fishing vessel in the draft IOTC IUU vessel list from the IOTC Secretariat, it shall transmit that notification, including the supporting evidence and any other documented information provided by the IOTC Secretariat, to the concerned flag Member State.
2. The concerned Member State shall provide comments not later than 30 days in advance of the annual meeting of the IOTC Compliance Committee. The Commission shall examine and forward that information to the IOTC Secretariat at least 15 days in advance of the annual meeting of the Compliance Committee.
3. Once notified by the Commission, the authorities of the concerned flag Member State shall:
 - (a) notify the owner and the operators of the fishing vessel of its inclusion in the draft IOTC IUU vessel list and of the possible consequences that may result from this inclusion being confirmed in the IUU vessel list adopted by the IOTC, and
 - (b) closely monitor the vessels included in the draft IOTC IUU list, in order to determine their activities and detect possible changes of name, flag, or registered owner of those vessels.

Article 50

Provisional IOTC IUU vessel list

1. In order to prevent a Union fishing vessel included in the draft IUU vessel list, as referred to under Article 49, from being included in the provisional IOTC IUU vessel list, the flag Member State shall provide following information to the Commission:
 - (a) demonstrating that the vessel has, at all relevant times, complied with the conditions of its authorisation and:
 - that the vessel has conducted fishing in a manner consistent with the CMM;
 - that the vessel has conducted fishing activities within the waters under the jurisdiction of a coastal State in a manner consistent with the laws and regulations of that coastal State; or

- that the vessel has fished exclusively for species not covered by the Agreement; or
 - (b) demonstrating that effective punitive action has been taken in response to the IUU fishing activities in question, including prosecution and imposition of sanctions of adequate severity to be effective in securing compliance and deterring further infringements.
2. The Commission shall examine this information and transmit it to the IOTC Secretariat without delay.

Chapter VII

Final Provisions

Article 51

Data reporting

1. Before 15 June of each year, Member States shall submit to the Commission information, for the preceding calendar year, the information concerning the following elements, using the table in Annex II to CMM 18/07:
 - (a) estimates of the total catch by species and gear, if possible quarterly, separated, whenever possible, by retained catches in live weight and by discards in live weight or numbers, for all species under the IOTC mandate as well as the most commonly caught elasmobranch species according to records of catches and incidents;
 - (b) total catch data concerning cetaceans, marine turtles and seabirds data as referred to in Articles 20, 21 and 22, respectively;
 - (c) for purse seine and pole and line fisheries, data on catch and effort shall be stratified by fishing mode. The data shall be extrapolated to the total national monthly catches for each gear and documents describing the extrapolation procedures shall also be submitted routinely;
 - (d) for longline fisheries, data on catches by species, in numbers or weight, and effort as the number of hooks deployed shall be provided by 5° grid area and monthly strata. Documents describing the extrapolation procedures shall also be submitted routinely;
 - (e) a summary of the most recent yellowfin tuna catches in accordance with the Article 39;
 - (f) zero catches that shall be reported using the table in Annex II to CMM 18/07.
2. To the information referred to in paragraph 1, Member States shall add the following fishing effort data by the purse seiners fleet using supply vessels and FADs:
 - (a) the number and characteristics of purse seine supply vessels, operating under their flag, or assisting purse seine vessels operating under their flag, or licensed to operate in their EEZ, which have been operated in the Area;
 - (b) number and days at sea by purse seine vessels and purse seine supply vessels by 1° grid area and month to be reported by the flag Member State of the supply vessel;

- (c) the positions, dates and the time of setting, FAD identifier and type, and FAD design characteristics of each FAD.
- 3. The information referred to in paragraph 1, for type of vessels and in regard to provisional and final data, shall be submitted to the Commission on the following dates:
 - (a) Provisional data for longline fleets operating on the high seas for the previous year shall be submitted no later than 15 June of each year. Final data shall be submitted no later than 15 December of each year;
 - (b) Final data for all other fleets, including supply vessels, shall be submitted no later than 15 June each year.
- 4. The Commission shall analyse the information, and send it to the IOTC Secretariat by the specific deadlines provided in the Regulation.
- 5. Member States shall submit to the Commission 75 days before the annual meeting of the IOTC, information for the preceding calendar year, containing the information on actions taken to implement their reporting obligations for all IOTC fisheries, including shark species caught in association with IOTC fisheries, in particular the steps taken to improve their data collection for direct and incidental catches. The Commission shall compile the information into a Union implementation report and send it to the IOTC Secretariat.
- 6. Flag Member States shall send annually to the Commission a national scientific report, not later than 45 days before the session of the IOTC Scientific Committee, at a date communicated by the Commission, containing the following points:
 - (a) general fisheries statistics;
 - (b) report on the implementation of Committee recommendations;
 - (c) the progress achieved undertaking research as provided in Article 15(4), Article 16(3), Article 17(4), Article 18(5); and
 - (d) other relevant information related to fishing activities for species under the IOTC mandate as well as sharks, other byproduct and bycatch species.
- 7. The report referred to in paragraph 6 shall be reported in accordance with the template prescribed by the Scientific Committee of the IOTC. The Commission shall send to the flag Member States the required template. The Commission shall analyse the information in the report, compile them into a Union report and send it to the IOTC Secretariat.

Article 52 **Confidentiality**

Data collected and exchanged in the framework of this Regulation shall be treated in accordance with the applicable rules on confidentiality pursuant to Articles 112 and 113 of Regulation (EC) No 1224/2009.

Article 53 **Procedure for amendments**

- 1. Where necessary in order to implement into Union law amendments to, or supplement, the existing IOTC resolutions which become binding on the Union, and

insofar as amendments to Union law do not go beyond the IOTC resolutions, the Commission is empowered to adopt delegated acts in accordance with Article 54 for the purpose of amending:

- (a) information per vessel for the list of active vessels for tuna and swordfish, of Article 24(3);
 - (b) percentage of observer coverage of Article 30(1);
 - (c) field samplers coverage for artisanal fisheries of Article 32(1);
 - (d) conditions of chartering of Article 35(1);
 - (e) percent of inspections for port landings of Article 44(1);
 - (f) reporting deadlines of Article 29(1)and(2), Article 45(5), Article 51;
 - (g) Annexes 1 to 6;
 - (h) references to international acts of Article 3(12), Article 9(3)(d), Article 9(4), Article 10, Article 12(1), Article 18(3) and (5), Article 21(4), Article 23(4), Article 27(3), Article 40(1), (3) and (4), Article 42(2) and (3), Article 45 (3) and (4), Article 47(1), Article 51(1), and Article 51(1)(f).
2. Any amendments adopted in accordance with paragraph 1 shall be strictly limited to the implementation of amendments and/or supplement to the IOTC resolutions concerned into Union law.

Article 54

Exercise of delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 53 shall be conferred on the Commission for a period of five years from [dd.mm.yyyy]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 53 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated act already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 53 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament

and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 55

Amendments to Council Regulations (EC) No 1936/2001, (EC) No 1984/2003, and (EC) No 520/2007

1. Article 2(b), Article 20, Article 20a, Article 20b, Article 20c, Article 20d, Article 20e, Article 21 and Article 21a of Regulation (EC) No 1936/2001 are deleted.
2. Article 1(b), Article 8(b) and Annexes VII, XII, XIV, and XVIII Regulation (EC) No 1984/2003 are deleted.
3. Article 4(2), Article 18, Article 19, and Article 20 of Regulation (EC) No 520/2007 are deleted.

Article 56

Entry into force

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

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President