Council Regulation (EU) 2017/1398 of 25 July 2017 amending Regulation (EU) 2017/127 as regards certain fishing opportunities

COUNCIL REGULATION (EU) 2017/1398

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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) 2017/127[(1)] fixes for 2017 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in Union waters and, for Union fishing vessels, in certain non-Union waters.

(2) The derogation allowing catches of sea bass with certain gear categories is linked to the historic record of catches with those gears. It should be clarified that the derogation is maintained when fishing vessels are replaced, while ensuring that the number of vessels covered by the derogation and their overall fishing capacity do not increase.

(3) In 2017, the International Council for the Exploration of the Sea (ICES), in its advice and following the 2016 benchmark, amended the sandeel management areas. The sandeel management area 3r is mainly located in the Norwegian waters, however part of it also appears in the Union waters, with some important fishing banks straddling across the management areas 2r and 3r. It is appropriate to ensure that Union fishing vessels can access sandeel banks located in the Union waters of the management area 3r. The fishing opportunities established for the management area 2r should therefore also include the Union waters of the management area 3r.

(4) On 27 March 2017, ICES issued advice for catches of Northern prawn (*Pandalus borealis*) in ICES division IVa East and ICES subdivision 20 (northern North Sea, in the Norwegian Deep and Skagerrak). On the basis of that advice and following consultations with Norway, it is appropriate to fix the Union share of Northern prawn in Skagerrak at 3 856 tonnes and to amend the Union quota in the Norwegian Deep.

(5) In the previous years the total allowable catches (TAC) for sprat (*Sprattus sprattus*) in the North Sea have been fixed for a calendar year, while ICES issues its advice for the period from 1 July of the current year to 30 June of the following year. Those periods should be aligned in order to match the TAC period with that of the ICES advice. Exceptionally and only due to the transition, the TAC for sprat should be amended to cover the period of 18 months, ending at 30 June 2018. Any subsequent fishing opportunities should be fixed in line with the period for which ICES issues its advice.

(6) In Regulation (EU) 2017/127, the TAC for sprat was fixed at 33 830 tonnes to cover sprat catches in the first half of 2017. ICES advised that catches between 1 July 2017 and 30 June 2018 should be no more than 170 387 tonnes. Therefore, the TAC for sprat for 18 months should be fixed to cover actual catches that took place during the first half of 2017 within the limits of the TAC set in Regulation (EU) 2017/127 and the level of catches in the ICES advice for the remaining 12 months, i.e. from 1 July 2017 to 30 June 2018.

(7) Council Regulation (EU) 2017/595[(2)] deleted the fishing opportunities table for common dab (*Limanda limanda*) and European flounder (*Platichthys flesus*) for Union waters of ICES division IIa and subarea IV set out in Annex IA to Regulation (EU) 2017/127. Therefore, it is appropriate to delete common dab from the footnotes in Annex IA to Regulation (EU) 2017/127 which refer to common dab as associated by-catch species.

(8) In the North East Atlantic Fisheries Commission (NEAFC) Recommendation 1:2014, it was prohibited to fish for redfish (*Sebastes mentella*) in the international waters of ICES subareas I and II from 1 January to 30 June 2014. The prohibition under that recommendation no longer applied after that the end of that period. The fishing opportunities should therefore be amended in order to allow the fishery of redfish throughout 2017.

(9) At its 2016 Annual Meeting, the International Commission for the Conservation of Atlantic Tunas (ICCAT) adopted Recommendation 16-05 (‘Recommendation 16-05’) setting the TAC for Mediterranean swordfish (*Xiphias gladius*) at 10 500 tonnes, and establishing a Working Group in order to define a fair and equitable allocation scheme of the TAC for Mediterranean swordfish, to fix the quota allocated to Contracting Parties, Cooperating non-Contracting Parties, Entities or Fishing Entities for 2017 and to define the mechanism for managing the TAC.

(10) The Union, by letter addressed to the ICCAT Secretariat on 23 December 2016, confirmed that it would implement Recommendation 16-05 as of 1 January 2017. In particular, the Union confirmed that it would implement the closure period for Mediterranean swordfish referred to in paragraph 11 of Recommendation 16-05 during the period from 1 January to 31 March, starting in 2017. It is therefore appropriate to introduce such closure as a condition functionally linked to the fixing and allocation of fishing opportunities for Mediterranean swordfish.

(11) The Working Group established by Recommendation 16-05 met on 20-22 February 2017 and proposed an allocation key as well as a compromise for managing the quota uptake for 2017. As part of that compromise, the Union's share was fixed at 70,756 % of the ICCAT TAC, amounting to 7 410,48 tonnes in 2017. It is therefore appropriate to implement into Union law the Union's share and to define the quotas for Member States. The allocation should be based on historic catches during a reference period of 2012-2015.

(12) The catch limits provided for in Regulation (EU) 2017/127 apply from 1 January 2017. The provisions introduced by this amending 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) 2017/127 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) 2017/127

Regulation (EU) 2017/127 is amended as follows:

(1) in Article 9(2), the third subparagraph is replaced by the following:

> The above derogations shall apply to Union fishing vessels that have recorded catches of sea bass over the period from 1 July 2015 to 30 September 2016: in point (b) with recorded catches using hooks and lines, and in point (c) with recorded catches using fixed gillnets. In the case of a replacement of a Union fishing vessel, Member States may allow the derogation to apply to another fishing vessel provided that the number of Union fishing vessels subject to the derogation and their overall fishing capacity do not increase.;

(2) Annexes IA and ID to Regulation (EU) 2017/127 are amended as set out in the Annex to this Regulation.

Article 2

Entry into force

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 2017.

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

Done at Brussels, 25 July 2017.

For the Council

The President

M. MAASIKAS

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) 2017/1398. (See end of Document for details)*

ANNEX

1. Annex IA to Regulation (EU) 2017/127 is amended as follows:

(a) the fishing opportunities table for sandeel and associated by-catches in Union waters of IIa, IIIa and IV is replaced by the following:

'Species:	**Sandeel and associated by-catches*Ammodytes* spp.**	Zone:	**Union waters of IIa, IIIa and IV[a]**
Denmark	458 552[b]		
United Kingdom	10 024[b]		
Germany	701[b]		
Sweden	16 838[b]		
Union	486 115		
TAC	486 115		Analytical TAC Article 3 of Regulation (EC) No 847/96 shall not apply Article 4 of Regulation (EC)

a Excluding waters within six nautical miles of the UK baselines at Shetland, Fair Isle and Foula.

b Without prejudice to the landing obligation, by-catches of whiting and mackerel may consist of up to 2 % of the quota (OT1/*2A3A4). Where a Member State uses this provision in respect of a by-catch species in this fishery, no inter-species flexibility provision may be used by that Member State in respect of by-catches of that species.

Special condition:
within the limits of the abovementioned quotas, no more than the quantities given below may be taken in the following sandeel management areas, as defined in Annex IID:

Zone**Union waters of sandeel management areas**						
	1r	**2r and 3r**	**4**	**5r**	**6**	**7r**
	(SAN/234_1R)	**(SAN/234_2R) for 2r; (SAN/234_3R) for 3r**	**(SAN/234_4)**	**(SAN/234_5R)**	**(SAN/234_6)**	**(SAN/234_7R)**
Denmark	241 443	165 965	50 979	0	165	0
United Kingdom	5 278	3 628	1 114	0	4	0
Germany	369	254	78	0	0	0
Sweden	8 866	6 094	1 872	0	6	0
Union	255 956	175 941	54 043	0	175	0
Total	255 956	175 941	54 043	0	175	0'

***Changes to legislation:** There are currently no known outstanding effects for the Council Regulation (EU) 2017/1398. (See end of Document for details)*

			No 847/96 shall not apply

a Excluding waters within six nautical miles of the UK baselines at Shetland, Fair Isle and Foula.

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Sweden	8 866	6 094	1 872	0	6	0
Union	255 956	175 941	54 043	0	175	0
Total	255 956	175 941	54 043	0	175	0’

(b) the fishing opportunities table for Northern prawn in IIIa is replaced by the following:

Species:	**Northern prawn*Pandalus borealis***	Zone:	**IIIa(PRA/03A.)**
Denmark	2 506		
Sweden	1 350		
Union	3 856		
TAC	7 221		Precautionary TAC Article 7(2) of this Regulation applies

(c) the fishing opportunities table for Northern prawn in Norwegian waters south of 62° N is replaced by the following:

‘Species:	**Northern prawn*Pandalus borealis***	Zone:	**Norwegian waters south of 62° N(PRA/04-N.)**
Denmark	211		
Sweden	123[a]		

a By-catches of cod, haddock, pollack, whiting and saithe are to be counted against the quotas for these species.’