Council Regulation (EU) 2018/2025 of 17 December 2018 fixing for 2019 and 2020 the fishing opportunities for Union fishing vessels for certain deep-sea fish stocks

COUNCIL REGULATION (EU) 2018/2025

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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) Article 43(3) of the Treaty provides that the Council, on a proposal from the Commission, is to adopt measures on the fixing and allocation of fishing opportunities.

(2) Regulation (EU) No 1380/2013 of the European Parliament and of the Council[(1)] requires that conservation measures be adopted taking into account available scientific, technical and economic advice, including, where relevant, reports drawn up by the Scientific, Technical and Economic Committee for Fisheries (STECF).

(3) It is incumbent upon the Council to adopt measures on the fixing and allocation of fishing opportunities, including certain conditions functionally linked thereto, as appropriate. Fishing opportunities should be distributed among Member States in such a way as to assure each Member State relative stability of fishing activities for each stock or fishery and having due regard to the objectives of the common fisheries policy (CFP) established by Regulation (EU) No 1380/2013.

(4) The total allowable catches ('TACs') should be established on the basis of available scientific advice, taking into account biological and socioeconomic aspects whilst ensuring fair treatment between fishing sectors, as well as in the light of the opinions expressed during the consultation of stakeholders, and in particular the advisory councils concerned.

(5) Where a TAC relating to a stock is allocated to one Member State only, it is appropriate to empower that Member State in accordance with Article 2(1) of the Treaty to determine the level of such TAC. Provisions should be made to ensure that, when fixing that TAC level, the Member State concerned acts in a manner fully consistent with the principles and rules of the CFP.

(6) Council Regulation (EC) No 847/96[(2)] introduced additional conditions for year-to-year management of TACs, including, under Articles 3 and 4 of that Regulation, flexibility provisions for precautionary and analytical TACs. Under Article 2 of that Regulation, when fixing the TACs, the Council is to decide to which stocks Article 3

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or 4 of that Regulation is not to apply, in particular on the basis of the biological status of the stocks. More recently, a further year-to-year flexibility mechanism was introduced by Article 15(9) of Regulation (EU) No 1380/2013 for all stocks that are subject to the landing obligation. Therefore, in order to avoid excessive flexibility that would undermine the principle of rational and responsible exploitation of marine biological resources, hinder the achievement of the objectives of the CFP and result in the deterioration of the biological status of the stocks, it should be established that Articles 3 and 4 of Regulation (EC) No 847/96 apply to analytical TACs only where the year-to-year flexibility provided for in Article 15(9) of Regulation (EU) No 1380/2013 is not used.

(7) The landing obligation referred to in Article 15 of Regulation (EU) No 1380/2013 is introduced on a fishery-by-fishery basis. In the regions covered by this Regulation, all species subject to catch limits should be landed as of 1 January 2019. Article 16(2) of Regulation (EU) No 1380/2013 provides that, when the landing obligation in respect of a fish stock is introduced, fishing opportunities are to be fixed taking into account the change from fixing fishing opportunities that reflect landings to fixing fishing opportunities that reflect catches. However, specific exemptions from the landing obligation are granted in accordance with Article 15(4) to (7) of that Regulation. On the basis of the joint recommendations submitted by the Member States and in accordance with Article 15 of that Regulation, the Commission adopted a number of delegated regulations laying down specific discard plans applicable for an initial period of no more than three years, renewable for a further total period of three years, implementing the landing obligation.

(8) Fishing opportunities should be in accordance with international agreements and principles, such as the 1995 United Nations agreement concerning the conservation and management of straddling stocks and highly migratory fish stocks[(3)], and the detailed management principles laid down in the 2008 International Guidelines for the Management of Deep-sea Fisheries in the High Seas of the Food and Agriculture Organisation of the United Nations, according to which, in particular, a regulator should be more cautious when information is uncertain, unreliable or inadequate. The absence of adequate scientific information should not be used as a reason for postponing or failing to take conservation and management measures.

(9) The TAC and the Union quota for black scabbardfish in Union and international waters of 5, 6, 7 and 12 should be set taking into account that there are third-country catches from that stock and that the Union should have fishing opportunities corresponding to the share of historic catches from that stock.

(10) In view of the International Council for the Exploration of the Sea (ICES) advice concerning a decrease in fishing opportunities, given a high quota uptake and in the light of the introduction of the full landing obligation in 2019, directed fisheries should not be allowed for alfonsinos in subareas 3 to 10, 12 and 14 (North Sea, North- and South-Western waters) and the TAC should be set for bycatches only.

(11) According to the advice provided by ICES, limited on-board observations show that the percentage of roughhead grenadier has been less than 1 % of the reported catches

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of roundnose grenadier. On the basis of those considerations, ICES advises that there should be no directed fisheries for roughhead grenadier and that bycatches should be counted against the TAC for roundnose grenadier in order to minimise the potential for species misreporting. ICES indicates that there are considerable differences, of more than one order of magnitude (more than ten times), between the relative proportions of roundnose and roughhead grenadier reported in the official landings and the observed catches and scientific surveys in the areas where the fishery for roughhead grenadier currently occurs. There is very limited data available for this species, and some of the reported landing data are considered by ICES to be species misreporting. As a consequence, it is not possible to establish an accurate historical record of catches of roughhead grenadier. Therefore, any bycatches for roughhead grenadier should be limited to 1 % of each Member State's quota of roundnose grenadier and counted against that quota, in line with the scientific advice. If roughhead grenadier is considered a bycatch only to roundnose grenadier and belongs to the same TAC there will no longer be any misreporting.

(12) In view of the ICES advice, it is appropriate that the TAC for red seabream in ICES subareas 6, 7 and 8 (North-Western waters) be kept as a bycatch-only TAC.

(13) Catches of red seabream are taken from the relevant Fishery Committee for the Eastern Central Atlantic (CECAF) and General Fisheries Commission for the Mediterranean (GFCM) areas, which border on ICES subarea 9. Given that ICES data for those adjacent areas are incomplete, the scope of the TAC should remain limited to ICES subarea 9. Nevertheless, with a view to ensuring that management decisions are made on the best available basis, provisions have been made for data reporting for those adjacent areas.

(14) For red seabream in ICES subarea 10, no ICES advice has been provided for 2020. However, fishing opportunities should be set for both 2019 and 2020. It is possible that an appropriate amendment to the fishing opportunities established by this Regulation will be needed when the scientific advice is issued for 2020.

(15) In view of the low uptake and the fact that no targeted fishing is taking place, the TAC for black scabbardfish in ICES subareas 1 to 4 (North Sea and Skagerrak) should no longer be set.

(16) The TACs for roundnose grenadier in ICES subareas 1, 2 and 4 (North Sea) and greater forkbeard in ICES subareas 1 to 10, 12 and 14 should no longer be set. The ICES advice establishes that the absence of TACs would result in no or a low risk of unsustainable exploitation.

(17) ICES advises that there should be no catches of orange roughy until 2020. It is appropriate for the fishing, retaining on board, transhipping and landing of that species to be prohibited, as the stock is depleted and is not recovering. ICES notes that there have been no directed Union fisheries for orange roughy in the North-East Atlantic since 2010.

(18) ICES advises that the fishing mortality of deep-sea sharks should be minimised and no targeted fishing should be permitted. The deep-sea sharks are long-lived species with

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low reproductive rates and have quickly become overexploited. Fishing opportunities for such species should therefore be fully restricted through a general prohibition on fishing those species. However, directed artisanal deep-sea fisheries for black scabbardfish that use longlines have unavoidable bycatches of deep-sea sharks, which are currently discarded dead. Longlines are recognised as a selective fishing gear in such fisheries. Even with this gear, however, accidental bycatches of deep-sea sharks have proved to be unavoidable. Therefore, a restrictive TAC for unavoidable bycatches of those species in directed fisheries for black scabbardfish that use longlines should be maintained. The Member States concerned should further develop regional management measures for the fishing of black scabbardfish with a view to reducing bycatches of deep-sea sharks. In addition, they should establish specific data-collection measures for deep-sea sharks in order to ensure that those stocks are closely monitored. Fixing a Union bycatch allowance for deep-sea sharks in Union and international waters of ICES subareas 5 to 9, in Union and international waters of ICES subarea 10 and in Union waters of CECAF 34.1.1, 34.1.2 and 34.2 is without prejudice to the principle of relative stability as regards deep-sea sharks in those areas.

(19) In order to avoid the interruption of fishing activities and to ensure the livelihood of the fishermen of the Union, this Regulation should apply from 1 January 2019. In order to allow the Member States to ensure a timely application of this Regulation, it should enter into force immediately after its publication,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation fixes for the years 2019 and 2020 the annual fishing opportunities available to Union fishing vessels for fish stocks of certain deep-sea species in Union waters and in certain non-Union waters where catch limits are required.

Article 2

Definitions

1 For the purposes of this Regulation, the definitions referred to in Article 4 of Regulation (EU) No 1380/2013 shall apply. In addition, the following definitions apply:

a ‘total allowable catch’ (TAC) means:

(i) in fisheries subject to the exemption of the landing obligation referred to in Article 15(4) to (7) of Regulation (EU) No 1380/2013, the quantity of fish that can be landed from each stock each year;

(ii) in all other fisheries, the quantity of fish that can be caught from each stock each year;

b ‘quota’ means a proportion of the TAC allocated to the Union or a Member State;

c ‘international waters’ means waters falling outside the sovereignty or jurisdiction of any State;

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d 'analytical assessment' means quantitative evaluations of trends in a given stock, based on data about the stock's biology and exploitation, which scientific review has indicated to be of sufficient quality to provide scientific advice on options for future catches.

2 For the purposes of this Regulation, the following zone definitions shall apply:

a ICES (International Council for the Exploration of the Sea) zones are the geographical areas specified in Annex III to Regulation (EC) No 218/2009 of the European Parliament and of the Council[(4)];

b CECAF (Committee for Eastern Central Atlantic Fisheries) zones are the geographical areas specified in Annex II to Regulation (EC) No 216/2009 of the European Parliament and of the Council[(5)].

Article 3

TACs and allocations

The TACs for deep-sea species caught by Union fishing vessels in Union waters or in certain non-Union waters, the allocation of such TACs among Member States and the conditions functionally linked thereto, where appropriate, are set out in the Annex.

Article 4

TACs to be determined by Member States

1 The TAC for black scabbardfish in CECAF 34.1.2 shall be determined by Portugal.

2 The TAC to be determined by Portugal shall:

a be consistent with the principles and rules of the common fisheries policy, in particular the principle of the sustainable exploitation of the stock; and

b result:

(i) if an analytical assessment is available, in the exploitation of the stock consistent with maximum sustainable yield from 2019 onwards, with as high a probability as possible; or

(ii) if an analytical assessment is unavailable or incomplete, in the exploitation of the stock consistent with the precautionary approach to fisheries management.

3 By 15 March in each year of the application of this Regulation, Portugal shall submit the following information to the Commission:

a the TAC adopted;

b the data collected and assessed by Portugal on which the TAC adopted is based;

c details on how the TAC adopted complies with paragraph 2.

Article 5

Special provisions on the allocation of fishing opportunities

1 The allocation of fishing opportunities among Member States as set out in this Regulation shall be without prejudice to:

a exchanges made pursuant to Article 16(8) of Regulation (EU) No 1380/2013;