Council Regulation (EU) 2015/104 of 19 January 2015 fixing for 2015 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, amending Regulation (EU) No 43/2014 and repealing Regulation (EU) No 779/2014

COUNCIL REGULATION (EU) 2015/104

of 19 January 2015

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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) and other advisory bodies, as well as in the light of any advice received from Advisory Councils.

(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. In accordance with Article 16(4) of Regulation (EU) No 1380/2013, fishing opportunities should be fixed in accordance with the objectives of the Common Fisheries Policy established in Article 2(2) of that Regulation. In accordance with Article 16(1) of that Regulation fishing opportunities should be allocated to Member States in such a way as to ensure relative stability of fishing activities of each Member State for each fish stock or fishery.

(4) The total allowable catch (TACs) should therefore be established, in line with Regulation (EU) No 1380/2013, on the basis of available scientific advice, taking into account biological and socio-economic aspects whilst ensuring fair treatment between fishing sectors, as well as in the light of the opinions expressed during the consultation of stakeholders, in particular at the meetings of the Advisory Councils.

(5) The landing obligation referred to in Article 15 of Regulation (EU) No 1380/2013 is introduced on a fishery-by-fishery basis. In the region covered by this Regulation, when a fishery falls under the landing obligation, all species in that fishery subject to catch

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limits should be landed. As of 1 January 2015, the landing obligation applies to small pelagic fisheries (i.e. fisheries for mackerel, herring, horse mackerel, blue whiting, boarfish, anchovy, argentine, sardine and sprat), to large pelagic fisheries (i.e. fisheries for bluefin tuna, swordfish, albacore tuna, bigeye tuna and blue and white marlin), to fisheries for industrial purposes (e.g. fisheries for capelin, sandeel and Norwegian pout). 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.

(6) For some years, certain TACs for stocks of elasmobranchs (skates, sharks, rays) have been set at 0, with a linked provision establishing an obligation to immediately release accidental catches. The reason for this specific treatment is that those stocks are in a poor conservation status and, because of their high survival rates, discards will not raise fishing mortality rates for them; discards are deemed as beneficial for the conservation of these species. As of 1 January 2015, however, catches of these species in pelagic fisheries will have to be landed, unless they are covered by any of the derogations from the landing obligation foreseen in Article 15 of Regulation (EU) No 1380/2013. Article 15(4)(a) of that Regulation allows such derogations for species in respect of which fishing is prohibited and which are identified as such in a Union legal act adopted in the area of the Common Fisheries Policy. Therefore, it is appropriate to prohibit the fishing of these species in the areas concerned.

(7) In recent years, the TAC for anchovy in the Bay of Biscay has been set in a separate fishing opportunities regulation applicable from 1 July of one year to 30 June of the following year. In 2014, STECF concluded that changing the management period to a normal calendar year (January to December) considerably reduces conservation risks for this stock. Following consultations with Spain, France and the South Western Waters Advisory Council (SWWAC), the change proposed by STECF was positively assessed. On this basis it is appropriate to repeal Council Regulation (EU) No 779/2014[(2)] and to introduce a new TAC for the stock of anchovy in the Bay of Biscay for 2015 in this Regulation.

(8) In addition, pursuant to Article 16(4) of Regulation (EU) No 1380/2013, for stocks subject to specific multiannual plans the TACs should be established in accordance with the rules laid down in those plans. Consequently, the TACs for stocks of Southern hake and Norway lobster, of sole in the Western Channel, of plaice and sole in the North Sea, of herring to the west of Scotland, of cod in the Kattegat, to the west of Scotland, the Irish Sea, the North Sea, Skagerrak and the Eastern Channel and of bluefin tuna in the Eastern Atlantic and the Mediterranean should be established in accordance with the rules laid down in Council Regulations (EC) No 2166/2005[(3)], (EC) No 509/2007[(4)], (EC) No 676/2007[(5)], (EC) No 1300/2008[(6)], (EC) No 1342/2008[(7)] (the 'Cod Plan') and (EC) No 302/2009[(8)].

(9) With regard, however, to the stocks of northern hake (Council Regulation (EC) No 811/2004[(9)]) and sole in the Bay of Biscay (Council Regulation (EC) No 388/2006[(10)]), the minimum targets of the relevant recovery and management plans have been reached

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and, therefore, it is appropriate to follow scientific advice provided in order to achieve or maintain the TACs at maximum sustainable yield levels, as the case may be.

(10) For stocks for which there is no sufficient or reliable data in order to provide size estimates, management measures and TAC levels should follow the precautionary approach to fisheries management as defined in Article 4(1)(8) of Regulation (EU) No 1380/2013, while taking into account stock-specific factors, including, in particular, available information on stock trends and mixed fisheries considerations.

(11) Council Regulation (EC) No 847/96[(11)] introduced additional conditions for year-to-year management of TACs, including flexibility provisions under Articles 3 and 4 for precautionary and analytical stocks respectively. Under Article 2 of that Regulation, when fixing the TACs, the Council is to decide to which stocks Articles 3 and 4 do not apply, in particular on the basis of the biological status of the stocks. More recently, a flexibility mechanism was introduced for all catches covered by the landing obligation by Article 15(9) of Regulation (EU) No 1380/2013. Therefore, in order to avoid excessive flexibility, which would undermine the conservation objectives set out in the Common Fisheries Policy, and to prevent negative impacts on the biological state of the stocks, Articles 3 and 4 of Regulation (EC) No 847/96 may apply to TACs only where Member States do not use the year-to-year flexibility provided for in Article 15(9) of Regulation (EU) No 1380/2013.

(12) In accordance with the outcome of consultations between the Union and Norway, the Union may authorise fishing of Northern prawn in area IIIa by Union vessels of up to 10 per cent beyond the quota available to the Union, provided that any quantities used beyond the quota available to the Union would be deduced from its quota for 2015. It is appropriate to enable such flexibility in the fixing of those fishing opportunities in order the ensure a level-playing field for Union vessels by allowing the Member States concerned to opt for the use of a flexibility quota. Regulation (EU) No 43/2014 should therefore be amended accordingly.

(13) 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 Common Fisheries Policy.

(14) It is necessary to establish the fishing effort ceilings for 2015 in accordance with Article 8 of Regulation (EC) No 2166/2005, Article 5 of Regulation (EC) No 509/2007, Article 9 of Regulation (EC) No 676/2007, Articles 11 and 12 of Regulation (EC) No 1342/2008 and Articles 5 and 9 of Regulation (EC) No 302/2009, while taking into account Council Regulation (EC) No 754/2009[(12)].

(15) In the light of the most recent scientific advice from International Council for the Exploration of the Sea (ICES) and in accordance with the international commitments in the context of the North East Atlantic Fisheries Convention (NEAFC), it is necessary to limit the fishing effort on certain deep-sea species.

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(16) For certain species, such as certain species of sharks, even a limited fishing activity could result in a serious risk to their conservation. Fishing opportunities for such species should therefore be fully restricted through a general prohibition on fishing those species.

(17) At the 11th Conference of the Parties of the Convention of Migratory Species of Wild Animals, held in Quito from 3 to 9 November 2014, a number of species was added to the lists of protected species in Appendices I and II of the Convention, with effect from 8 February 2015. Therefore, it is appropriate to provide for the protection of those species with respect to Union vessels fishing in all waters and non-Union vessels fishing in Union waters.

(18) The use of fishing opportunities available to Union vessels set out in this Regulation is subject to Council Regulation (EC) No 1224/2009[(13)], and in particular to Articles 33 and 34 of that Regulation, concerning the recording of catches and fishing effort and the notification of data on the exhaustion of fishing opportunities. It is therefore necessary to specify the codes to be used by Member States when sending data to the Commission relating to landings of stocks subject to this Regulation.

(19) For certain TACs Member States should be allowed to grant additional allocations for vessels participating in trials on fully documented fisheries. The aim of those trials is to test a catch-quota system in fisheries that are not yet under the landing obligation set out in Regulation (EU) No 1380/2013, i.e. a system where all catches should be landed and counted against quotas in order to avoid discards and the waste of otherwise usable fish resources they entail. Uncontrolled discards of fish are a threat to the long term sustainability of fish as a public good and thus to the Common Fisheries Policy objectives. By contrast, catch-quota systems inherently present the fishers with an incentive to optimise the catch selectivity of their operations. For the purpose of monitoring compliance with the conditions to which the fully documented fisheries trials are subject, Member States should ensure detailed and accurate documentation of all fishing trips and adequate capacity and means, such as observers, closed-circuit television (CCTV) and others. In doing so, Member States should respect the principle of efficiency and proportionality. For the use of CCTV systems, the requirements of Directive 95/46/EC of the European Parliament and of the Council[(14)] should be complied with.

(20) In order to ensure that trials of fully documented fisheries can effectively evaluate the potential of catch-quota systems to control the absolute fishing mortality of the stocks concerned, it is necessary for all fish caught in those trials, including those under minimum landing size, to be counted against the total allocation assigned to the participating vessel, and for fishing operations to cease when that total allocation has been fully utilised by that vessel. It is also appropriate to allow transfers of allocations between vessels participating in the fully documented fisheries trials and non-participating vessels provided that it can be demonstrated that discards by non-participating vessels do not increase.

(21) It is appropriate, following advice from the ICES, to maintain a specific system to manage sandeel in Union waters of ICES divisions IIa and IIIa and ICES subarea IV.

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Given that the ICES scientific advice is expected to become available only in February 2015, it is appropriate to set the TAC and quotas provisionally at zero until such advice is released.

(22) In order to guarantee full use of fishing opportunities, it is appropriate to allow for the implementation of a flexible arrangement between some of the TAC areas where the same biological stock is concerned.

(23) In accordance with the procedure provided for in the agreements or protocols on fisheries relations with Norway[(15)] and the Faroe Islands[(16)] the Union has held consultations on fishing rights with those partners. In accordance with the procedure provided for in the agreement and protocol on fisheries relations with Greenland[(17)], the Joint Committee has established the level of fishing opportunities available for the Union in Greenland waters in 2015. It is therefore necessary to include these fishing opportunities in this regulation.

(24) At its Annual Meeting in 2014, NEAFC adopted a conservation measure on the redfish stock in the Irminger Sea fixing for 2015 the TAC and quotas for the contracting parties, including the Union. Furthermore, consultations between NEAFC Coastal States will continue in 2015 on fishing opportunities for Atlanto-Scandian herring for that year. It is therefore appropriate to fix provisional catch limits for Atlanto-Scandian herring as a percentage of the Union quota in place for 2014, whilst awaiting a revision following the outcome of the NEAFC Coastal States consultations.

(25) At its Annual Meeting in 2014, NEAFC did not adopt a conservation measure on the redfish stock in ICES international waters of I and II fixing the TAC and quotas for the Contracting Parties. Consultations will continue in 2015 on fishing opportunities for this redfish stock. As the fishery occurs in the second half of the year, catch limits for this stock will be fixed during 2015, taking account of the outcome of the NEAFC Coastal States consultations.

(26) At its Annual Meeting in 2014, the International Commission for the Conservation of Atlantic Tunas (ICCAT) adopted an increase of the TACs and quotas for bluefin tuna over a period of three years, and confirmed TACs and quotas for North-Atlantic swordfish, Southern-Atlantic swordfish, Southern-Atlantic Albacore and North-Atlantic Albacore at the current level for the 2015-2016 period. Furthermore, as it is already the case for the stock of bluefin tuna, it is appropriate that catches in recreational and sport fisheries performed on all other ICCAT stocks included in Annex ID should also be subject to the catch limits adopted by that organisation in order to guarantee that the Union does not exceed its quotas. All these measures should be implemented in the law of the Union.

(27) At its Annual Meeting in 2014, the Parties to the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) adopted catch limits for both target and by-catch species, including a by-catch quota for the years 2015 and 2016 for certain exploratory fisheries in subarea 88.2. The uptake of such quota during 2015 should be considered when setting fishing opportunities for the year 2016.