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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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I

(Legislative acts)

REGULATIONS

REGULATION (EU) 2019/982 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**of 5 June 2019****amending Regulation (EU) No 1343/2011 on certain provisions for fishing in the GFCM (General Fisheries Commission for the Mediterranean) Agreement area**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) The Agreement for the establishment of the General Fisheries Commission for the Mediterranean ('the GFCM Agreement') provides an appropriate framework for multilateral cooperation to promote the development, conservation, rational management and best utilisation of living marine resources in the Mediterranean Sea and the Black Sea at levels which are considered sustainable and at low risk of collapse.
- (2) One of the objectives of the Common Fisheries Policy (CFP), as set out in Regulation (EU) No 1380/2013 of the European Parliament and of the Council ⁽³⁾, is to ensure that fishing and aquaculture activities are environmentally sustainable in the long term and are managed in a way that is consistent with the objectives of achieving economic, social and employment benefits, and of contributing to the availability of food supplies.
- (3) The Union, as well as Bulgaria, Greece, Spain, France, Croatia, Italy, Cyprus, Malta, Romania and Slovenia, are contracting parties to the GFCM Agreement.
- (4) Recommendations adopted by the General Fisheries Commission for the Mediterranean ('the GFCM') are binding on its contracting parties. As the Union is a contracting party to the GFCM Agreement, those recommendations are binding on the Union and should therefore be implemented in Union law unless their content is already covered thereby.

⁽¹⁾ OJ C 283, 10.8.2018, p. 95.

⁽²⁾ Position of the European Parliament of 26 March 2019 (not yet published in the Official Journal) and decision of the Council of 21 May 2019.

⁽³⁾ 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).

- (5) Regulation (EU) No 1343/2011 of the European Parliament and of the Council ⁽⁴⁾ lays down certain provisions for fishing in the GFCM Agreement area. It is the appropriate legislative act for implementing the content of GFCM recommendations adopted by the GFCM and not yet covered by Union law.
- (6) At its Annual Session in 2015, the GFCM adopted Recommendation GFCM/39/2015/2 on the establishment of a set of minimum standards for bottom trawling fisheries on demersal stocks in the Strait of Sicily. Those standards include technical conservation measures for deep-water rose shrimp (*Parapenaeus longirostris*) and hake (*Merluccius merluccius*). Parts of those measures are already contained in Annex III to Council Regulation (EC) No 1967/2006 ⁽⁵⁾ on minimum conservation reference sizes of the species concerned. However, the measures concerning fleet management contained in Recommendation 39/2015/2 should be implemented in Union law by means of Regulation (EU) No 1343/2011.
- (7) At its Annual Session in 2015, the GFCM adopted Recommendation GFCM/39/2015/3 on the establishment of a set of measures to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing in turbot (*Psetta maxima*) fisheries in the Black Sea. Most of those measures are already provided for in Commission Implementing Regulation (EU) 2017/218 ⁽⁶⁾, Council Regulation (EC) No 1005/2008 ⁽⁷⁾, Council Regulation (EC) No 1224/2009 ⁽⁸⁾, Regulation (EU) No 1343/2011, Regulation (EU) No 1380/2013, and Commission Implementing Regulation (EU) No 404/2011 ⁽⁹⁾. A number of fleet management measures laid down in Recommendation 39/2015/3 are not covered by Union legislation and should therefore be implemented in Union law by means of Regulation (EU) No 1343/2011.
- (8) At its Annual Session in 2015, the GFCM adopted Recommendation GFCM/39/2015/4 on management measures for piked dogfish in the Black Sea introducing a minimum conservation reference size for the species concerned.
- (9) At its Annual Session in 2016, the GFCM adopted Recommendation GFCM/40/2016/4, establishing a multiannual management plan for the fisheries exploiting European hake and deep-water rose shrimp in the Strait of Sicily (geographical subareas (GSAs) 12, 13, 14, 15 and 16). Some of the elements of that multiannual plan are already provided for in Implementing Regulation (EU) 2017/218 and Regulation (EU) No 1380/2013. Nevertheless, certain measures laid down in Recommendation 40/2016/4 are not covered by Union legislation and should therefore be implemented in Union law by means of Regulation (EU) No 1343/2011.
- (10) At its Annual Session in 2017, the GFCM adopted Recommendation GFCM/41/2017/2 on the management of blackspot seabream fisheries in the Alboran Sea (geographical subareas 1, 2, 3) for a two-year transition period. The operational objective of that Recommendation is to maintain fishing mortality for blackspot seabream within agreed precautionary reference points and to achieve or maintain the maximum sustainable yield as soon as possible.
- (11) At its Annual Session in 2017, the GFCM adopted Recommendation GFCM/41/2017/3 on the establishment of a fisheries restricted area in the Jabuka/Pomo Pit in the Adriatic Sea.

⁽⁴⁾ Regulation (EU) No 1343/2011 of the European Parliament and of the Council of 13 December 2011 on certain provisions for fishing in the GFCM (General Fisheries Commission for the Mediterranean) Agreement area and amending Council Regulation (EC) No 1967/2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea (OJ L 347, 30.12.2011, p. 44).

⁽⁵⁾ Council Regulation (EC) No 1967/2006 of 21 December 2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 1626/94 (OJ L 409, 30.12.2006, p. 11).

⁽⁶⁾ Commission Implementing Regulation (EU) 2017/218 of 6 February 2017 on the Union fishing fleet register (OJ L 34, 9.2.2017, p. 9).

⁽⁷⁾ 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).

⁽⁸⁾ 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).

⁽⁹⁾ 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).

- (12) At its Annual Session in 2017, the GFCM adopted Recommendation GFCM/41/2017/4 on a multiannual management plan for turbot fisheries in the Black Sea (GSA 29). The Recommendation establishes a set of management measures, technical measures, fleet measures and control measures, as a pilot project to fight turbot IUU fishing in Black Sea. Some of the elements of that multiannual plan are already provided for in Implementing Regulation (EU) 2017/218, Regulation (EC) No 1005/2008, Regulation (EC) No 1224/2009, Regulation (EU) No 1343/2011, Regulation (EU) No 1380/2013 and Implementing Regulation (EU) No 404/2011. Nevertheless, certain measures laid down in Recommendation 41/2017/4 are not covered by Union legislation and should therefore be implemented in Union law by means of Regulation (EU) No 1343/2011.
- (13) At its Annual Session in 2017, the GFCM adopted Recommendation GFCM/41/2017/5 on the establishment of a regional adaptive management plan for the exploitation of red coral in the Mediterranean Sea.
- (14) At its Annual Session in 2017, the GFCM adopted Recommendation GFCM/41/2017/8 on an international joint inspection and surveillance scheme outside the waters under national jurisdiction of GSAs 12, 13, 14, 15 and 16 (Strait of Sicily) to which Member States may decide to participate. 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 IUU activities. In particular, Regulation (EC) No 1224/2009 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. Implementing Regulation (EU) No 404/2011 lays down detailed rules for the implementation of Regulation (EC) No 1224/2009. Regulation (EC) No 1005/2008 establishes a Community system to prevent, deter and eliminate IUU fishing. Those Regulations already provide for a number of the measures laid down in Recommendation GFCM/41/2017/8. It is therefore not necessary to include those measures in this Regulation. Nevertheless, certain measures laid down in that Recommendation are not covered by Union legislation and should therefore be implemented in Union law by means of Regulation (EU) No 1343/2011.
- (15) Regulation (EU) No 1343/2011 should therefore be amended accordingly,

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) No 1343/2011

Regulation (EU) No 1343/2011 is amended as follows:

- (1) In Article 2(1), the first subparagraph is replaced by the following:

‘This Regulation applies to all commercial fishing and aquaculture activities, as well as to recreational fishing activities where specifically provided for in this Regulation, conducted by Union fishing vessels and nationals of Member States in the GFCM Agreement area.’;

- (2) Article 3 is amended as follows:

- (a) the introductory part is replaced by the following:

‘For the purposes of this Regulation the following definitions shall apply in addition to the definitions laid down in Article 4 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council (*), Article 2 of Regulation (EC) No 1967/2006 and Article 4 of Council Regulation (EC) No 1224/2009 (**):

(*) 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).

(**) 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).’;

(b) the following points are added:

- (e) “buffer area” means a zone surrounding a fisheries restricted area in order to avoid accidental access to it, enhancing the protection of the surrounded area;
- (f) “Targeting blackspot seabream” means carrying out fishing activities in which the quantities of blackspot seabream on board or landed constitute more than 20 % of the catch in live weight after sorting per tide;’

(3) The following Section is inserted after Article 9:

‘Section Ia

Fisheries restricted areas to protect essential fish habitats and vulnerable marine ecosystems

Article 9a

Fisheries restricted areas in the Strait of Sicily

Fishing with bottom trawl nets shall be prohibited in the:

(1) fisheries restricted area “East of Adventure Bank” bound by lines joining the following coordinates:

- 37° 23,850' N, 12° 30,072' E
- 37° 23,884' N, 12° 48,282' E
- 37° 11,567' N, 12° 48,305' E
- 37° 11,532' N, 12° 30,095' E

(2) fisheries restricted area “West of Gela Basin” bound by lines joining the following coordinates:

- 37° 12,040' N, 13° 17,925' E
- 37° 12,047' N, 13° 36,170' E
- 36° 59,725' N, 13° 36,175' E
- 36° 59,717' N, 13° 17,930' E

(3) fisheries restricted area “East of Malta Bank” bound by lines joining the following coordinates:

- 36° 12,621' N, 15° 13,338' E
- 36° 12,621' N, 15° 26,062' E
- 35° 59,344' N, 15° 26,062' E
- 35° 59,344' N, 15° 13,338' E.

Article 9b

Buffer areas in the Strait of Sicily

1. A buffer area bound by lines joining the following coordinates shall be established around the fisheries restricted area “East of Adventure Bank” as referred to in Article 9a(1):

- 37° 24,849' N, 12° 28,814' E
- 37° 24,888' N, 12° 49,536' E
- 37° 10,567' N, 12° 49,559' E
- 37° 10,528' N, 12° 28,845' E

2. A buffer area bounded by lines joining the following coordinates shall be established around the fisheries restricted area “West of Gela Basin” as referred to in Article 9a(2):

— 37° 13,041' N, 13° 16,672' E

— 37° 13,049' N, 13° 37,422' E

— 36° 58,723' N, 13° 37,424' E

— 36° 58,715' N, 13° 16,682' E

3. A buffer area bounded by lines joining the following coordinates shall be established around the fisheries restricted area “East of Malta Bank” as referred to in Article 9a(3):

— 36° 13,624' N, 15° 12,102' E

— 36° 13,624' N, 15° 27,298' E

— 35° 58,342' N, 15° 27,294' E

— 35° 58,342' N, 15° 12,106' E

4. Vessels carrying out fishing activities with bottom trawl nets in the buffer areas referred to in this Article shall ensure appropriate transmission frequency of their vessel monitoring system (VMS) signals. Vessels not equipped with a VMS transponder and aiming to fish with bottom trawl nets in the buffer areas shall be equipped with any other system of geo-localisation allowing control authorities to track their activities.

Article 9c

Fishing restrictions in the Jabuka/Pomo Pit area in the Adriatic Sea

1. Recreational fishing and fishing with bottom set nets, bottom trawl nets, set longlines and traps shall be prohibited in an area bounded by lines joining the following coordinates:

— 43° 32,044' N, 15° 16,501' E

— 43° 05,452' N, 14° 58,658' E

— 43° 03,477' N, 14° 54,982' E

— 42° 50,450' N, 15° 07,431' E

— 42° 55,618' N, 15° 18,194' E

— 43° 17,436' N, 15° 29,496' E

— 43° 24,758' N, 15° 33,215' E

2. From 1 September to 31 October each year, fishing with bottom set nets, bottom trawl nets, set longlines and traps shall be prohibited in an area bounded by lines joining the following coordinates:

— 43° 03,477' N, 14° 54,982' E

— 42° 49,811' N, 14° 29,550' E

— 42° 35,205' N, 14° 59,611' E

— 42° 49,668' N, 15° 05,802' E

— 42° 50,450' N, 15° 07,431' E

3. From 1 September to 31 October each year, recreational fishing and fishing with bottom set nets, bottom trawl nets, set longlines and traps shall be prohibited in an area bounded by lines joining the following coordinates:

— 43° 17,436' N, 15° 29,496' E

— 43° 24,758' N, 15° 33,215' E

— 43° 20,345' N, 15° 47,012' E

— 43° 18,150' N, 15° 51,362' E

— 43° 13,984' N, 15° 55,232' E

— 43° 12,873' N, 15° 52,761' E

— 43° 13,494' N, 15° 40,040' E.

Article 9d

Authorised vessels in the Jabuka/Pomo Pit area

1. Without prejudice to Article 9c(2) and (3), commercial fishing activities carried out with bottom set nets, bottom trawl nets, set longlines and traps shall only be allowed, in the areas referred to in those paragraphs, if the vessel is in possession of a specific authorisation and if it can demonstrate that it has historically carried out fishing activities in the areas concerned.

2. In the area referred to in Article 9c(2), authorised fishing vessels shall not be entitled to fish for more than two fishing days per week. Authorised fishing vessels using otter twin trawl gear shall not be entitled to fish for more than one fishing day per week.

3. In the area referred to in Article 9c(3), authorised vessels fishing with bottom trawl nets shall be entitled to fish only on Saturdays and Sundays between 05:00 and 22:00. Authorised vessels fishing with bottom set nets, set longlines and traps shall be allowed to fish only between Mondays at 05:00 and Thursdays at 22:00.

4. The vessels authorised to fish in the area referred to in Article 9c(2) and (3) with the gear referred to in paragraph 1 of this Article shall be issued with a fishing authorisation by their Member State in accordance with Article 7 of Regulation (EC) No 1224/2009.

5. Member States shall send to the Commission, not later than 31 March each year, the list of vessels for which they issued the authorisation referred to in paragraph 1. The Commission shall communicate to the GFCM Secretariat, not later than 30 April the list of authorised vessels established for the forthcoming year. For each vessel, the list shall contain the following information:

- (a) vessel name;
- (b) vessel register number;
- (c) GFCM unique identifier (country ISO 3-alpha code + 9 digits, e.g. xxx000000001);
- (d) previous name (if any);
- (e) previous flag (if any);
- (f) previous details of deletion from other registers (if any);
- (g) international radio call sign (if any);
- (h) type of vessel, length overall (LOA) and gross tonnage (GT) and/or gross registered tonnage (GRT);
- (i) name and address of owner(s) and operator(s);

- (j) main gear(s) used to fish in the Fisheries Restricted Area;
- (k) seasonal period authorised for fishing in the Fisheries Restricted Area;
- (l) number of fishing days to which each vessel is entitled;
- (m) designated port.

6. Authorised fishing vessels shall only land catches of demersal stocks in designated ports. To that end, each Member State concerned shall designate ports in which landings of catches from the Fisheries Restricted Area of Jabuka/Pomo Pit are authorised. The list of those ports shall be communicated to the GFCM Secretariat and the Commission by 30 April each year.

7. Fishing vessels authorised to fish in the areas referred to in Article 9c(2) and (3) with the gear referred to in paragraph 1 of this Article shall have VMS and/or Automatic Identification System (AIS) working correctly, and the fishing gear on board or in use shall be duly identified, numbered and marked before starting any fishing operation or navigating in those areas.

8. Fishing vessels equipped with bottom set nets, bottom trawl nets, set longlines and traps without authorisations shall be allowed to transit through the Fisheries Restricted Area only if they follow a direct course at a constant speed of not less than 7 knots and with VMS and/or AIS active on board, and if they do not carry out fishing activities of any kind.

Article 9e

Spatial/temporal restrictions in the Alboran Sea

1. Taking into account the available scientific advice, Member States may establish spatial/temporal restrictions in the Alboran Sea (GFCM geographical subareas 1, 2 and 3, as defined in Annex I), in which fishing activities shall be banned or restricted in order to protect juvenile and/or spawner aggregation areas of blackspot seabream.

2. Member States shall notify to the GFCM Secretariat and the Commission not later than 11 January 2020 the areas and the restrictions applied by them.;

- (4) In Chapter I of Title II, the following Section is added:

Section III

Temporal closure in the Gulf of Gabès

Article 11a

Temporal closure in the Gulf of Gabès

From 1 July to 30 September each year, fishing with bottom trawl nets shall be prohibited between the coast and the 200 metre depth isobath of GFCM geographical subarea 14 (Gulf of Gabès as defined in Annex I).;

- (5) In Title II, the following Chapter is inserted:

CHAPTER IIA

Temporal closure in the Black Sea

Article 14a

Closure period during the spawning season of turbot in the Black Sea

1. Within the period from April to June every year, each Member State concerned shall establish a closure period of at least two months in the Black Sea.

2. Member States may designate additional spatial/temporal restrictions in which fishing activities may be banned or restricted in order to protect aggregation areas of juveniles of turbot.;

(6) The following Articles are inserted:

Article 16ca

Precautionary closures for red coral

1. When a trigger catch level of red coral as referred to in paragraphs 2 and 3 has been reached, Member States shall temporarily close the area concerned to any red coral fishery.
2. The trigger catch level shall be deemed to be reached when colonies of red coral whose basal diameter is lower than 7 mm exceed 25 % of the total catch harvested from a given red coral bank for a given year.
3. Where coral banks have not yet been properly identified, the trigger catch level and the closure provided for in paragraph 1 shall apply at the scale of the GFCM statistical rectangle.
4. In their decision establishing a closure as referred to in paragraph 1, Member States shall define the geographical area concerned, the duration of the closure and the conditions governing fisheries in that area during the closure.
5. Member States establishing closures shall inform the GFCM Secretariat and the Commission without delay.

Article 16cb

Spatial/temporal closures

Member States actively harvesting red coral shall introduce additional closures for the protection of red coral on the basis of the scientific advice available and not later than 11 January 2020.;

(7) In Title II, the following Chapter is inserted after Chapter IV:

CHAPTER IVA

Minimum conservation reference size for Black Sea piked dogfish

Article 16da

Minimum conservation reference size for Black Sea piked dogfish

Specimens of piked dogfish in the Black Sea smaller than 90 cm shall not be retained on board, transhipped, landed, stored, sold nor displayed or offered for sale. When accidentally caught, such specimens of piked dogfish shall be promptly released unharmed and alive, to the extent possible. Masters of fishing vessels shall record incidental taking, release and/or discarding events for piked dogfish in the logbook. Member States shall notify that information to the GFCM and the Commission within their annual reporting to the SAC and through the GFCM data collection framework.;

(8) The following Title is inserted:

TITLE IIa

FISHING CAPACITY AND FISHING OPPORTUNITIES

Article 16m

Catch limits for red coral

Each Member State may establish in the Mediterranean Sea a system of individual daily and/or annual catch limits for red coral.

Article 16n

Fishing fleet capacity or fishing effort for blackspot seabream in the Alboran Sea

At the latest in 2020, Member States shall maintain the levels of fishing fleet capacity or fishing effort at the levels authorised and applied in recent years for the exploitation of blackspot seabream in the Alboran Sea (GFCM geographical subareas 1, 2 and 3, as defined in Annex I).;

(9) Article 17a is deleted;

(10) In Title III, the following Chapters are added:

'CHAPTER III

Control of coral fisheries

Article 22a

Fishing authorisations for red coral

1. Vessels or fishermen authorised to harvest red coral in the Mediterranean Sea shall have a valid fishing authorisation, which shall specify the technical conditions under which the fishery may be carried out.

2. In the absence of an authorisation as referred to in paragraph 1, it shall be prohibited to harvest, retain on board, tranship, land, transfer, store, sell or display or offer for sale red coral.

3. Member States shall maintain an updated register of fishing authorisations referred to in paragraph 1 and shall send to the Commission, by 31 March each year, the list of vessels for which the authorisations referred to in paragraph 1 were issued. The Commission shall communicate that list to the GFCM Secretariat not later than 30 April each year. That list shall include for each vessel the following information:

- (a) vessel name;
- (b) vessel register number (code assigned by the contracting party);
- (c) GFCM registration number (country ISO 3-alpha code + 9 digits, e.g. xxx000000001);
- (d) port of registration (full name of the port);
- (e) previous name (if any);
- (f) previous flag (if any);
- (g) previous details of deletion from other registers (if any);
- (h) international radio call sign (if any);
- (i) VMS or other equipment for vessel geo-localisation (indicate Y/N);
- (j) vessel type, length overall (LOA) and gross tonnage (GT) and/or gross registered tonnage (GRT) and engine power expressed in kW;
- (k) safety and security equipment to host observer(s) on board (indicate Y/N);
- (l) time period in which fishing red coral is authorised;
- (m) area(s) in which fishing red coral is authorised: GFCM geographical subareas and cells of the GFCM statistical grid;
- (n) participation in research programmes led by national/international scientific institutions (indicate Y/N; provide some description).

4. Member States shall not increase the number of fishing authorisations until scientific advice indicates a favourable status of the red coral populations.

Article 22b

Recording of catches for red coral

1. Fishermen or masters of the vessels authorised to harvest red coral shall record catches in live weight, and, if possible, the number of colonies, after fishing operations, or, at the latest, when landed at port, in case of daily fishing trips.

2. Fishing vessels authorised to harvest red coral shall have on board a logbook in which the daily catches of red coral, irrespective of the live weight of the harvest, and fishing activity by area and depths are recorded, including, where possible, the number of fishing days and dives. That information shall be communicated to the competent national authorities within the deadline laid down in Article 14(6) of Regulation (EC) No 1224/2009.

Article 22c

Prior notification for red coral

Between two and four hours before the estimated time of arrival at port, the masters of the fishing vessels or their representative shall notify the relevant authorities the following information:

- (a) the estimated time of arrival;
- (b) the external identification number and the name of the fishing vessel;
- (c) the estimated quantity in live weight and if possible the number of red coral colonies retained on board;
- (d) the information on the geographical area where the catch was taken.

Article 22d

Designated ports for red coral

Authorised fishermen or fishing vessels shall only land red coral catches in designated ports. To this end, each Member State shall designate ports in which landing red coral is authorised and communicate a list of those ports to the GFCM Secretariat and the Commission by 30 April each year, unless there is no change of designated ports already communicated.

Article 22e

Control of landings of red coral

Each Member State shall establish a control programme based on risk analysis, in particular to verify the landings and validate the logbooks.

Article 22f

Transshipment of red coral

Transshipment operations at sea of red coral shall be prohibited.

Article 22g

Scientific information for red coral

The Member States having fishing fleets targeting red corals shall ensure that a mechanism for adequate scientific monitoring of fisheries and catches is duly in place with a view to allow the Scientific Advisory committee of GFCM to provide descriptive information and advice on at least:

- (a) the deployed fishing effort (e.g. number of fishing dives per week) and overall catch levels by stocks at local, national or supranational level;
- (b) the conservation and management reference points with a view to further improve the regional management plan in line with the objective of maximum sustainable yield and low risk of stock collapse;
- (c) the biological and socio-economic effects of alternative management scenarios, including input/output control and/or technical measures, as proposed by the contracting parties to the GFCM;
- (d) possible spatial/temporal closures in order to preserve fishery sustainability.

CHAPTER IV

Control measures relating to certain GFCM geographical subareas

Section I

Control of blackspot seabream fisheries in the Alboran Sea

Article 22h

Reporting of blackspot seabream daily catches and by-catches

Without prejudice to Article 14 of Regulation (EC) No 1224/2009, Member States shall establish a mechanism to ensure that all commercial blackspot seabream daily catches and by-catches in the Alboran Sea (GFCM geographical subareas 1, 2, 3, as defined in Annex I), irrespective of the live weight of the catch, are reported. As for recreational fisheries, Member States shall endeavour to record or make estimations of the catches of that species.

Article 22i

Fishing authorisations and fishing activities

1. Member States shall establish a register of the fishing vessels authorised to carry on board or land quantities of blackspot seabream caught in the Alboran Sea that constitute more than 20 % of the catch in live weight after sorting per tide. That register shall be maintained and updated.

2. Fishing vessels targeting blackspot seabream shall only be allowed to carry out fishing activities if those fishing activities are indicated in a valid fishing authorisation issued by the competent authorities and specifying the technical conditions under which such activities may be carried out. The authorisation shall include the data set out in Annex VIII.

3. Member States shall:

(a) communicate to the Commission, by 31 January of each year, the list of operating vessels for which the authorisation has been delivered for the current or the following year(s); the Commission shall communicate the list to the GFCM Secretariat by the end of February of each year. The list shall contain the data set out in Annex VIII;

(b) communicate to the Commission and the GFCM Secretariat, by the end of November each year, starting from 30 November 2018 and at the latest from 30 November 2020, a report on fishing activities carried out by the vessels referred to in paragraph 1, in an aggregated format, including the following minimum information:

(i) number of fishing days,

(ii) exploitation area, and

(iii) captures of blackspot seabream.

4. All vessels of more than 12 metres in overall length authorised to target blackspot seabream shall be equipped with a VMS or any other system of geo-localisation allowing control authorities to track their activities.

Article 22j

Scientific monitoring

Member States having fishing fleets targeting blackspot seabream shall ensure that a mechanism for adequate monitoring of fisheries and catches is duly in place with a view to allowing the SAC to provide descriptive information and advice on at least the following:

(a) the characteristics of the fishing gear, inter alia the maximum length of the longline and fixed nets and the number, type and size of the hooks;

- (b) the deployed fishing effort (e.g. number of fishing days per week) and overall catch levels by commercial fishing fleets; an estimation of catches of recreational fisheries should also be provided;
- (c) the conservation and management reference points with a view to establishing multiannual management plans for sustainable fisheries in line with the objective of maximum sustainable yield and low risk of stock collapse;
- (d) the socioeconomic effects of alternative management scenarios, including input/output control and/or technical measures, as identified by the GFCM and/or contracting parties;
- (e) possible spatial/temporal closures in order to preserve fishery sustainability;
- (f) the potential impact of recreational fisheries on the status of blackspot seabream stock(s).

Section II

Strait of Sicily

Article 22k

Authorisations for bottom trawling fisheries on demersal stocks in the Strait of Sicily

1. Bottom trawling vessels targeting demersal stocks in the Strait of Sicily (GFCM geographical subareas 12, 13, 14, 15 and 16, as defined in Annex I), shall only be allowed to carry out the specific fishing activities indicated in a valid fishing authorisation issued by the competent authorities and specifying the technical conditions under which such activities shall be carried out.

2. The fishing authorisation referred to in paragraph 1 shall include, in addition to the data defined in Annex I to Commission Implementing Regulation (EU) 2017/218 (*), the following data:

- (a) GFCM registration number;
- (b) previous name (if any);
- (c) previous flag (if any);
- (d) previous details of deletion from other registers (if any).

3. Member States shall send to the Commission by 31 October each year the list of vessels for which they issued the authorisation referred to in paragraph 1. The Commission shall communicate that list to the body designated by it and to the GFCM Secretariat not later than 30 November each year.

4. Member States shall communicate to the Commission and the GFCM Secretariat not later than 31 August each year, in an aggregated format, a report on fishing activities carried out by the vessels referred to in paragraph 1, including the following minimum information:

- (i) number of fishing days;
- (ii) exploitation area; and
- (iii) captures of European hake and deep-water rose shrimp.

Article 22l

Designated ports

1. Each Member State shall designate landing ports in which landings of European hake and deep-water rose shrimp from the Strait of Sicily may take place, in accordance with Article 43(5) of Regulation (EC) No 1224/2009. Member States shall transmit to the GFCM Secretariat and to the Commission not later than 30 November 2018 a list of designated landing ports. Any subsequent change to that list shall be promptly notified to the GFCM Secretariat and to the Commission.

2. It shall be prohibited to land or tranship from fishing vessels any quantity of European hake and deep-water rose shrimp fished in the Strait of Sicily at any place other than in landing ports designated by the Member States.

Article 22m

International Joint Inspection and Surveillance Scheme in the Strait of Sicily

1. Member States may carry out inspection and surveillance activities in the framework of an International Joint Inspection and Surveillance Scheme ("the Scheme") covering the waters outside national jurisdiction in GFCM geographical subareas 12, 13, 14, 15 and 16, as defined in Annex I ("the inspection and surveillance area").

2. Member States may assign inspectors and inspection means and carry out inspections under the Scheme. The Commission or a body designated by it may also assign Union inspectors to the Scheme.

3. The Commission or a body designated by it shall coordinate the surveillance and inspection activities for the Union and may draw up, in coordination with the Member States concerned, a joint deployment plan to enable the Union to fulfil its obligation under the Scheme. Member States shall adopt the necessary measures to facilitate the implementation of those plans, particularly as regards the human and material resources required and the periods and geographical areas in which those resources are to be deployed.

4. Each Member State shall, not later than 31 October of each year, notify to the Commission or a body designated by it the list of the names of inspectors authorised to perform the inspection and surveillance in the area referred to in paragraph 1, as well as the names of the vessels and aircraft used for inspection and surveillance which they intend to assign to the Scheme for the following year. The Commission or a body designated by it shall send this information to the GFCM Secretariat by 1 December of each year or as soon as possible before the commencement of inspection activities.

5. Inspectors assigned to the Scheme shall carry a GFCM inspector card issued by the competent authorities, which shall be in the form set out in Annex IV.

6. Vessels carrying out boarding and inspection duties in accordance with the Scheme shall fly a special flag or pennant, as described in Annex V.

7. Each Member State shall ensure that every inspection platform entitled to fly its flag operating in the area referred to in paragraph 1 maintains secure contact, daily where possible, with every other inspection platform operating in that area, to exchange information necessary to coordinate the activities.

8. Each Member State with an inspection or surveillance presence in the area referred to in paragraph 1 shall provide to each inspection platform, upon its entry into the area, a list of sightings established in accordance with Annex VII, of boardings and inspections it has conducted in the previous 10-day period, including dates, coordinates and any other relevant information.

Article 22n

Conduct of inspections

1. Inspectors assigned to the Scheme shall:

- (a) prior to boarding, notify the fishing vessel of the name of the inspection vessel;
- (b) display, on the inspection vessel and boarding vessel, the pennant described in Annex V;
- (c) limit each inspection team to a maximum of three inspectors.

2. Upon boarding the vessel, inspectors shall produce the identity card described in Annex IV to the master of the fishing vessel. Inspections shall be conducted in one of the official languages of the GFCM and, where possible, in the language spoken by the master of the fishing vessel.

3. Inspectors shall draw up a report of the inspection in the format set out in Annex VI.
4. Inspectors shall sign the report in the presence of the master of the vessel who shall be entitled to add to the report any observations which he or she may think suitable and who must also sign.
5. Copies of the report shall be given to the master of the vessel and to the authorities of the inspection party, which shall transmit copies to the authorities of the flag State of the inspected vessel and to the Commission and/or a body designated by it. The Commission shall forward the copy to the GFCM Secretariat.
6. The size of the inspection party and length of the inspection shall be determined by the commanding officer of the inspection vessel taking into account all relevant circumstances.

Article 22o

Infringements

1. For the purposes of this Article, the following activities shall be considered as infringements:
 - (a) the activities referred to in points (a), (b), (c), (e), (f), (g) and (h) of Article 3(1) of Regulation (EC) No 1005/2008;
 - (b) interference with satellite monitoring system; and
 - (c) operating without a VMS.
2. In the case of any boarding and inspection of a fishing vessel during which the inspectors detect an infringement, the authorities of the flag Member State of the inspection vessel shall immediately inform the Commission or a body designated by it, which shall notify the flag State of the inspected fishing vessel both directly and through the GFCM Secretariat. They shall also inform any inspection ship of the flag State of the fishing vessel known to be in the vicinity.
3. The flag Member State of the vessel shall ensure that, following an inspection in which an infringement has been detected, the fishing vessel concerned ceases all fishing activities. The flag Member State shall require the fishing vessel to proceed within 72 hours to a port designated by it, where an investigation shall be initiated.
4. In the event that an infringement has been detected during an inspection, the actions and follow-up taken by the flag Member State shall be notified to the Commission or a body designated by it. The Commission or a body designated by it shall forward the action and follow-up taken to the GFCM Secretariat.
5. Member States' authorities shall act on inspection reports, as referred to in Article 22n(3), and statements resulting from documentary inspections by inspectors on a similar basis as they act on reports and statements of national inspectors.

Section III

Black Sea

Article 22p

Measures to prevent, deter and eliminate IUU fishing in turbot fisheries in the Black Sea

1. By 20 January each year, each Member State shall send to the Commission, through the accustomed data-processing support, a list of the vessels using bottom-set gillnets authorised to fish turbot in the Black Sea (GFCM geographical subarea 29, as defined in Annex I). By 31 January each year, the Commission shall send that list to the GFCM Secretariat.
2. The list indicated in paragraph 1 shall include, in addition to the data set out in Annex I to Implementing Regulation (EU) 2017/218, the following data:
 - (a) GFCM registration number;
 - (b) previous name (if any);

- (c) previous flag (if any);
- (d) previous details of deletion from other registers (if any);
- (e) main target species;
- (f) main gear(s) used for turbot, fleet segment and operational unit as defined in the Task 1 statistical matrix set out in Section C of Annex III;
- (g) time period authorised for fishing with gillnet or any other gear likely to fish turbot (if any of such authorisation).

3. Upon request by the GFCM, Member States shall report information on the fishing vessels authorised to engage in a fishing activity in a given period. In particular, Member States shall report the names of the fishing vessels concerned, their external identification number and the fishing opportunities allocated to each of them.

4. Unmarked abandoned gillnets used in turbot fisheries and found at sea shall be collected by the competent authorities of the coastal Member State. Subsequently, those nets shall either be seized until the owner is duly identified or destroyed if the owner cannot be identified.

5. Each Member State concerned shall designate landing points, in which landings and transhipping of turbot caught in the Black Sea shall take place, in accordance with Article 43(5) of Regulation (EC) No 1224/2009. A list of such points shall be communicated to the GFCM Secretariat and the Commission not later than 30 November of each year.

6. It shall be prohibited to land or tranship from fishing vessels any quantity of turbot caught in the Black Sea at any other place than the landing points referred to in paragraph 5.

Article 22q

National monitoring, control and surveillance plans for turbot fisheries in the Black Sea

1. Member States shall establish national monitoring, control and surveillance plans ("national plans") in order to implement the provisions of Article 22p by ensuring, inter alia, a proper and accurate monitoring and recording of the monthly catches and/or fishing effort deployed.

2. The following elements shall be contained in the national plans:

- (a) clear definition of the means of control, with description of human, technical and financial means specifically available for the implementation of the national plans;
- (b) clear definition of the inspection strategy (including inspection protocols), which shall concentrate on fishing vessels likely to catch turbot and associated species;
- (c) action plans for the control of markets and transport;
- (d) definition of inspection tasks and procedures, including the sampling strategy applied to verify the weighing of catches at first sale and the sampling strategy for vessels that are not subject to logbook/landing declaration rules;
- (e) explanatory guidelines for inspectors, producer organisations and fishermen regarding the set of rules in place for fisheries likely to catch turbot, including:
 - (i) rules for the completion of documents, including inspection reports, fishing logbooks, transhipment declarations, landing and take-over declarations, transport documents and sales notes;
 - (ii) technical measures in force, including mesh size and/or mesh dimensions, minimum catch size, temporary restrictions;

- (iii) sampling strategies,
 - (iv) cross-check mechanisms.
- (f) training of national inspectors with a view to carrying out the tasks referred to in Annex II.

3. By 20 January each year, the Member States shall communicate the national plans to the Commission or a body designated by it. The Commission or a body designated by it shall forward those plans to the GFCM Secretariat by 31 January of each year.

Article 22r

Scientific monitoring of turbot fisheries in the Black Sea

The Member States shall communicate to the SAC and the Commission, not later than 30 November of each year, any additional information in support of the scientific monitoring of turbot fisheries in the Black Sea.

(*) Commission Implementing Regulation (EU) 2017/218 of 6 February 2017 on the Union fishing fleet register (OJ L 34, 9.2.2017, p. 9).;

(11) Article 23a is amended as follows:

(a) in paragraph 1, point (a) is replaced by the following:

‘(a) the data on red coral referred to in Article 22b; and’;

(b) the following paragraph is added:

‘8. Each Member State shall submit a detailed report of its fishing activities regarding red coral to the GFCM Secretariat and the Commission by 30 June each year. Such report shall include at least information on total catches and exploitation areas and, if possible, on the number of dives and the average catch per dive.’;

(12) Annexes IV, V, VI, VII and VIII are added as set out in the Annex to this Regulation.

Article 2

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, 5 June 2019.

For the European Parliament

The President

A. TAJANI

For the Council

The President



G. CIAMBA

ANNEX

The following Annexes are added to Regulation (EU) No 1343/2011:

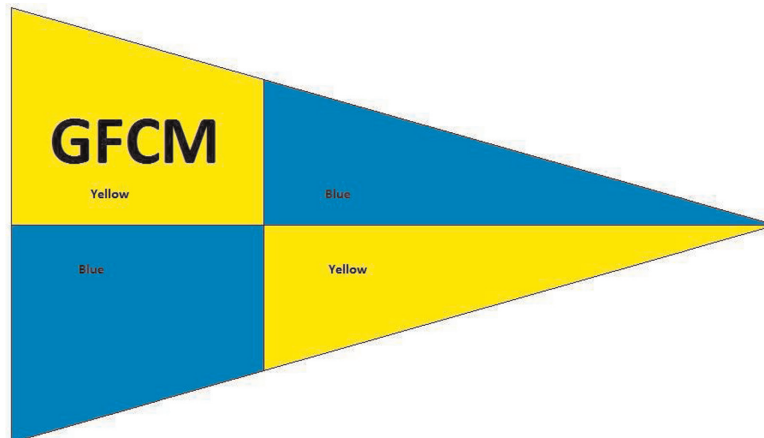
‘ANNEX IV

MODEL OF IDENTITY CARD FOR GFCM INSPECTORS

General Fisheries Commission for the Mediterranean			GFCM	
	GFCM		The holder of this inspector identity card is a GFCM inspector duly appointed under the terms of the General Fisheries Commission for the Mediterranean (GFCM) Joint Inspection and Surveillance Scheme and has the power to act under the provisions of GFCM rules.	
INSPECTOR IDENTITY CARD				
Photograph	Contracting Party			
	Inspector Name:			
	Card n°	
	Issue date:	Valid for five years	Issuing Authority	Inspector

ANNEX V

MODEL OF GFCM INSPECTION PENNANT



ANNEX VI

GFCM INSPECTION REPORT

1. INSPECTOR(S)

Name Contracting Party GFCM Identity Card number

Name Contracting Party GFCM Identity Card number

Name Contracting Party GFCM Identity Card number

2. VESSEL CARRYING THE INSPECTOR(S)

2.1 Name and Registration

2.2 Flag

3. INFORMATION ON VESSEL INSPECTED

3.1 Name and Registration

3.2 Flag

3.3 Captain (Name and address)

3.4 Ship owner (Name and address)

3.5 GFCM Record number

3.6 Type of vessel

4. POSITION

4.1 Position as determined by inspecting vessel's master at UTC; Lat Long

4.2 Position as determined by fishing vessel's master at UTC; Lat Long

5. DATE AND TIMES THE INSPECTION COMMENCED AND FINISHED

5.1 Date Time arrived on board UTC-Time of Departure UTC

6. TYPE OF FISHING GEAR ON BOARD

Bottom otter trawl – OTB	
Mid-water otter trawl – OTM	
Shrimp trawls – TBS	
Purse seine – PS	
Gillnets anchored (set) – GNS	
Set longlines – LLS	
Recreational gear – RG	
Other (Specify)	

7. MESH MEASUREMENT - IN MILLIMETRES

7.1 Legal mesh size to be used: mm

7.2 Result of the average mesh size measurement: mm

7.3 Infringement: YES - NO In case of YES, legal reference:

8. INSPECTION OF CATCHES ON BOARD

8.1 Results of the inspection of the fish on board

SPECIES (FAO tri alpha Code)						
Total (Kg)						
Presentation						
Sample inspected						
% of fish undersize						

8.2 Infringement: YES - NO In case of YES, legal reference:

9. INSPECTION OF DOCUMENTS ON BOARD AND VMS

9.1 Fishing Log Book: YES - NO

9.2 Infringement: YES - NO In case of YES, legal reference:

9.3 Fishing Licence: YES - NO

9.4 Infringement: YES - NO In case of YES, legal reference:

9.5 Specific authorisation: YES - NO

9.6 Infringement: YES - NO In case of YES, legal reference:

9.7 VMS: YES - NO in function: YES - NO

9.8 Infringement: YES - NO In case of YES, legal reference:

10. LIST OF VIOLATIONS

- Fishing without a licence, permit or authorisation issued by the flag CPC – legal reference:
- Failure to maintain sufficient records of catch and catch-related data in accordance with the GFCM's reporting requirements or significant misreporting of such catch and/or catch-related data – legal reference:
- Fishing in a closed area – legal reference:
- Fishing during a closed season– legal reference:
- Use of prohibited fishing gear – legal reference:
- Falsification or intentionally concealment of the markings, identity or registration of a fishing vessel – legal reference:
- Concealment, tampering with or disposal of evidence relating to investigation of a violation – legal reference:
- Multiple violations which taken together constitute a serious disregard of measures in force pursuant to the GFCM;

- Assault, resistance, intimidation, sexual harassment, interference with, or undue obstruction or delay of an authorised inspector;
- Interference with the satellite monitoring system and/or operates without VMS system – legal reference:

11. LIST OF DOCUMENTS COPIED ON BOARD

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12. COMMENTS AND SIGNATURE BY THE MASTER OF VESSEL

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Signature of master:

13. COMMENTS AND SIGNATURE BY THE INSPECTOR(S)

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Signature of inspector(s):

ANNEX VII

GFCM SIGHTING REPORT

1. Date of the sightings:/...../..... Time: UTC
2. Position of the vessel sighted:
Latitude - Longitude
3. Course: - Speed
4. Name of the vessel sighted:
5. Flag of the vessel sighted:
6. External number/markings:
7. Type of vessel:
 - Fishing vessel
 - Carrier vessel
 - Freezer vessel
 - Other (specify)
8. International Radio Call Sign:
9. IMO number (where applicable):
10. Activity(ies):
 - Fishing
 - Steaming
 - Drifting
 - Transhipping
11. Radio contact: YES - NO
12. Name and nationality of the captain of the sighted vessel:
13. Number of people on board the sighted vessel:
14. Catches on board sighted vessel:
15. Information collected by:
 - Name of inspector:
 - Contracting Party:
 - GFCM Identity Card number:
 - Name of the patrol vessel:

ANNEX VIII

DATA TO BE INCLUDED IN THE LIST OF VESSELS TARGETING BLACKSPOT SEABREAM

The list referred to Article 22i shall contain, for each vessel, the following information:

- Vessel name
 - Vessel register number (code assigned by CPCs)
 - GFCM registration number (country ISO 3-alpha code + 9 digits, e.g. xxx000000001)
 - Port of registration (full name of the port)
 - Previous name (if any)
 - Previous flag (if any)
 - Previous details of deletion from other registers (if any)
 - International radio call sign (if any)
 - VMS (indicate Y/N)
 - Type of vessel, length overall (LOA) and gross tonnage (GT) and/or gross registered tonnage (GRT) and engine power expressed in kW
 - Name and address of owner(s) and operator(s)
 - Main gear(s) used to fish for blackspot seabream and fleet segment allocation and operational unit as identified in the DCRF
 - Seasonal period authorised for fishing blackspot seabream’.
-

DIRECTIVES

DIRECTIVE (EU) 2019/983 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 5 June 2019

amending Directive 2004/37/EC on the protection of workers from the risks related to exposure to carcinogens or mutagens at work

(Text with EEA relevance)

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 point (b) of Article 153(2), in conjunction with point (a) of Article 153(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) Delivering on the European Pillar of Social Rights ⁽³⁾, proclaimed by the European Parliament, the Council and the Commission at the Social Summit for Fair Jobs and Growth in Gothenburg on 17 November 2017, is a shared political commitment and responsibility. Principle 10 of the European Pillar of Social Rights provides that workers have the right to a healthy, safe and well-adapted work environment. The right of workers to a high level of protection of their health and safety at work and to a working environment adapted to their professional needs also includes protection from carcinogens and mutagens at the workplace, irrespective of the duration of the employment or of the exposure.
- (2) This Directive respects fundamental rights and observes the principles recognised in the Charter of Fundamental Rights of the European Union, in particular the right to life and the right to fair and just working conditions provided for, respectively, in Articles 2 and 31 thereof.
- (3) Directive 2004/37/EC of the European Parliament and of the Council ⁽⁴⁾ aims to protect workers against risks to their health and safety from exposure to carcinogens or mutagens at the workplace. A consistent level of protection from the risks related to carcinogens and mutagens is provided for in that Directive by a framework of general principles to enable Member States to ensure the consistent application of minimum requirements. The aim of those minimum requirements is to protect workers at Union level and to contribute to reducing differences in the levels of protection of workers across the Union and to ensuring a level playing field. Binding occupational exposure limit values are important components of the general arrangements for the protection of workers established by Directive 2004/37/EC. Those limit values need to be evidence-based, proportionate and measurable and should be established on the basis of available information, including up-to-date scientific and technical data, the economic feasibility of implementation and compliance, a thorough assessment of the socioeconomic impact and the availability of exposure measurement protocols and techniques at the workplace. More stringent binding occupational exposure limit values can be set by Member States in close cooperation with the social partners. In addition, Directive 2004/37/EC does not prevent Member States from applying additional measures, such as a biological limit value.

⁽¹⁾ OJ C 440, 6.12.2018, p. 145.

⁽²⁾ Position of the European Parliament of 27 March 2019 (not yet published in the Official Journal) and decision of the Council of 21 May 2019.

⁽³⁾ OJ C 428, 13.12.2017, p. 10.

⁽⁴⁾ Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work (Sixth individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC) (OJ L 158, 30.4.2004, p. 50).

- (4) Directive 2004/37/EC aims to cover substances or mixtures which meet the criteria for classification as a category 1A or 1B carcinogen or mutagen set out in Annex I to Regulation (EC) No 1272/2008 of the European Parliament and of the Council ⁽⁵⁾ as well as substances, mixtures or processes referred to in Annex I to Directive 2004/37/EC. The substances which meet the criteria for classification as a category 1A or 1B carcinogen or mutagen set out in Annex I to Regulation (EC) No 1272/2008 are those with a harmonised classification or classified in accordance with Article 4 or 36 of that Regulation and notified to the European Chemicals Agency (ECHA) pursuant to Article 40 of that Regulation. Those substances are listed in the public Classification and Labelling Inventory maintained by ECHA. For any new addition to the list of substances, mixtures and processes referred to in Annex I to Directive 2004/37/EC in accordance with point (a)(ii) of Article 2 of that Directive, robust scientific evidence of the carcinogenicity of the relevant substance needs to be demonstrated, based on available valid scientific sources such as ECHA's Committee for Risk Assessment (RAC), the International Agency for Research on Cancer (IARC) and national bodies, paying particular attention to peer-reviewed published literature on that substance.
- (5) Occupational exposure limit values are part of the risk-management measures under Directive 2004/37/EC. Those limit values should be revised regularly in accordance with the precautionary principle and the principle of the protection of workers, and in light of sound available scientific and technical data concerning carcinogens and mutagens. Consideration should also be given to improving measurement techniques, risk-management measures and other relevant factors. Compliance with those limit values is without prejudice to other employers' obligations pursuant to that Directive, in particular the reduction of the use of carcinogens and mutagens at the workplace, the prevention or reduction of workers' exposure to carcinogens or mutagens and the measures which should be implemented to that effect. Those measures should include, in so far as is technically possible, the replacement of the carcinogen or mutagen with a substance, mixture or process which is not dangerous or is less dangerous to workers' health, the use of a closed system and other measures aiming to reduce the level of workers' exposure.
- (6) Hazardous drugs, including cytotoxic drugs primarily used for cancer treatment, could have genotoxic, carcinogenic or mutagenic properties. It is therefore important to protect workers who are exposed to such drugs through work involving: the preparation, administration or disposal of hazardous drugs, including cytotoxic drugs; services related to cleaning, transport, laundry or waste disposal of hazardous drugs or of materials contaminated by such drugs; or personal care for patients treated with hazardous drugs. Hazardous drugs, including cytotoxic drugs, are subject to Union measures providing for minimum requirements for the protection of health and safety of workers, in particular those provided for in Council Directive 98/24/EC ⁽⁶⁾. Hazardous drugs that contain substances that are also carcinogens or mutagens are subject to Directive 2004/37/EC. The Commission should assess the most appropriate instrument for ensuring the occupational safety of workers exposed to hazardous drugs, including cytotoxic drugs. In doing so, access to the best available treatments for patients should not be jeopardised.
- (7) For most carcinogens and mutagens, it is not scientifically possible to identify levels below which exposure would not lead to adverse effects. While setting the limit values at the workplace in relation to carcinogens and mutagens pursuant to this Directive does not completely eliminate risks to the health and safety of workers arising from exposure at work (residual risk), it nonetheless contributes to a significant reduction in the risks arising from such exposure in the stepwise and goal-setting approach pursuant to Directive 2004/37/EC. For other carcinogens and mutagens, it is scientifically possible to identify levels below which exposure is not expected to lead to adverse effects.
- (8) Maximum levels for workers' exposure to some carcinogens or mutagens are established by values which, pursuant to Directive 2004/37/EC, are not to be exceeded.
- (9) This Directive strengthens the protection of workers' health and safety at their workplace. The Commission should review Directive 2004/37/EC on a regular basis and make legislative proposals, if appropriate. New limit values should be set out in that Directive in the light of available information, including new scientific and technical data and evidence-based best practices, techniques and protocols for exposure-level measurement at the workplace. That information should, if possible, include data on residual risks to the health of workers, recommendations of the Scientific Committee on Occupational Exposure Limits (SCOEL) and opinions of the RAC, as well as opinions of

⁽⁵⁾ Regulation (EC) No 1272/2008 of the European Parliament and of the Council of 16 December 2008 on classification, labelling and packaging of substances and mixtures, amending and repealing Directives 67/548/EEC and 1999/45/EC, and amending Regulation (EC) No 1907/2006 (OJ L 353, 31.12.2008, p. 1).

⁽⁶⁾ Council Directive 98/24/EC of 7 April 1998 on the protection of the health and safety of workers from the risks related to chemical agents at work (fourteenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ L 131, 5.5.1998, p. 11).

the Advisory Committee on Safety and Health at Work (ACSH) and monographs of the IARC. Transparency of information is a tool for prevention in that context and should be ensured. Information related to residual risk is valuable for any future work to limit risks from occupational exposure to carcinogens and mutagens, and should be made publicly available at Union level. This Directive is in line with the specific recommendations of SCOEL, the RAC and the ACSH, the importance of which has been highlighted in previous amendments to Directive 2004/37/EC.

- (10) It is also necessary, in light of scientific data, to consider the absorption pathways of carcinogens and mutagens other than inhalation, including the possibility of uptake through the skin, and, in such cases, assign a skin notation for relevant substances in order to ensure the best possible level of protection. The amendments to Annex III to Directive 2004/37/EC provided for in this Directive constitute a further step in a longer-term process initiated to update that Directive.
- (11) The assessment of health effects of carcinogens subject to this Directive was based on the relevant scientific expertise from SCOEL and the RAC.
- (12) SCOEL, which was set up by Commission Decision 2014/113/EU ⁽⁷⁾, assists the Commission in particular in identifying, evaluating and analysing in detail the latest available scientific data and in proposing occupational exposure limit values for the protection of workers from chemical risks, which are to be set at Union level pursuant to Directives 98/24/EC and 2004/37/EC.
- (13) In accordance with Regulation (EC) No 1907/2006 of the European Parliament and of the Council ⁽⁸⁾, the RAC draws up ECHA opinions concerning the risks of chemical substances to human health and the environment. In the context of this Directive, the RAC prepared its opinion as requested in accordance with point (c) of Article 77(3) of that Regulation.
- (14) The 2018-to-2019 campaign 'Healthy Workplaces Manage Dangerous Substances' is a good example of how the European Agency for Safety and Health at Work (EU-OSHA) can support the implementation of occupational safety and health legislation at Union level. It is desirable that EU-OSHA work closely with Member States to provide tailored information and examples of good practices to workers in contact with certain substances, highlighting policy developments and the legislative framework already in place.
- (15) Cadmium and many of its inorganic compounds meet the criteria for classification as carcinogenic (category 1B) in accordance with Regulation (EC) No 1272/2008 and are therefore carcinogens within the meaning of Directive 2004/37/EC. It is therefore appropriate, on the basis of available information, including scientific and technical data, to establish a limit value for cadmium and its inorganic compounds in that Directive. In addition, cadmium, cadmium nitrate, cadmium hydroxide and cadmium carbonate have been identified as substances of very high concern pursuant to point (a) of Article 57 of Regulation (EC) No 1907/2006 and are included in the candidate list referred to in Article 59(1) of that Regulation.
- (16) With regard to cadmium, it is foreseeable that it will be difficult to comply with a limit value of 0,001 mg/m³ in the short term. It is therefore appropriate to introduce a transitional period of eight years, during which the limit value 0,004 mg/m³ (inhalable fraction) should apply. With a view to protecting legitimate expectations and in order to avoid potential disruptions of existing practices in Member States that implement, on the date of the entry into force of this Directive, a biomonitoring system with a biological limit value not exceeding 0,002 mg Cd/g creatinine in urine, the limit value of 0,004 mg/m³ should, in those Member States, be measured as respirable fraction during the transitional period, in light of the SCOEL and ACSH opinions on cadmium and its inorganic compounds.
- (17) On the basis of available valid scientific sources such as those provided by SCOEL, the RAC and relevant national bodies, the Commission should, no later than three years after the date of entry into force of this Directive, assess the option of amending Directive 2004/37/EC by adding provisions on a combination of an airborne occupational exposure limit and a biological limit value for cadmium and its inorganic compounds.

⁽⁷⁾ Commission Decision 2014/113/EU of 3 March 2014 on setting up a Scientific Committee on Occupational Exposure Limits for Chemical Agents and repealing Decision 95/320/EC (OJ L 62, 4.3.2014, p. 18).

⁽⁸⁾ Regulation (EC) No 1907/2006 of the European Parliament and of the Council of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ L 396, 30.12.2006, p. 1).

- (18) Setting a biological limit value for cadmium and its inorganic compounds would protect workers against their systemic toxicity, which mainly affects the kidneys and bones. Biological monitoring can thus contribute to the protection of workers at the workplace, but only as a means of complementing the monitoring of the concentration of cadmium and its inorganic compounds in the air and therefore within the breathing zone of workers. The Commission should issue practical guidelines for biological monitoring.
- (19) Beryllium and most inorganic beryllium compounds meet the criteria for classification as carcinogenic (category 1B) in accordance with Regulation (EC) No 1272/2008 and are therefore carcinogens within the meaning of Directive 2004/37/EC. In addition to having carcinogenic properties, beryllium is known to provoke chronic beryllium disease (CBD) and beryllium sensitisation (BeS). It is therefore appropriate, on the basis of the available information, including scientific and technical data, to establish a limit value for beryllium and inorganic beryllium compounds in that Directive and to assign a notation for skin and respiratory sensitisation.
- (20) With regard to beryllium, it is foreseeable that it will be difficult to comply with a limit value of $0,0002 \text{ mg/m}^3$ in the short term. It is therefore appropriate to introduce a transitional period of seven years, during which the limit value of $0,0006 \text{ mg/m}^3$ should apply.
- (21) Arsenic acid and its salts, as well as most inorganic arsenic compounds, meet the criteria for classification as carcinogenic (category 1A) in accordance with Regulation (EC) No 1272/2008 and are therefore carcinogens within the meaning of Directive 2004/37/EC. It is therefore appropriate, on the basis of the available information, including scientific and technical data, to establish a limit value for arsenic acid and its salts, as well as inorganic arsenic compounds in that Directive. In addition, arsenic acid, diarsenic pentoxide and diarsenic trioxide are identified as substances of very high concern pursuant to point (a) of Article 57 of Regulation (EC) No 1907/2006 and are included in Annex XIV to that Regulation, requiring authorisation before they can be used.
- (22) With regard to arsenic acid, it is foreseeable that the copper smelting sector will have difficulties in complying with a limit value of $0,01 \text{ mg/m}^3$. A transitional period of four years should therefore be introduced.
- (23) Formaldehyde meets the criteria for classification as carcinogenic (category 1B) in accordance with Regulation (EC) No 1272/2008 and is therefore a carcinogen within the meaning of Directive 2004/37/EC. Formaldehyde is a local acting genotoxic carcinogen and there is sufficient scientific evidence of its carcinogenicity in humans. Formaldehyde is also a contact allergen for the skin (skin sensitiser). It is therefore appropriate, on the basis of the available information, including scientific and technical data, to establish a long- and short-term limit value for formaldehyde in that Directive and to assign a notation for skin sensitisation. In addition, at the request of the Commission, ECHA is also gathering existing information to assess the potential exposure to formaldehyde and formaldehyde releasers at the workplace, including industrial and professional uses.
- (24) Formaldehyde fixatives are routinely used in the healthcare sector across the Union because of their convenience of handling, high degree of accuracy and extreme adaptability. In some Member States, it is foreseeable that the healthcare sector will have difficulties in complying, in the short term, with a limit value of $0,37 \text{ mg/m}^3$ or $0,3 \text{ ppm}$. It is therefore appropriate to introduce for that sector a transitional period of five years, during which the limit value of $0,62 \text{ mg/m}^3$ or $0,5 \text{ ppm}$ should apply. The healthcare sector should, however, minimise exposure to formaldehyde and is encouraged to respect the limit value of $0,37 \text{ mg/m}^3$ or $0,3 \text{ ppm}$ during the transitional period where possible.
- (25) In some Member States, formaldehyde is routinely used for the purposes of embalming deceased persons as part of their cultural or religious practices. It is foreseeable that the funeral sector will have difficulties in complying, in the short term, with the limit value of $0,37 \text{ mg/m}^3$ or $0,3 \text{ ppm}$. It is therefore appropriate to introduce for that sector a transitional period of five years, during which the limit value of $0,62 \text{ mg/m}^3$ or $0,5 \text{ ppm}$ should apply.
- (26) The notations for sensitisation set in this Directive for beryllium and formaldehyde are introduced to improve clarity. When setting such notations during the update of Directive 2004/37/EC, consistency should be ensured with relevant Union law. This may include adding sensitisation notations for substances for which there is already a specific entry in Annex III to that Directive, where relevant.

- (27) 4,4'-Methylene-bis(2-chloroaniline) (MOCA) meets the criteria for classification as carcinogenic (category 1B) in accordance with Regulation (EC) No 1272/2008 and is therefore a carcinogen within the meaning of Directive 2004/37/EC. Its carcinogenicity, together with its manifest genotoxic characteristics, has made it possible to classify that substance as carcinogenic to humans. The possibility of a significant uptake through the skin was identified for MOCA. It is therefore appropriate to establish a limit value for MOCA and to assign a skin notation to it. In addition, it was identified as a substance of very high concern pursuant to point (a) of Article 57 of Regulation (EC) No 1907/2006 and included in Annex XIV to that Regulation, requiring authorisation before it can be placed on the market or used. It is possible, on the basis of available information, including scientific and technical data, to set a limit value for MOCA.
- (28) The Commission has consulted the ACSH. It has also carried out a two-stage consultation of management and labour at Union level in accordance with Article 154 of the Treaty on the Functioning of the European Union. The ACSH has adopted opinions for substances covered by this Directive and proposed a binding occupational exposure limit value for each of them, supporting the relevant notations for some of them.
- (29) The limit values established in this Directive are to be kept under regular scrutiny and review to ensure consistency with Regulation (EC) No 1907/2006, in particular to take account of the interaction between limit values established in Directive 2004/37/EC and derived no-effect levels for hazardous chemicals under that Regulation in order to protect workers effectively.
- (30) Since the objective of this Directive, namely to protect workers against risks to their health and safety, including the prevention of such risks, arising or likely to arise from exposure to carcinogens or mutagens at work, cannot be sufficiently achieved by the Member States, but can rather, by reason of its scale and effects, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective.
- (31) In implementing this Directive, Member States should avoid imposing administrative, financial and legal constraints in a way which would hold back the creation and development of small and medium-sized undertakings. In this regard, Member States and relevant bodies at Union and national level are encouraged to provide incentives, guidance and advice to micro, small and medium-size enterprises to facilitate compliance with this Directive. In that context, social partner agreements, guidance and other joint actions identifying and developing best practices are most welcome.
- (32) Given that this Directive concerns the protection of the health and safety of workers at their workplace, it should be transposed within two years of the date of its entry into force.
- (33) Directive 2004/37/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 2004/37/EC is amended as follows:

- (1) In Article 18a, the following subparagraphs are added:

'No later than 11 July 2022, the Commission shall assess the option of amending this Directive to add provisions on a combination of an airborne occupational exposure limit and a biological limit value for cadmium and its inorganic compounds.

No later than 30 June 2020, the Commission shall, taking into account the latest developments in scientific knowledge, and after appropriate consultation with relevant stakeholders, in particular health practitioners and health professionals, assess the option of amending this Directive in order to include hazardous drugs, including cytotoxic drugs, or to propose a more appropriate instrument for the purpose of ensuring the occupational safety of workers exposed to such drugs. On that basis, the Commission shall present, if appropriate, and after consulting management and labour, a legislative proposal.');

(2) Annex III is amended in accordance with the Annex to this Directive.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 11 July 2021. They shall immediately inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the text of the measures of national law which they adopt in the field covered by this Directive.

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, 5 June 2019.

For the European Parliament

The President

A. TAJANI

For the Council

The President

G. CIAMBA

ANNEX

In point A of Annex III to Directive 2004/37/EC, the following rows are added:

Name of agent	EC No ⁽¹⁾	CAS No ⁽²⁾	Limit values						Notation	Transitional measures
			8 hours ⁽³⁾			Short-term ⁽⁴⁾				
			mg/m ³ ⁽⁵⁾	ppm ⁽⁶⁾	f/ml ⁽⁷⁾	mg/m ³ ⁽⁵⁾	ppm ⁽⁶⁾	f/ml ⁽⁷⁾		
Cadmium and its inorganic compounds	—	—	0,001 ⁽¹¹⁾	—	—	—	—	—	—	Limit value 0,004 mg/m ³ ⁽¹²⁾ until 11 July 2027
Beryllium and inorganic beryllium compounds	—	—	0,0002 ⁽¹¹⁾	—	—	—	—	—	dermal and respiratory sensitisation ⁽¹³⁾	Limit value 0,0006 mg/m ³ until 11 July 2026
Arsenic acid and its salts, as well as inorganic arsenic compounds	—	—	0,01 ⁽¹¹⁾	—	—	—	—	—	—	For the copper smelting sector, the limit value shall apply from 11 July 2023
Formaldehyde	200-001-8	50-00-0	0,37	0,3	—	0,74	0,6	—	dermal sensitisation ⁽¹⁴⁾	Limit value of 0,62 mg/m ³ or 0,5 ppm ⁽²⁾ for the health care, funeral and embalming sectors until 11 July 2024
4,4'-Methylene-bis(2-chloroaniline)	202-918-9	101-14-4	0,01	—	—	—	—	—	skin ⁽¹⁰⁾	

⁽¹⁰⁾ Inhalable fraction.

⁽¹¹⁾ Inhalable fraction. Respirable fraction in those Member States that implement, on the date of the entry into force of this Directive, a biomonitoring system with a biological limit value not exceeding 0,002 mg Cd/g creatinine in urine.

⁽¹²⁾ The substance can cause sensitisation of the skin and of the respiratory tract.

⁽¹³⁾ The substance can cause sensitisation of the skin.

DECISIONS

DECISION (EU) 2019/984 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 5 June 2019

amending Council Directive 96/53/EC as regards the time limit for the implementation of the special rules regarding maximum length for cabs delivering improved aerodynamic performance, energy efficiency and safety performance

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 91(1) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee ⁽¹⁾,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure ⁽²⁾,

Whereas:

- (1) Council Directive 96/53/EC ⁽³⁾ was amended by Directive (EU) 2015/719 of the European Parliament and of the Council ⁽⁴⁾ with the aim of reducing energy consumption and greenhouse gas emissions, to adapt the legislation to technological developments and changing market needs and to facilitate intermodal transport.
- (2) The improved aerodynamics of the cabs of motor vehicles would allow significant gains in the energy performance of vehicles. However, this improvement was impossible under the maximum length restrictions set out by Directive 96/53/EC without reducing the vehicle load capacity. Therefore, a derogation from maximum length restrictions was introduced by Directive (EU) 2015/719.
- (3) The derogation from maximum length restrictions introduced by Directive (EU) 2015/719 is to apply from the date three years after the date of transposition or application of the necessary amendments as regards technical type-approval requirements.
- (4) In order for the benefits of aerodynamic cabs, in terms of energy performance of heavy goods vehicles, but also in terms of better visibility for drivers, safety for other road users as well as safety and comfort for drivers, to materialise as early as possible, it is necessary to ensure that such aerodynamic cabs can be introduced without unnecessary delay, as soon as the necessary type-approval requirements are in place.
- (5) The transport sector and equipment manufacturers need sufficient time to develop new services and products. In order to reap the benefits of more flexible design rules for cabs, it is important that the Commission takes action to ensure that the necessary technical provisions can be adopted as soon as possible, to allow for a smooth and swift entry into the markets of a new generation of cabs. Moreover, the Commission and the Member States, acting

⁽¹⁾ OJ C 62, 15.2.2019, p. 286.

⁽²⁾ Position of the European Parliament of 26 March 2019 (not yet published in the Official Journal) and decision of the Council of 22 May 2019.

⁽³⁾ Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic (OJ L 235, 17.9.1996, p. 59).

⁽⁴⁾ Directive (EU) 2015/719 of the European Parliament and of the Council of 29 April 2015 amending Council Directive 96/53/EC laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic (OJ L 115, 6.5.2015, p. 1).

in their respective roles in the Technical Committee on Motor Vehicles, established by Directive 2007/46/EC of the European Parliament and of the Council ⁽⁵⁾, should make all efforts to ensure that an opinion is delivered swiftly. If the measures envisaged by the Commission are not in accordance with the opinion of that committee, or if no opinion is delivered, the Commission will act without delay in accordance with Article 5a(4) of Council Decision 1999/468/EC ⁽⁶⁾.

(6) Directive 96/53/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DECISION:

Article 1

Article 9a of Directive 96/53/EC is amended as follows:

(1) in paragraph 2, the second subparagraph, after point (d), is replaced by the following:

‘To that end, the Commission shall take the measures necessary, within the framework of Directive 2007/46/EC, to provide for the type-approval of vehicles or vehicle combinations referred to in paragraph 1 of this Article by 1 November 2019.’;

(2) paragraph 3 is replaced by the following:

‘3. Paragraph 1 shall apply from 1 September 2020.’.

Article 2

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

Done at Brussels, 5 June 2019.

For the European Parliament

The President

A. TAJANI

For the Council

The President

G. CIAMBA

⁽⁵⁾ Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive) (OJ L 263, 9.10.2007, p. 1).

⁽⁶⁾ Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission (OJ L 184, 17.7.1999, p. 23).

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