COMMISSION IMPLEMENTING REGULATION (EU) 2019/479

of 22 March 2019

operating deductions from fishing quotas available for certain stocks in 2018 on account of overfishing of other stocks in the previous years and amending Implementing Regulation (EU) 2018/1969

THE EUROPEAN COMMISSION,

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

Having regard to 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 ([1]), and in particular Article 105(1), (2), (3) and (5) thereof,

Whereas:

(1) Fishing quotas for the year 2017 have been established by:

— Council Regulation (EU) 2016/1903 ([2]),

— Council Regulation (EU) 2016/2285 ([3]),

— Council Regulation (EU) 2016/2372 ([4]), and

— Council Regulation (EU) 2017/127 ([5]).

(2) Fishing quotas for the year 2018 have been established by:

— Council Regulation (EU) 2016/2285,

— Council Regulation (EU) 2017/1970 ([6]),

— Council Regulation (EU) 2017/2360 ([7]), and

— Council Regulation (EU) 2018/120 ([8]).

(3) Pursuant to Article 105(1) of Regulation (EC) No 1224/2009, when the Commission has established that a Member State has exceeded the fishing quotas which have been allocated to it, the Commission is to operate deductions from future fishing quotas of that Member State.

(4) Commission Implementing Regulation (EU) 2018/1969 ([9]) has established deductions from fishing quotas for certain stocks in 2018 on account of overfishing in the previous years.

([1]) OJ L 343, 22.12.2009, p. 1.
([2]) Council Regulation (EU) 2016/1903 of 28 October 2016 fixing for 2017 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulation (EU) 2016/72 (OJ L 295, 29.10.2016, p. 1).
([3]) Council Regulation (EU) 2016/2285 of 12 December 2016 fixing for 2017 and 2018 the fishing opportunities for Union fishing vessels for certain deep-sea fish stocks and amending Council Regulation (EU) 2016/72 (OJ L 344, 17.12.2016, p. 32).
([4]) Council Regulation (EU) 2016/2372 of 19 December 2016 fixing for 2017 the fishing opportunities for certain fish stocks and groups of fish stocks in the Black Sea (OJ L 352, 23.12.2016, p. 26).
([5]) Council Regulation (EU) 2017/127 of 20 January 2017 fixing for 2017 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 24, 28.1.2017, p. 1).
([6]) Council Regulation (EU) 2017/1970 of 27 October 2017 fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Baltic Sea and amending Regulation (EU) 2017/127 (OJ L 281, 31.10.2017, p. 1).
([7]) Council Regulation (EU) 2017/2360 of 11 December 2017 fixing for 2018 the fishing opportunities for certain fish stocks and groups of fish stocks in the Black Sea (OJ L 337, 19.12.2017, p. 1).
([8]) Council Regulation (EU) 2018/120 of 23 January 2018 fixing for 2018 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, and amending Regulation (EU) 2017/127 (OJ L 27, 31.1.2018, p. 1).
([9]) Commission Implementing Regulation (EU) 2018/1969 of 12 December 2018 operating deductions from fishing quotas available for certain stocks in 2018 on account of overfishing in the previous years (OJ L 316, 13.12.2018, p. 12).

(5) However, for certain Member States no deductions could be operated by Implementing Regulation (EU) 2018/1969 from quotas allocated for the overfished stocks because such quotas are not available for those Member States in the year 2018.

(6) Article 105(5) of Regulation (EC) No 1224/2009 provides that, if it is not possible to operate deductions on the overfished stock in the year following the overfishing because the Member State concerned has no available quota, deductions may be operated on other stocks in the same geographical area or with the same commercial value. According to Commission Communication 2012/C 72/07 containing Guidelines for deduction of quotas under Article 105(1), (2) and (5) of Regulation (EC) No 1224/2009 ([10]) such deductions should be preferably operated from quotas allocated for stocks fished by the same fleet as the fleet that overfished the quota, taking into account the need to avoid discards in mixed fisheries.

(7) The Member States concerned have been consulted with regard to the proposed deductions from quotas allocated for stocks other than those which have been overfished.

(8) In certain cases, exchanges of fishing opportunities concluded in accordance with Article 16(8) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council ([11]) enable deductions from the same stocks in the framework of Implementing Regulation (EU) 2018/1969.

(9) On 17 October 2018, Spain informed the Commission that the catches in 2017 of swordfish in the Atlantic Ocean, South of 5° N (SWO/AS05N) had been erroneously reported. Following corrections submitted on 3 December 2018 by Spain in the aggregated catch data reporting system, it appears that the catch uptake for swordfish in the Atlantic Ocean, South of 5° N remains below the allocated quota for 2017. Therefore, the corresponding deductions should be deleted from the Annex to Implementing Regulation (EU) 2018/1969.

(10) On 23 November 2018, Spain requested to update its catch declarations regarding yellowfin tuna in IOTC area of competence (YFT/IOTC). On the basis of the last updated data transmitted by Spain on 13 December 2018, it appears that the Spanish 2017 quota was exceeded for yellowfin tuna in IOTC area of competence (YFT/IOTC). The corresponding deduction should consequently be added to the Annex to Implementing Regulation (EU) 2018/1969.

(11) Moreover, certain deductions required by Implementing Regulation (EU) 2018/1969 appear to be larger than the adapted quota available in the year 2018 and, as a consequence, cannot be entirely operated in that year. According to Communication 2012/C 72/07, the remaining amounts should be deducted from the adapted quotas available in subsequent years until the full overfished amount is paid back.

(12) Implementing Regulation (EU) 2018/1969 should therefore be amended accordingly.

(13) This Regulation should apply retroactively from the day on which Implementing Regulation (EU) 2018/1969 establishing the deductions from fishing quotas for the same stocks in 2018 entered into force,

HAS ADOPTED THIS REGULATION:

Article 1

The fishing quotas fixed in Regulations (EU) 2016/2285, (EU) 2017/1970, (EU) 2017/2360 and (EU) 2018/120 for the year 2018 referred to in Annex I to this Regulation shall be reduced by applying the deductions on the alternative stocks set out in that Annex.

Article 2

The Annex to Implementing Regulation (EU) 2018/1969 is replaced by the text in Annex II to this Regulation.

([10]) Communication from the Commission — Guidelines for deduction of quotas under Article 105(1), (2) and (5) of Regulation (EC) No 1224/2009 (2012/C 72/07) (OJ C 72, 10.3.2012, p. 27).

([11]) 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).

Article 3

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

It shall apply from 20 December 2018.

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

Done at Brussels, 22 March 2019.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX I

DEDUCTIONS FROM 2018 FISHING QUOTAS FOR ALTERNATIVE STOCKS

OVERFISHED STOCK							ALTERNATIVE STOCK					
Member State	Species code	Area code	Species name	Area name	Quantity that cannot be deducted from the 2018 fishing quota for the overfished stock (in kilograms)		Member State	Species code	Area code	Species name	Area name	Quantity to be deducted from the 2018 fishing quota for the alternative stock (in kilograms)
DK	NOP	04-N.	Norway pout	Norwegian waters of IV	24 447		DK	NOP	2A3A4.	Norway pout	3a; Union waters of 2a and 4	24 447
DK	OTH	1N2AB.	Other species	Norwegian waters of I and II	9 979		DK	HER	1/2-	Herring	Union, Faroese, Norwegian and international waters of 1 and 2	9 979
DK	POK	1N2AB.	Saithe	Norwegian waters of I and II	9 508		DK	HER	1/2-	Herring	Union, Faroese, Norwegian and international waters of 1 and 2	9 508
ES	GHL	1N2AB.	Greenland halibut	Norwegian waters of I and II	25 335		ES	RED	1N2AB.	Redfish	Norwegian waters of 1 and 2	25 335
ES	POK	1N2AB.	Saithe	Norwegian waters of I and II	1 650		ES	RED	1N2AB.	Redfish	Norwegian waters of 1 and 2	1 650
FR	GHL	1N2AB.	Greenland halibut	Norwegian waters of I and II	6 868		FR	RED	1N2AB.	Redfish	Norwegian waters of 1 and 2	6 868

OVERFISHED STOCK							ALTERNATIVE STOCK					
Member State	Species code	Area code	Species name	Area name	Quantity that cannot be deducted from the 2018 fishing quota for the over-fished stock (in kilograms)		Member State	Species code	Area code	Species name	Area name	Quantity to be deducted from the 2018 fishing quota for the alternative stock (in kilograms)
IE	HKE	8ABDE.	Hake	VIIIa, VIIIb, VIIId and VIIIe	1 300		IE	HKE	571214	Hake	6 and 7; Union and international waters of 5b; international waters of 12 and 14	1 300
NL	WHG	56-14	Whiting	VI; Union and international waters of Vb; international waters of XII and XIV	18 648		NL	WHG	2AC4.	Whiting	4; Union waters of 2a	18 648

ANNEX II

'ANNEX

DEDUCTIONS FROM 2018 FISHING QUOTAS

Member State	Species code	Area code	Species name	Area name	Initial quota 2017 (in kilograms)	Permitted landings 2017 (Total adapted quantity in kilograms) (1)	Total catches 2017 (quantity in kilograms)	Quota consumption related to permitted landings	Overfishing related to permitted landing (quantity in kilograms)	Multiplying factor (2)	Additional Multiplying factor (3) (4)	Outstanding deductions from previous year(s) (5) (quantity in kilograms)	Deductions from fishing quotas for 2018 (6) and subsequent years (quantity in kilograms)	Deductions from 2018 fishing quotas for the overfished stocks (7) (quantity in kilograms)	Deductions from 2018 fishing quotas for alternative stocks in accordance with Annex I to Implementing Regulation (EU) 2019/479 (8) (quantity in kilograms)	To be deducted from fishing quotas for 2019 and subsequent year(s) (quantity in kilograms)
BE	RJU	07D.	Undulate ray	Union waters of VIId	2 000	2 000	5 648	282,40 %	3 648	1,00	/	/	3 648	1 031	/	2 617
BE	SRX	07D.	Skates and rays	Union waters of VIId	96 000	91 353	95 695	104,75 %	4 342	/	/	/	4 342	4 342	/	/
BE	SRX	67AKXD	Skates and rays	Union waters of VIa, VIb, VIIa-c and VIIe-k	762 000	907 100	919 333	101,35 %	12 233	/	/	/	12 233	12 233	/	/
DK	MAC	2A34.	Mackerel	IIIa and IV; Union waters of IIa, IIIb, IIIc and Subdivisions 22-32	22 031	17 525 756	17 992 741	102,66 %	466 985	/	/	/	466 985	466 985	/	/
DK	MAC	2A4A-N	Mackerel	Norwegian waters of IIa and IVa	16 004	14 538 090	14 801 414	101,81 %	263 324	/	/	/	263 324	263 324	/	/
DK	MAC	2CX14-	Mackerel	VI, VII, VIIIa, VIIIb, VIIId and VIIIe; Union and international waters of Vb; international waters of IIa, XII and XIV	/	5 341 916	5 342 930	100,02 %	1 014	/	/	/	1 014	1 014 (12)	/	/
DK	NOP	04-N.	Norway pout and associated by-catches	Norwegian waters of IV	0	0	16 298	N/A	16 298	1,00	A	/	24 447	/	24 447	/
DK	OTH	1N2AB.	Other species	Norwegian waters of I and II	/	0	9 979	N/A	9 979	1,00	/	/	9 979	/	9 979	/

Member State	Species code	Area code	Species name	Area name	Initial quota 2017 (in kilograms)	Permitted landings 2017 (Total adapted quantity in kilograms) (1)	Total catches 2017 (quantity in kilograms)	Quota consumption related to permitted landings	Overfishing related to permitted landing (quantity in kilograms)	Multiplying factor (2)	Additional Multiplying factor (3) (4)	Outstanding deductions from previous year(s) (5) (quantity in kilograms)	Deductions from fishing quotas for 2018 (6) and subsequent years (quantity in kilograms)	Deductions from 2018 fishing quotas for the overfished stocks (7) (quantity in kilograms)	Deductions from 2018 fishing quotas for alternative stocks in accordance with Annex I to Implementing Regulation (EU) 2019/479 (8) (quantity in kilograms)	To be deducted from fishing quotas for 2019 and subsequent year(s) (quantity in kilograms)
DK	POK	1N2AB.	Saithe	Norwegian waters of I and II	/	0	9 508	N/A	9 508	1,00	/	/	9 508	/	9 508	/
ES	ALB	AN05N	Northern albacore	Atlantic Ocean, north of 5° N	14 981 130	13 961 453	13 940 306	99,85 %	– 21 147 (10)	/	/	189 117 (11)	189 117	189 117	/	/
ES	GHL	1N2AB.	Greenland halibut	Norwegian waters of I and II	/	19 200	36 090	187,97 %	16 890	1,00	A	/	25 335	/	25 335	/
ES	GHL	N3LMNO	Greenland halibut	NAFO 3LMNO	4 067 000	4 061 001	4 072 229	100,28 %	11 228	/	C (9)	/	11 228	11 228	/	/
ES	POK	1N2AB.	Saithe	Norwegian waters of I and II	/	86 500	88 150	101,91 %	1 650	/	/	/	1 650	/	1 650	/
ES	YFT	IOTC	Yellowfin tuna	IOTC Area of Competence	45 682 000	45 682 000	48 147 520	105,40 %	2 465 520	/	/	/	2 465 520	327 060	/	2 138 460
FR	GHL	1N2AB.	Greenland halibut	Norwegian waters of I and II	/	0	6 868	N/A	6 868	1,00	/	/	6 868	/	6 868	/
FR	YFT	IOTC	Yellowfin tuna	IOTC Area of Competence	29 501 000	29 651 000	29 960 730	101,04 %	309 730	/	/	/	309 730	309 730	/	/
IE	HKE	8ABDE.	Hake	VIIIa, VIIIb, VIIId and VIIIe	/	0	1 300	N/A	1 300	1,00	C (9)	/	1 300	/	1 300	/
IE	MAC	2CX14-	Mackerel	VI, VII, VIIIa, VIIIb, VIIId and VIIIe; Union and international waters of Vb; international waters of IIa, XII and XIV	86 426 000	86 319 537	86 520 982	100,23 %	201 445	/	/	/	201 445	201 445	/	/

Member State	Species code	Area code	Species name	Area name	Initial quota 2017 (in kilograms)	Permitted landings 2017 (Total adapted quantity in kilograms) (1)	Total catches 2017 (quantity in kilograms)	Quota consumption related to permitted landings	Overfishing related to permitted landing (quantity in kilograms)	Multiplying factor (2)	Additional Multiplying factor (3) (4)	Outstanding deductions from previous year(s) (5) (quantity in kilograms)	Deductions from fishing quotas for 2018 (6) and subsequent years (quantity in kilograms)	Deductions from 2018 fishing quotas for the overfished stocks (7) (quantity in kilograms)	Deductions from 2018 fishing quotas for alternative stocks in accordance with Annex I to Implementing Regulation (EU) 2019/479 (8) (quantity in kilograms)	To be deducted from fishing quotas for 2019 and subsequent year(s) (quantity in kilograms)
NL	WHG	56-14	Whiting	VI; Union and international waters of Vb; international waters of XII and XIV	/	0	18 648	N/A	18 648	1,00	/	/	18 648	/	18 648	/
PL	COD	3BC+24	Cod	Subdivisions 22-24	654 000	915 170	947 501	103,53 %	32 331	/	C (9)	/	32 331	0	/	32 331
PT	ALB	AN05N	Northern albacore	Atlantic Ocean, north of 5° N	2 413 800	2 332 800	2 564 017	109,91 %	231 217	/	/	/	231 217	231 217	/	/
PT	ALF	3X14-	Alfonsinos	Union and international waters of III, IV, V, VI, VII, VIII, IX, X, XII and XIV	182 000	182 626	185 582	101,62 %	2 956	/	/	/	2 956	2 956	/	/
PT	ANE	9/3411	Anchovy	IX and X; Union waters of CECAF 34.1.1	6 522 000	8 992 936	9 141 377	101,65 %	148 441	/	/	/	148 441	148 441	/	/
PT	BUM	ATLANT	Blue marlin	Atlantic ocean	52 320	51 259	56 271	109,78 %	5 012	/	/	/	5 012	5 012	/	/
PT	LEZ	8C3411	Megrims	VIIIc, IX and X; Union waters of CECAF 34.1.1	36 000	139 400	142 316	102,09 %	2 916	/	/	/	2 916	2 916	/	/
PT	SBR	09-	Red seabream	Union and international waters of IX	37 000	72 027	75 905	105,38 %	3 878	/	/	/	3 878	3 878	/	/
PT	SRX	89-C.	Skates and rays	Union waters of VIII and IX	1 156 000	1 132 824	1 211 808	106,97 %	78 984	/	/	/	78 984	78 984	/	/
PT	SWO	AN05N	Swordfish	Atlantic Ocean, North of 5° N	1 170 830	1 738 532	1 854 956	106,70 %	116 424	/	/	/	116 424	116 424	/	/

Member State	Species code	Area code	Species name	Area name	Initial quota 2017 (in kilograms)	Permitted landings 2017 (Total adapted quantity in kilograms) (1)	Total catches 2017 (quantity in kilograms)	Quota consumption related to permitted landings	Overfishing related to permitted landing (quantity in kilograms)	Multiplying factor (2)	Additional Multiplying factor (3) (4)	Outstanding deductions from previous year(s) (5) (quantity in kilograms)	Deductions from fishing quotas for 2018 (6) and subsequent years (quantity in kilograms)	Deductions from 2018 fishing quotas for the overfished stocks (7) (quantity in kilograms)	Deductions from 2018 fishing quotas for alternative stocks in accordance with Annex I to Implementing Regulation (EU) 2019/479 (8) (quantity in kilograms)	To be deducted from fishing quotas for 2019 and subsequent year(s) (quantity in kilograms)
UK	MAC	2CX14-	Mackerel	VI, VII, VIIIa, VIIIb, VIIId and VIIIe; Union and international waters of Vb; international waters of IIa, XII and XIV	237 677 000	222 116 471	224 288 943	100,98 %	2 172 472	/	A (9)	/	2 172 472	2 172 472	/	/

(1) Quotas available to a Member State pursuant to the relevant fishing opportunities Regulations after taking into account exchanges of fishing opportunities in accordance with Article 16(8) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council (OJ L 354, 28.12.2013, p. 22), quota transfers from 2016 to 2017 in accordance with Article 4(2) of Council Regulation (EC) No 847/96 (OJ L 115, 9.5.1996, p. 3) and with Article 15(9) of Regulation (EU) No 1380/2013 or reallocation and deduction of fishing opportunities in accordance with Articles 37 and 105 of Regulation (EC) No 1224/2009.

(2) As set out in Article 105(2) of Regulation (EC) No 1224/2009. Deduction equal to the overfishing * 1,00 shall apply in all cases of overfishing equal to, or less than, 100 tonnes.

(3) As set out in Article 105(3) of Regulation (EC) No 1224/2009 and provided that the extent of overfishing exceeds 10 %.

(4) Letter 'A' indicates that an additional multiplying factor of 1,5 has been applied due to consecutive overfishing in the years 2015, 2016 and 2017. Letter 'C' indicates that an additional multiplying factor of 1,5 has been applied as the stock is subject to a multiannual plan.

(5) Remaining quantities from previous year(s).

(6) Deductions to operate in 2018.

(7) Deductions to operate in 2018 that could be actually applied considering the available quota on 20 December 2018.

(8) Commission Implementing Regulation (EU) 2019/479 of 22 March 2019 operating deductions from fishing quotas available for certain stocks in 2018 on account of overfishing of other stocks in the previous years and amending Implementing Regulation (EU) 2018/1969 (OJ L 82, 25.3.2019, p. 6).

(9) Additional multiplying factor not applicable because the overfishing does not exceed 10 % of the permitted landings.

(10) The deduction cannot be reduced by this unused quantity as article 4 of Regulation (EC) No 847/96 is not applicable to the ALB/AN05N stock.

(11) At Spain's request, the deduction of 2 269 354 kilos due in 2017 was equally spread over two years (2017 and 2018) by Implementing Regulation (EU) 2017/2309. Since the 2018 initial quota for Spain as fixed by Regulation (EU) 2018/120 already reflects a deduction of 945 560 kilos, the remaining quantity to deduct amounts to 189 117 kilos.

(12) Despite not having initial quota for this overfished stock, Denmark concluded exchanges of fishing opportunities in accordance with Article 16(8) of Regulation (EU) No 1380/2013 enabling deductions from the same stock.'