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COMMISSION IMPLEMENTING REGULATION (EU) No .../..

of **XXX**

**derogating from Council Regulation (EC) 850/98, as regards the minimum conservation
reference size for sea bass (*Dicentrarchus labrax*)**

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derogating from Council Regulation (EC) 850/98, as regards the minimum conservation reference size for sea bass (*Dicentrarchus labrax*)

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fisheries resources through technical measures for the protection of juveniles of marine organisms¹, and in particular Article 45(1) thereof,

Whereas:

- (1) According to Article 2(2) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council², the Common Fisheries Policy shall aim to ensure that exploitation of living marine biological resources restores and maintains populations of harvested species above levels which can produce the maximum sustainable yield.
- (2) In Article 45(1) of Regulation (EC) No 850/98 it is provided that, where the conservation of stocks of marine organisms calls for immediate action, the Commission may, in addition to, or by way of derogation from that Regulation, adopt any measures necessary.
- (3) According to scientific advice from the International Council for the Exploration of the Sea (ICES) as well as from the Scientific, Technical and Economic Committee for Fisheries (STECF) sea bass in the Celtic Sea, Channel, Irish Sea and southern North Sea (*ICES divisions IVb, IVc and VIIa, VIIId to VIIh*) suffers from a rapid decline in biomass, because of a combination of declining recruitment and increasing fishing mortality. Seabass is a late maturing and slow growing species. The spawning stock biomass is converging towards the lowest historically observed level. The current fishing mortality is almost four times as high as the stock can sustain. ICES therefore advise to implement measures to reduce substantially fishing mortality throughout the range of this stock in the above areas.
- (4) By Implementing Regulation (EU) 2015/111³, based on Article 12 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council⁴ the Commission has adopted urgent measures to reduce the fishing mortality caused by pelagic vessels

¹ OJ L 125, 27.4.1998, p. 1.

² 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).

³ Commission Implementing Regulation (EU) 2015/111 of 26 January 2015 establishing measures to alleviate a serious threat to the conservation of the sea bass (*Dicentrarchus labrax*) stock in the Celtic Sea, Channel, Irish Sea and southern North Sea (OJ L 20, 27.1.2015, p. 31).

⁴ 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).

targeting spawning aggregations of sea bass. A restrictive limit has been introduced by Council Regulation (EU) 2015/523⁵ to reduce the mortality from recreational anglers. Scientific advice has indicated that a combination of this restrictive limit and an increase in the minimum conservation reference size would be more effective.

- (5) Regulation (EC) No 850/98 establishes minimum conservation reference sizes for marine organisms with the aim of ensuring the protection of juveniles.
- (6) The current minimum size for sea bass established in Annex XII to Regulation (EC) No 850/98 Regulation is 36 cm. However, female sea bass reach first sexual maturity at a size of 42 cm. Catch statistics confirm that fishing and landing sea bass below 42 cm removes juvenile female sea bass at a point in time where they have not yet contributed to the reproduction of the stock. Allowing catching and landing sea bass at a size of less than 42 cm therefore seriously harms the reproductive capacity, contributes significantly to the overall fishing mortality, and causes a serious threat to the conservation of the sea bass stock.
- (7) As sea bass stocks therefore depend on female sea bass being left in the sea long enough to be able to reproduce it is appropriate to increase the minimum conservation reference size for that species to 42 cm.
- (8) The four stock areas identified by ICES are: Celtic Sea, Channel, Irish Sea and southern North Sea (ICES divisions IVb, IVc, VIIa and VIId to VIIh); Bay of Biscay and Atlantic Iberian waters (ICES divisions VIIIa and VIIIb); Atlantic Iberian Waters (ICES divisions VIIIc and IXa); and Celtic Sea and West of Scotland (ICES divisions VIa, VIIb and VIIj). However, the natural stock boundaries of sea bass are not yet fully identified, and sea bass as well as its fisheries are considered to mix to a certain level between the different ICES divisions. Fishermen may fish in more than one area during any fishing trip. For the measures to be effective, it is therefore necessary to provide the same level of protection to all stock distribution areas. This would also prevent misreporting between ICES areas. As there have been reported catches of sea bass in Skagerrak and Kattegat, the measures should apply in that area as well.
- (9) Furthermore, the effective protection of sea bass in view of future recruitment calls for the setting of the same minimum conservation reference size for commercial and recreational fishermen.
- (10) It is therefore urgent to take measures in order to prohibit the fishing and landing of sea bass below 42 cm as a protective measure for juvenile sea bass in Atlantic waters. Further delay in providing protection to juvenile sea bass would considerably increase the risk of serious harm to the sea bass stock, contribute significantly to its fishing mortality and accelerate the decline of its biomass.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the Committee for Fisheries and Aquaculture,

⁵ Council Regulation (EU) 2015/523 of 25 March 2015 amending Regulations (EU) No 43/2014 and (EU) 2015/104 as regards certain fishing opportunities (OJ L84, 28.03.2015, p. 1).

HAS ADOPTED THIS REGULATION:

Article 1

By way of derogation from Annex XII to Regulation (EC) 850/98, the minimum size for sea bass (*Dicentrarchus labrax*) in Regions 1-5, Skagerrak and Kattegat, as defined in Article 2 of that Regulation, shall be 42 cm.

Article 2

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

Before the end of 2017 the Commission shall assess whether the measures introduced by this Regulation are still necessary.

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

Done at Brussels,

For the Commission
The President
[...]