Council Regulation (EU) No 1182/2013 of 19 November 2013 amending Regulations (EC) No 754/2009, (EU) No 1262/2012, (EU) No 39/2013 and (EU) No 40/2013 as regards certain fishing opportunities

COUNCIL REGULATION (EU) No 1182/2013

of 19 November 2013

amending Regulations (EC) No 754/2009, (EU) No 1262/2012, (EU) No 39/2013 and (EU) No 40/2013 as regards certain fishing opportunities

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 (EC) No 2371/2002[(1)] requires that Union measures governing access to waters and resources and the sustainable pursuit of fishing activities be established taking into account available scientific, technical and economic advice and in particular reports drawn up by the Scientific, Technical and Economic Committee for Fisheries (STECF), as well as advice received from Regional Advisory Councils.

(2) By Council Regulation (EC) No 754/2009[(2)], the Council excluded certain groups of vessels from the fishing effort regime laid down in Chapter III of Council Regulation (EC) No 1342/2008[(3)]. The allowable fishing effort for vessels subject to that regime is currently fixed by Annex IIA to Council Regulation (EU) No 39/2013[(4)] and Annex IIA to Council Regulation (EU) No 40/2013[(5)].

(3) In June 2013, the International Council for the Exploration of the Sea (ICES) published its advice for Northern hake in 2014. In that advice, ICES indicates that the stock's biomass is at a record high in 2013 and, furthermore, that fishing mortality has decreased sharply in recent years. ICES advised that in 2014, the TAC may be raised by 49 % to 81 846 tonnes. Ireland and Spain requested, in light of this advice, that the TAC in force for this stock be raised in-year from 55 105 tonnes to 69 440 tonnes, to meet the level of landings that ICES estimates as corresponding with the current levels of fishing mortality, which are in turn consistent with maximum sustainable yield. The request is deemed acceptable based on the commitment by the Member States concerned to ensure, through rigorous control of the fishery, that fishing effort and therefore fishing mortality rates remain constant.

(4) A group of vessels flying the flag of Spain and fishing in the West of Scotland is currently excluded from the application of the fishing effort regime laid down in Regulation (EC) No 1342/2008. On the basis of information provided by Spain in 2013, the STECF was not in a position to assess whether the conditions set out in Regulation (EC) No 1342/2008 remained fulfilled in the 2012 management period. It is therefore

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) No 1182/2013. (See end of Document for details)*

appropriate to reinclude this group of Spanish vessels in that fishing effort regime. Regulation (EC) No 754/2009 and Annex IIA to Regulation (EU) No 39/2013 should therefore be amended accordingly.

(5) A group of vessels flying the flag of France and fishing in the North Sea is currently excluded from the application of the fishing effort regime laid down in Regulation (EC) No 1342/2008. On the basis of information provided by France in 2013, the STECF assessed that catches for those vessels exceeded the established threshold. It is therefore appropriate to reinclude that group of French vessels in that fishing effort regime. Regulation (EC) No 754/2009 and Annex IIA to Regulation (EU) No 40/2013 should therefore be amended accordingly.

(6) A group of vessels flying the flag of the United Kingdom and targeting queen scallops (*Aequipecten opercularis*) around the Isle of Man in the Irish Sea is currently excluded from the application of the effort regime laid down Regulation (EC) No 1342/2008. However, due to a mathematical error, the effort ceilings in Annex IIA to Regulation (EU) No 39/2013 do not reflect this exclusion. Regulation (EU) No 39/2013 should therefore be corrected accordingly.

(7) Council Regulation (EU) No 1262/2012[(6)] fixes catch limits for 2013 and 2014 as regards a list of deep-sea sharks. The Commission requested ICES to give it advice on whether it is appropriate to revise that list. ICES concluded that there is sufficient scientific information supporting the exclusion of blackmouth catshark (*Galeus melastomus*) and the inclusion of all species of the genus *Centrophorus* (*Centrophorus* spp.) on the list of deep-sea sharks. Regulation (EU) No 1262/2012 should therefore be amended accordingly.

(8) In accordance with the outcome of consultations between coastal states on the management of mackerel, blue whiting, Atlanto-Scandian herring and North Sea haddock, 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 2014. Similarly, the Union may use in 2014 any unused quantities up to 10 % of the quota available to it in 2013. 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.

(9) At its Annual Meeting in 2013, the Indian Ocean Tuna Commission (IOTC) adopted a Resolution aiming at the protection of oceanic whitetip sharks and applicable to fishing vessels on the IOTC Record of Authorised Vessels by prohibiting, as an interim pilot measure, to retain on board, tranship, land or store any part or whole carcass of oceanic whitetip shark. The resolution provides for an exception for artisanal fisheries, namely fishing vessels engaged in fishing operations within the Exclusive Economic Zone (EEZ) of the Member State whose flag they fly. Regulation (EU) No 40/2013 should therefore be amended accordingly.

(10) At its Annual Meeting in 2010, the Western and Central Pacific Fisheries Commission (WCPFC) adopted a recommendation limiting the number of vessels actively fishing for south Pacific albacore in the Convention Area south of 20° S. Consequently, it should be ensured that Union vessels continue to operate without targeting that species in the WCPFC Convention Area south of 20° S. Regulation (EU) No 40/2013 should therefore be amended accordingly.

(11) Fishing opportunities for Union vessels in Norwegian waters and for Norwegian vessels in Union waters are established each year in the light of consultations on fishing rights held in accordance with the bilateral agreement on fisheries with Norway[(7)]. Pending the conclusion of those consultations on the arrangements for 2013, Regulation (EU) No 40/2013 fixed provisional fishing opportunities for the stocks concerned. On 18 January 2013, the consultations with Norway were concluded, and Council Regulation (EU) No 297/2013[(8)] amended the relevant provisions of Regulation (EU) No 40/2013. However, the stock of tusk in Norwegian waters of IV was erroneously excluded from Regulation (EU) No 297/2013. Furthermore, the amount of blue whiting that Norway can fish in Union waters of II, IVa, V, VI north of 56° 30′ N and VII west of 12° W did not reflect the agreed record after consultations with that country. Annex IA to Regulation (EU) No 40/2013 should therefore be amended accordingly.

(12) An error was identified in the number of vessels and the capacity allocated to the Union and authorised to fish for swordfish and albacore in the IOTC Convention Area. Annex VI to Regulation (EU) No 40/2013 should therefore be corrected accordingly.

(13) Pursuant to the 2012 Act of Accession and Croatia's accession on 1 July 2013, provisions on the allocation of fishing opportunities allocated at Union level to Croatia in 2013 should be included in the relevant Union instruments. The figures concerning the Croatian bluefin tuna fishing and farming capacities added by this Regulation reflect the provisions of the International Commission for the Conservation of Atlantic Tunas (ICCAT) bluefin tuna recovery plan for Croatia until 2013. Furthermore, in accordance with Article 5 of Council Regulation (EC) No 302/2009[(9)], each Member State is to ensure that its fishing capacity is commensurate with its quota.

(14) The provisions of this Regulation concerning fishing effort limits should apply from 1 February 2013. The provisions concerning catch limits and allocations should apply from 1 January 2013, except for the new provisions regarding WCPFC and IOTC, which should apply from the date of entry into force of this Regulation. The provisions included as a result of the accession of Croatia to the European Union should apply from the date of that accession. Such retroactive application will be without prejudice to the principle of legal certainty as the fishing opportunities concerned have not yet been exhausted. Since modifications of effort regimes have a direct influence on the economic activities of the fleets concerned, this Regulation should enter into force immediately upon its publication,

HAS ADOPTED THIS REGULATION:

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) No 1182/2013. (See end of Document for details)*

Article 1

Amendments to Regulation (EC) No 754/2009

In Article 1 of Regulation (EC) No 754/2009, points (b) and (j) are deleted.

Article 2

Amendments to Regulation (EU) No 1262/2012

The Annex to Council Regulation (EU) No 1262/2012 is amended in accordance with the text set out in Annex I to this Regulation.

Article 3

Amendments to Regulation (EU) No 39/2013

1 Annex I to Regulation (EU) No 39/2013 is amended in accordance with the text set out in Annex II to this Regulation.

2 Annex IIA to Regulation (EU) No 39/2013 is amended in accordance with the text set out in Annex III to this Regulation.

Article 4

Amendments to Regulation (EU) No 40/2013

Regulation (EU) No 40/2013 is amended as follows:

(1) the following Article is inserted:

Article 6a

Flexibility in the fixing of fishing opportunities of certain stocks

1 This Article shall apply to the following stocks:

- a haddock in zone IV, EU waters of IIa;
- b blue whiting in EU 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; EU waters of IIa, IIIb, IIIc and IIId;
- d mackerel in areas VI, VII, VIIIa, VIIIb, VIIId and VIIIe; EU and international waters of Vb; international waters of IIa, XII and XIV;
- e mackerel in zones VIIIc, IX and X; EU waters of CECAF 34.1.1;
- f mackerel in Norwegian waters of IIa and IVa;
- g herring in EU, Norwegian and international waters of I and II.

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 2013.

3 Any quantities used in 2013 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 2014.

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 2014.

5 Any quantities transferred to other Member States pursuant to Article 20(5) of Regulation (EC) No 2371/2002 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.;

(2) in Article 10(2), the words ‘Annex I to’ are deleted;

(3) Article 23 is replaced by the following:

Article 23

Sharks

1 Retaining on board, transshipping or landing any part or whole carcass of thresher sharks of all the species of the family *Alopiidae* in any fishery shall be prohibited.

2 Retaining on board, transshipping or landing any part or whole carcass of oceanic whitetip sharks (*Carcharhinus longimanus*) in any fishery shall be prohibited, except for vessels under 24 metres overall length engaged solely in fishing operations within the Exclusive Economic Zone of the Member State whose flag they fly, and provided that their catch is destined solely for local consumption.

3 When accidentally caught, species referred to in paragraph 1 and 2 shall not be harmed. Specimens shall be promptly released.;

(4) Article 29 is replaced by the following:

Article 29

Conditions for bigeye tuna, yellowfin tuna, skipjack tuna and south Pacific albacore fisheries

1 Member States shall ensure that the number of fishing days allocated to purse-seine vessels fishing for bigeye tuna (*Thunnus obesus*), yellowfin tuna (*Thunnus albacares*) and skipjack tuna (*Katsuwonus pelamis*) in the part of the WCPFC Convention Area in the high seas and located between 20° N and 20° S does not increase.