Council Regulation (EU) No 432/2014 of 22 April 2014 amending Regulation (EU) No 43/2014 as regards certain fishing opportunities

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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) By Regulation (EU) No 43/2014[(1)] the Council fixed, for 2014, fishing opportunities for certain fish stocks and groups of fish stocks in Union waters and, for Union vessels, in certain non-Union waters.

(2) Fishing opportunities for Union vessels in Norwegian and Faroese waters and for Norwegian and Faroese vessels in Union waters, and the conditions of access to resources in each other's waters, are established each year following consultations on fishing rights held in accordance with the procedure provided for in the agreements or protocols on fisheries relations with Norway[(2)] and the Faroe Islands[(3)], respectively. Pending the conclusion of those consultations on the arrangements for 2014, Regulation (EU) No 43/2014 fixed provisional fishing opportunities for the stocks concerned. The consultations with Norway and the Faroe Islands were concluded on 12 March 2014 and 13 March 2014 respectively. Furthermore, on 28 March 2014, consultations were concluded between the Coastal States regarding blue whiting and between the Union, Iceland, Norway and the Russian Federation regarding Atlanto-Scandian herring. This enabled Norway and the Union to discuss reciprocal arrangements on access to resources in each other's waters. Regulation (EU) No 43/2014 should therefore be amended accordingly.

(3) In accordance with the outcome of consultations between the Union and Norway, the Union may authorise fishing by Union vessels of up to 10 % beyond the quota available to the Union, provided that any quantities used beyond the quota available to the Union would be deducted from its quota for 2015. Similarly, the Union may use in 2015 any unused quantities up to 10 % of the quota available to it in 2014. It is appropriate to enable such flexibility in the fixing of those fishing opportunities in order to ensure a level-playing field for Union vessels by allowing the Member States concerned to opt for the use of a flexibility quota. Where a Member State has not opted for the use of the flexibility quota in respect of a particular stock, it is appropriate that Articles 3 and 4 of Regulation (EC) No 847/96 continue to apply in accordance with Article 10(2) of Regulation (EU) No 40/2013.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) No 432/2014. (See end of Document for details)*

(4) At its second annual meeting in 2014, the South Pacific Regional Fisheries Management Organisation (SPRFMO) adopted fishing opportunities consisting of a total allowable catch (TAC) for jack mackerel. SPRFMO also redefined the specific area to which catch and effort ceilings for bottom fisheries will apply from 4 May 2014 onwards. Those provisions should be implemented in the law of the Union.

(5) It is necessary to clarify certain provisions concerning certain stocks, the Western Channel sole effort management regime and a specific reporting obligation in the context of the Inter-American Tropical Tuna Commission.

(6) The catch limits and effort limits provided for in Regulation (EU) No 43/2014 apply respectively from 1 January and 1 February 2014. The provisions of this Regulation concerning catch limits and fishing effort should therefore also apply from those dates. 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. However, the catch and effort limits for bottom fisheries in the area specified by SPRFMO should apply from 4 May 2014. Since the modification of some catch limits and effort regimes has an influence on the economic activities and the planning of the fishing season of Union vessels, this Regulation should enter into force immediately after its publication,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) No 43/2014

Regulation (EU) No 43/2014 is amended as follows:

(1) in Article 1, paragraph 3 is deleted;

(2) the following Article is inserted:

Article 18a

Flexibility in the fixing of fishing opportunities of certain stocks

1 This Article shall apply to the following stocks:

- a haddock in zone IV, Union waters of IIa;
- b blue whiting in Union and international waters of I, II, III, IV, V, VI, VII, VIIIa, VIIIb, VIIId, VIIIe, XII and XIV;
- c mackerel in zones IIIa and IV; Union waters of IIa, IIIb, IIIc and IIId;
- d mackerel in areas VI, VII, VIIIa, VIIIb, VIIId and VIIIe; Union and international waters of Vb; international waters of IIa, XII and XIV;
- e mackerel in zones VIIIc, IX and X; Union waters of CECAF 34.1.1;
- f mackerel in Norwegian waters of IIa and IVa;
- g herring in Union, Norwegian and international waters of I and II.
- h saithe in the North Sea;
- i plaice in the North Sea;

j herring in the North Sea north of 53° N;

k herring in areas IVc and VIId;

l haddock in area IIIa.

2 For any of the stocks identified in paragraph 1, a Member State may opt to increase its initial set in Annex I quota by up to 10 %. The Member State concerned shall notify its decision to the Commission in writing. Upon such notification, the increased quota shall be considered as the quota allocated to that Member State for 2014.

3 Any quantities used in 2014 under such increased quota, that exceed the initial quota, shall be deducted on a tonne-for-tonne basis for the purpose of calculating the quota of the Member State concerned for the relevant stock for 2015.

4 Any quantities not used under the initial quota up to 10 % of that quota shall be added for the purpose of calculating the quota of the Member State concerned for the relevant stock for 2015.

5 Any quantities transferred to other Member States pursuant to Article 16(8) of Regulation (EU) No 1380/2013 as well as any quantities deducted pursuant to Articles 37, 105 and 107 of Regulation (EC) No 1224/2009 shall be taken into account for the purpose of establishing quantities used and quantities not used under paragraphs 3 and 4 of this Article.

6 Where a Member States has used the option in paragraph 2 of this Article in respect of a particular stock, Articles 3 and 4 of Regulation (EC) No 847/96 shall not apply to such stock in respect of that Member State.;

(3) Article 31 is replaced by the following:

Article 31

Bottom fisheries

Member States with a track record in bottom fishing catch or effort in the SPRFMO Convention Area over the period from 1 January 2002 to 31 December 2006 shall limit their bottom fishing catch or effort in the Convention Area to those parts of the Convention Area where bottom fishing has occurred in that period and to a level that does not exceed the annual average levels of catches or effort parameters over the period from 1 January 2002 to 31 December 2006.;

(4) in Article 32(6), point (b) is replaced by the following:

(b) report the information specified in paragraph (a) to the Member State of which they are nationals. Member States shall transmit the information collected during the previous year to the Commission by 31 January 2014.;

(5) Annex IA is amended in accordance with Annex I to this Regulation;

(6) Annex IB is amended in accordance with Annex II to this Regulation;

(7) Annex IJ is replaced by the text appearing in Annex III to this Regulation;

(8) Annex IIC is amended in accordance with Annex IV to this Regulation;

(9) Annex III is replaced by the text appearing in Annex V to this Regulation;

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) No 432/2014. (See end of Document for details)*

(10) Annex VIII is replaced by the text appearing in Annex VI to this Regulation.

Article 2

Entry into force and application

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 2014.

However,

(a) point 3 of Article 1 shall apply from 4 May 2014; and

(b) point 8 of Article 1 shall apply from 1 February 2014.

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) No 432/2014. (See end of Document for details)*

ANNEX I

Annex IA to Regulation (EU) No 43/2014 is amended as follows:

(1) the entry for tusk in Union and international waters of V, VI and VII is replaced by the following:

‘Species:	**Tusk*Brosme brosme***		Zone:	**Union and international waters of V, VI and VII(USK/567EI.)**
Germany		13		
Spain		46		
France		548		
Ireland		53		
United Kingdom		264		
Others		13[a]		
Union		937		
Norway		2 923[bcd]		
TAC		3 860		Analytical TAC Article 11 of this Regulation applies

a Exclusively for by-catches. No directed fisheries are permitted under this quota.

b To be fished in Union waters of IIa, IV, Vb, VI and VII (USK/*24X7C).

c Special condition: of which an incidental catch of other species of 25 % per ship, at any moment, is authorised in Vb, VI and VII. However, this percentage may be exceeded in the first 24 hours following the beginning of the fishing on a specific ground. The total incidental catch of other species in Vb, VI and VII shall not exceed the following amount in tonnes (OTH/*5B67-):
3 000

d Including ling. The following quotas for Norway shall only be fished with long-lines in Vb, VI and VII:

Ling (LIN/*5B67-)	5 500
Tusk (USK/*5B67-)	2 923

([5]) The tusk and ling quotas for Norway are interchangeable up to the following amount, in tonnes:
2 000’

(2) the entry for tusk in Norwegian waters of IV is replaced by the following:

‘Species:	**Tusk*Brosme brosme***		Zone:	**Norwegian waters of IV(USK/04-N.)**
Belgium		0		