Council Regulation (EU) No 297/2013 of 27 March 2013 amending Regulations (EU) No 44/2012, (EU) No 39/2013 and (EU) No 40/2013 as regards certain fishing opportunities

COUNCIL REGULATION (EU) No 297/2013

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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 (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy[(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 economical advice and in particular reports drawn up by the Scientific, Technical and Economic Committee for Fisheries (STECF), as well as in the light of any advice received from Regional Advisory Councils.

(2) 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 established in Regulation No (EC) 2371/2002.

(3) By Regulation (EU) No 44/2012[(2)], the Council fixed fishing opportunities for certain fish stocks and groups of fish stocks in EU waters, and for EU vessels in certain non-EU waters for 2012. By Regulations (EU) No 39/2013[(3)] and (EU) No 40/2013[(4)], the Council fixed fishing opportunities for certain fish stocks and groups of fish stocks in EU waters, and for EU vessels in certain non-EU waters for 2013.

(4) In Regulation (EU) No 39/2013, it is appropriate to clarify the special condition for the fixing of fishing opportunities for horse mackerel in areas VIIIc and IX.

(5) Additional fishing opportunities for Greenland halibut in NAFO 3LMNO became available for the Union in 2012 as a result of quota transfers between the Union and other Contracting Parties to the Northwest Atlantic Fisheries Organisation (NAFO). Consequently, for the year 2012, Annex IC to Regulation (EU) No 44/2012 should be amended with effect from 1 January 2012 so as to reflect those new fishing

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) No 297/2013. (See end of Document for details)*

opportunities. These modifications concern the year 2012 only and are without prejudice to the principle of relative stability.

(6) Fishing opportunities for EU and Norwegian vessels, and the conditions of access to fishery resources in each other's waters are established each year in the light of consultations on fishing rights held in accordance with the bilateral agreement on fisheries with Norway[(5)]. 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. It is appropriate that the relevant provisions of Regulation (EU) No 40/2013 be amended accordingly.

(7) Catch limits for sandeel in the International Council for the Exploration of the Sea (ICES) zone IIIa and in EU waters of ICES zones IIa and IV are provisionally laid down in Annex IA to Regulation (EU) No 40/2013. In February 2013, ICES published scientific advice for the stock of sandeel in EU waters of ICES divisions IIa and IIIa and ICES subarea IV. In accordance with that advice, the catch limits for management areas 1 and 2 should be fixed at 224 544 tonnes and 17 544 tonnes respectively. For management area 3, ICES advices a total catch limit of 78 331 tonnes. Since management area 3 covers both EU and Norwegian catches, the Union limit in this area should be set at no more than 40 000 tonnes. For management areas 4 and 6, catch and survey data were insufficient for ICES to conduct an age-based assessment. Consequently, in line with the approach adopted for other stocks in similar circumstances, it is appropriate to set catch limits in management areas 4 and 6 of 4 000 tonnes 336 tonnes respectively, which amounts to reductions of 20 % compared with the 2012 catch limits in those areas. In accordance with ICES advice, it is appropriate to fix catch limits of zero for management areas 5 and 7. Given that sandeel is a stock that is shared with Norway and given the availability of sandeel in EU waters in 2013, it is appropriate to provide for an exchange of quotas with Norway. Consequently, the amount allocated to Norway from the Union's share of the total allowable catch (TAC) should be fixed at the level of 22 450 tonnes of sandeel in management area 1 in exchange for 1 769 tonnes of North Norway cod, 131 tonnes of North Norway haddock, 250 tonnes of plaice in the North Sea and 95 tonnes of ling in the North Sea. Annex IA to Regulation (EU) No 40/2013 should therefore be amended accordingly.

(8) The 9th Annual Meeting of the Western and Central Pacific Fisheries Commission (WCPFC), held in Manila from 2 to 9 December 2012, adopted new conservation and management measures for bigeye tuna, yellowfin tuna and skipjack tuna concerning fishing effort limitations, as well as measures for the closed area for fishing with fish aggregating devices (FADs). The WCPFC also agreed on management measures regarding the overlap area between WCPFC and the Inter-American Tropical Tuna Commission (IATTC). According to those measures, EU vessels listed in the register of both organisations must comply only with the IATTC conservation and management measures set out in Regulation (EU) No 40/2013 when fishing in the overlap area. Those WCPFC measures should be implemented in the law of the Union.

(9) Under the provisions of International Commission for the Conservation of Atlantic Tunas (ICCAT) concerning the conservation of Atlantic swordfish, the Union may count up to 200 tonnes of its swordfish catch taken from the North Atlantic management area against its uncaught South Atlantic swordfish quota. The Union may also count up to 200 tonnes of its swordfish catch taken from the South Atlantic management area against its uncaught North Atlantic swordfish quota. Those provisions should be implemented in the law of the Union.

(10) At its first annual meeting, held in 2013, the South Pacific Regional Fisheries Management Organisation (SPRFMO) fixed fishing opportunities consisting of a TAC for jack mackerel, including a modification of the associated reporting in this fishery, and effort limitations for pelagic and bottom fisheries. Those provisions should be implemented in the law of the Union.

(11) Regulations (EU) No 39/2013 and (EU) No 40/2013 apply, in general, from 1 January 2013. This Regulation should apply from 1 January 2013 as regards amendments to those Regulations. 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. The amendment to Regulation (EU) 44/2012 should apply as of 1 January 2012. Since the modification of some catch limits have an influence on the economic activities and the planning of the fishing season of EU vessels, it is necessary to amend Regulations (EU) No 44/2012, (EU) No 39/2013 and (EU) No 40/2013 urgently. For the same reason, this Regulation should enter into force immediately after its publication,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) No 44/2012

Annex IC to Regulation (EU) No 44/2012 is hereby amended in accordance with the text set out in Annex I to this Regulation.

Article 2

Amendments to Regulation (EU) No 39/2013

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

Article 3

Amendments to Regulation (EU) No 40/2013

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

(1) in Article 4, the following point is added:

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(n) 'overlap area between IATTC and WCPFC' is the geographical area defined by the following limits:
- longitude 150 ° W,
- longitude 130 ° W,
- latitude 4 ° S,
- latitude 50 ° S.

(2) Article 24 is replaced by the following:

Article 24

Pelagic fisheries - capacity limitation

Member States having actively exercised pelagic fisheries activities in the SPRFMO Convention Area in 2007, 2008 or 2009 shall limit the total level of gross tonnage of vessels flying their flag and fishing for pelagic stocks in 2013 to the total Union level of 78 600 gross tonnage in that area.

(3) Article 25 is replaced by the following:

Article 25

Pelagic fisheries - TACs

1 Only Member States having actively exercised pelagic fisheries activities in the SPRFMO Convention Area in 2007, 2008 or 2009, as specified in Article 24, may fish for pelagic stocks in that area in accordance with the TACs set out in Annex IJ.

2 The fishing opportunities set out in Annex IJ may only be fished under the condition that Member States send to the Commission, in order to communicate them to the SPRFMO Secretariat, the list of vessels actively fishing or engaged in transhipment in the SPRFMO Convention Area, records from vessel monitoring systems (VMS), monthly catch reports and, where available, port calls at the latest by the fifth day of the following month.

(4) Article 29 is replaced by the following:

Article 29

Fishing effort limitations for bigeye tuna, yellowfin tuna, skipjack tuna

Member States shall ensure that 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.

(5) in Article 30 paragraph 1 is replaced by the following:

1. In the part of the WCPFC Convention Area located between 20 ° N and 20 ° S, fishing activities of purse-seine vessels making use of fish aggregating devices (FADs) shall be prohibited between 00:00 hours of 1 July 2013 and 24:00 hours of 31 October 2013. During that period, a purse-seine vessel may only engage in fishing

operations within that part of the WCPFC Convention Area if it carries onboard an observer to monitor that at no time does the vessel:

a deploy or service a FAD or associated electronic device;

b fish on schools in association with FADs.

(6) the following Article is inserted:

Article 30a

Overlap area between IATTC and WCPFC

1 Vessels listed exclusively in the WCPFC register shall apply the measures set out in Articles 29 to 31 when fishing in the overlap area between IATTC and WCPFC as defined in point (n) of Article 4.

2 Vessels listed in both the WCPFC register and the IATTC register and vessels listed exclusively in the IATTC register shall apply the measures set out in point (a) of Article 27(1) and in Article 27(2) to (6) when fishing in the overlap area between IATTC and WCPFC as defined in point (n) of Article 4.

(7) Annexes IA, IB, ID, IJ, III and VIII are hereby amended in accordance with the text set out in Annex III to this Regulation.

Article 4

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 2013.

However, Article 1 shall apply from 1 January 2012.

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

Done at Brussels, 27 March 2013.

For the Council

The President

E. GILMORE