Council Regulation (EU) 2019/1097 of 26 June 2019 amending Regulation (EU) 2019/124 as regards certain fishing opportunities

COUNCIL REGULATION (EU) 2019/1097

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(3) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Council Regulation (EU) 2019/124[(1)] fixes for 2019 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and, for Union vessels, in certain non-Union waters.

(2) The multiannual plan for the Western Waters[(2)], which entered into force on 26 March 2019, repealed the recovery plan for Southern hake and Norway lobster[(3)]. The fishing effort limits in Annex IIA of Council Regulation (EU) 2019/124 were set in accordance with that recovery plan. As the stocks concerned will be managed in line with the provisions of the multiannual plan for the Western Waters by setting catch limits to achieve target fishing mortality in line with the ranges of the maximum sustainable yield (F_{MSY}), it is no longer necessary to continue setting fishing effort limits for the fleets fishing for those stocks. Annex IIA of Council Regulation (EU) 2019/124 should therefore be repealed.

(3) The International Council for the Exploration of the Sea (ICES) issued scientific advice for no catches for whiting (*Merlangius merlangus*) in the ICES division 7a (the Irish Sea). The by-catch total allowable catch (TAC) for that stock for 2019 has been set to strike the right balance between continuing fisheries, in view of the potentially severe socio-economic implications, and the need to achieve a good biological status for those stocks, taking into account the difficulty of fishing all stocks in a mixed fishery at F_{MSY} at the same time. The updated scientific analysis from the ICES on the status of whiting in ICES division 7a and its unavoidable by-catches in other fisheries provided for the status quo scenario estimating corresponding catches at 1 385 tonnes. Following this scientific analysis, the TAC should be amended to reflect an amount that will minimise the risk of an early fisheries closure, whilst allowing the spawning stock biomass to continue recovering. The level of the TAC should also reflect that the mortality for that stock is not increased and that the TAC provides incentives for improvements in selectivity and avoidance.

(4) In December 2018, the Member States concerned agreed that they would cooperate in the North Western Waters Member States Group and in close cooperation with the North

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Western Waters Advisory Council to prepare a multiannual by-catch reduction plan. This plan should ensure that by-catches of the five stocks in question, including whiting in the Irish Sea, for which the ICES has issued zero catch advice for 2019, are reduced through selectivity or avoidance measures. The Commission has indicated that it intends to submit this plan for the Scientific, Technical and Economic Committee for Fisheries (STECF) Plenary Session in July 2019, in order to assess its effectiveness. If the STECF assessment shows that the by-catch reduction plan will not achieve the desired effect of reducing fishing mortality on by-catches, the Commission has indicated that it will consider alternative measures to reduce the fishing mortality for the stocks concerned.

(5) According to the ICES advice of 28 March 2019, catches of Norway lobster (*Nephrops norvegicus*) in functional unit 31 in ICES division 8c should be no more than 0,7 tonnes for the period from 1 January 2019 to 31 December 2019. The fishing opportunities for Norway lobster in functional unit 31 in ICES division 8c should be set accordingly.

(6) On 28 March 2019, ICES issued advice for catches of Northern prawn (*Pandalus borealis*) in ICES divisions 3a and 4a East (Skagerrak and Kattegat and the northern North Sea in the Norwegian Deep). On the basis of that advice and following consultations with Norway, it is appropriate to fix the Union quota for Northern prawn in ICES division 3a at 2 304 tonnes, in line with the F_{MSY}.

(7) On 22 February 2019, ICES issued updated advice for catches of saithe (*Pollachius virens*) in the North Sea. On the basis of that advice and following consultations with Norway, the TAC for saithe should be amended accordingly, in line with the F_{MSY}.

(8) According to ICES advice issued on 12 April 2019, catches of sprat (*Sprattus sprattus*) in division 3a (Skagerrak and Kattegat) and subarea 4 (the North Sea) for the period from 1 July 2019 to 30 June 2020 should be no more than 138 726 tonnes. The TAC for sprat in 3a was set at 26 624 tonnes. The fishing opportunities for sprat in the Union waters of ICES division 2a and subarea 4 should be set taking into account the TAC already fixed for ICES division 3a and in line with the F_{MSY}. In order to guarantee full use of fishing opportunities, it is appropriate to introduce an inter-area flexibility for sprat from ICES division 3a to ICES subareas 2a and 4.

(9) The TAC for anchovy (*Engraulis encrasicolus*) in ICES subareas 9 and 10 and Union waters of the Fishery Committee for the Eastern Central Atlantic (CECAF) 34.1.1 for the period from 1 July 2019 to 30 June 2020 has been set at zero, pending the scientific advice for that period. ICES will issue its advice for this stock only at the end of June 2019, although the fishery continues during the summer period. In order to ensure that fishing activity may continue until the TAC is set on the basis of the latest scientific advice, a provisional TAC of 4 902 tonnes, based on the catches in the third quarter of 2018, should be established. The TAC would be amended in the future, in line with the ICES scientific advice.

(10) On 13 March 2019, on the basis of a joint recommendation from the North Sea Member States Group, the Commission adopted a Delegated Regulation (EU) 2019/906[(4)]. That Regulation sets out changes to *de minimis* exemptions from the landing obligation provided for in point (c) of Article 15(5) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council[(5)] for whiting and cod

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(*Gadus morhua*), as larger amounts of unwanted catches of those species will be subject to the landing obligation and no longer exempted from that obligation. The relevant TACs should therefore be amended to reflect those changes, and should continue to be set in line with the F_{MSY}. In accordance with Article 5 of Council Regulation (EC) No 1224/2009[6], Member States are to ensure the effective control of the landing obligation, thus preventing an increase in the fishing pressure on the stocks concerned.

(11) At its 21st special meeting in 2018, the International Commission for the Conservation of Atlantic Tunas (ICCAT) adopted Recommendation 18-02 establishing a multiannual management plan for bluefin tuna in the eastern Atlantic and the Mediterranean. That management plan follows the advice from the Standing Committee on Research and Statistics to establish a multiannual management plan for the stock in 2018, since the current status of the stock no longer requires the emergency measures introduced under the recovery plan for bluefin tuna (Recommendation 17-17 amending Recommendation 14-04). The management plan takes into account the specificities of the different types of gear and fishing techniques. Therefore, it is appropriate to revise the provisions on effort limits and maximum input in tuna farms.

(12) The catch limits provided for in Regulation (EU) 2019/124 apply from 1 January 2019. The provisions of this Regulation concerning catch limits should therefore also apply from that date. Such retroactive application is without prejudice to the principles of legal certainty and protection of legitimate expectations, as the fishing opportunities concerned have not yet been exhausted.

(13) Regulation (EU) 2019/124 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EU) 2019/124 is amended as follows:

(a) in Article 9, point (a) is deleted;

(b) Annex IA is amended in accordance with the Annex to this Regulation;

(c) Annex IIA is deleted;

(d) Annex IV is amended in accordance with the Annex to this Regulation.

Article 2

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

It shall apply from 1 January 2019.

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

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) 2019/1097. (See end of Document for details)*

Done at Luxembourg, 26 June 2019.

For the Council

The President

G.L. GAVRILESCU

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ANNEX

1. Annex IA to Regulation (EU) 2019/124 is amended as follows:

(1) The fishing opportunities table for anchovy in ICES subareas 9 and 10 and Union waters of CECAF 34.1.1 is replaced by the following:

‘Species:	**Anchovy*Engraulis encrasicolus***	Zone:	**9 and 10; Union waters of CECAF 34.1.1(ANE/9/3411)**
Spain	2 344[a]		
Portugal	2 558[a]		
Union	4 902[a]		
TAC	4 902[a]		Precautionary TAC

a The quota may only be fished from 1 July 2019 to 30 September 2019.’

(2) the fishing opportunities table for cod in ICES subarea 4 and Union waters of division 2a and that part of 3a not covered by the Skagerrak and Kattegat is replaced by the following:

‘Species:	**Cod*Gadus morhua***	Zone:	**4; Union waters of 2a; that part of 3a not covered by the Skagerrak and Kattegat(COD/2A3AX4)**
Belgium	870[a]		
Denmark	4 998[a]		
Germany	3 169[a]		
France	1 075[a]		
The Netherlands	2 824[a]		

a Special condition: of which up to 5 % may be fished in: 7d (COD/*07D.).

b May be taken in Union waters. Catches taken within this quota are to be deducted from Norway's share of the TAC.

Special condition:
within the limits of the abovementioned quotas, no more than the quantities given below may be taken in the following zone:

	Norwegian waters of 4 (COD/*04N-)
Union	21 236’