# Council Regulation (EU) No 692/2012 of 24 July 2012 amending Regulations (EU) No 43/2012 and (EU) No 44/2012 as regards the protection of the giant manta ray and certain fishing opportunities

## COUNCIL REGULATION (EU) No 692/2012

## of 24 July 2012

## amending Regulations (EU) No 43/2012 and (EU) No 44/2012 as regards the protection of the giant manta ray and 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) By Regulations (EU) No 43/2012[(1)] and (EU) No 44/2012[(2)], the Council fixed for 2012 fishing opportunities for certain fish stocks and groups of fish stocks applicable in EU waters and, for EU vessels, in certain non-EU waters.

(2) At the 10th Conference of the Parties (COP10) of the Convention of Migratory Species of Wild Animals, held in Bergen from 20 to 25 November 2011, the giant manta ray (*Manta birostris*) was added to the lists of protected species in Appendices I and II of the Convention. Therefore, it is appropriate to provide for the protection of giant manta rays with respect to EU vessels fishing in all waters and non-Union vessels fishing in EU waters.

(3) The possibility of carrying out trials of fully documented catch quotas for various stocks in the International Council on the Exploration of the Seas (ICES) Area VII has been submitted to the Scientific, Technical and Economic Committee for Fisheries (STECF) in order to determine the impact of catch quotas on mortality, discards and selective fishing practices in mixed fisheries. The trials would be conducted on the stocks of plaice, anglerfish, megrim and hake, for which an additional 1 % quota would be available, and on the stock of haddock, for which an additional 5 % quota would be available. In its response to the Commission's request, STECF expresses support for these trials and sees them as an important step in developing the catch quota management approach. STECF also notes that such trials result in a very low risk of increasing overall fishing mortality on the stocks concerned. Accordingly, it is appropriate to modify the relevant TAC entries so as to make these additional quotas available to Member States engaging in the assessed trials.

(4) At its 8th Annual Meeting that took place from 26 to 30 March in Guam (USA), the Western and Central Pacific Fisheries Commission (WCPFC) repealed, with immediate effect, its provisions on closed areas for purse-seine fisheries of bigeye tuna and

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yellowfin tuna in certain high seas areas. These closed areas were implemented in Union law by Article 32 of Regulation (EU) No 44/2012, which should therefore be repealed.

(5) The United Kingdom provided information on cod catches by a group of vessels fishing with bottom trawls in the Irish Sea and targeting Queen Scallops. On the basis of that information, as assessed by STECF, it can be established that the cod catches, including discards, of vessels involved in that activity do not exceed 1,5 % of the total catches of that group of vessels. Having moreover regard to the measures in place ensuring the monitoring and control of the fishing activities of the group of vessels involved in that activity and considering that the inclusion of that group would constitute an administrative burden disproportionate to its overall impact on cod stocks, it is appropriate to exclude the group of vessels fishing with bottom trawls in the Irish Sea and targeting Queen Scallops from the application of the effort regime laid down in Chapter III of Council Regulation (EC) No 1342/2008 of 18 December 2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks[(3)].

(6) The TAC for cod in the Kattegat should be equal to the Union quota. The relevant figure in Regulation (EU) No 43/2012 should be corrected accordingly.

(7) Additional fishing opportunities have become available for the Union in 2012 as a result of quota transfers between the Union and other Contracting Parties to the North West Atlantic Fisheries Organisation (NAFO). Consequently, for the year 2012, Annex IC to Regulation (EU) No 44/2012 should be amended so as to reflect those new fishing opportunities. These modifications concern the year 2012 and are without prejudice to the principle of relative stability.

(8) Annex IIC to Regulation (EU) No 43/2012 fixes fishing effort limits in the context of the management of Western Channel sole stocks in ICES division VIIe. At the United Kingdom's request, the Commission sought advice from STECF on whether Annex IIC could be amended so as to establish a rolling reference period for the exemption of static gears in point 1.2 of that Annex, rather than the current fixed reference year. In its response, STECF considers that a more recent year or a rolling reference period based on several recent years, would be preferable and deems that the effects of this change on the amount of effort deployed in the fishery should be negligible.

(9) The sum of quotas allocated to Member States in the TAC of white hake in NAFO 3NO result in a Union quota which is one tonne higher than that established by fishing opportunities set in the context of the Regional Fisheries Management Organisation (RFMO). The relevant quota allocation in Regulation (EU) No 44/2012 should be amended accordingly.

(10) Consultations on fishing opportunities between the Union, Iceland and the Faroe Islands have failed to result in an agreement for 2012. Consequently, the fishing opportunities reserved for those consultations can now be allocated to Member States. Furthermore, the Coastal States consultations on the management of North East Atlantic mackerel ended inconclusively in Reykjavik on 17 February 2012. Subsequently, in accordance with bilateral arrangements between them the Union and Norway have agreed to fix their respective mackerel fishing opportunities for 2012. Therefore, Article 1 of Regulation (EU) No 44/2012 and the relevant TACs in Annexes IA and IB thereto

should be amended in order to distribute the non-allocated quotas and to reflect the traditional allocation of mackerel in the North-East Atlantic.

(11) Advice from the ICES and the STECF demands a significant reduction of the sandeel TAC in EU waters of ICES divisions IIa and IIIa and ICES subarea IV. Further to that advice, a reduction of the sandeel transfer to Norway was agreed between Norway and the Union during consultations concluded on 9 March 2012. Regulation (EU) No 44/2012 should be amended accordingly.

(12) During the Third International Meeting, held in May 2007, for the creation of a Regional Fisheries Management Organisation (RFMO) in the high seas of the South Pacific (SPRFMO), the participants adopted interim measures, including fishing opportunities, in order to regulate pelagic fishing activities as well as bottom fisheries in that area until the establishment of such RFMO. Those interim measures were revised at the 2nd Preparatory Conference for the SPRFMO Commission held in January 2011 and have been revised again at the 3rd Preparatory Conference for the SPRFMO Commission held from 30 January to 3 February 2012. Those interim measures are voluntary and not legally binding under international law. It is however appropriate, in accordance with the cooperation and conservation obligations enshrined in the International Law of the Sea, to implement those measures in the law of the Union by establishing an overall quota for the Union and an allocation among the Member States concerned.

(13) Regulations (EU) No 43/2012 and (EU) No 44/2012 apply, in general, from 1 January 2012. This Regulation should therefore also apply from 1 January 2012. Such retroactive application will be 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 new provisions on giant manta ray should only be effective from the date of entry into force of the modification to the relevant Appendices of the Convention on Migratory Species of Wild Animals, in accordance with paragraph 5 of Article XI thereof. Similarly, the repeal of Article 32 of Regulation (EU) No 44/2012 should apply as of 31 March 2012, in compliance with the date specified by WCPFC for its entry into force. Since the modification of some catch limits have an influence on the economic activities and the planning of the fishing season of EU vessels, this Regulation should enter into force immediately after its publication.

(14) When Regulation (EU) No 44/2012 was adopted, the maximum number of EU vessels authorised to fish for swordfish and albacore in the Indian Ocean Tuna Commission (IOTC) Convention Area did not include 15 fishing vessels flying the flag of France and registered in La Réunion. The Union TAC in that Annex should be amended accordingly,

HAS ADOPTED THIS REGULATION:

*Article 1*

**Amendments to Regulation (EU) No 43/2012**

Regulation (EU) No 43/2012 is amended as follows:

**Changes to legislation:** *There are currently no known outstanding effects for the Council Regulation (EU) No 692/2012. (See end of Document for details)*

(1) in Article 12(1) the following point is added:

(g) giant manta ray (*Manta birostris*) in all waters.;

(2) after Article 13 a new article is inserted as follows:

*Article 13a*

**Amendments to Regulation (EC) No 754/2009**

In Article 1 of Regulation (EC) No 754/2009, the following point is added:

(i) the group of vessels flying the flag of the United Kingdom identified in the request from the United Kingdom dated 16 March 2012, which participate in a fishery targeting Queen Scallops (*Aequipecten opercularis*) in the Irish Sea (ICES area VIIa) around the Isle of Man, using a specialised otter trawl gear with an 80-100 mm mesh trawl configured to select against fish catches (2ft low headline, short or no bridles and small trawl mouth);';.;

(3) Annex I is amended in accordance with the text in Annex I to this Regulation.

*Article 2*

**Amendments to Regulation (EU) No 44/2012**

Regulation (EU) No 44/2012 is amended as follows:

(1) in Article 1, paragraphs 3 and 4 are deleted;

(2) in Article 13(1), the following point is added:

(g) giant manta ray (*Manta birostris*) in all waters.;

(3) Article 32 is deleted;

(4) in Article 37(1), the following point is added:

(g) giant manta ray (*Manta birostris*) in EU waters.;

(5) Annexes I, IA, IB, IC, IJ and VI are amended in accordance with the text in Annex II to this Regulation.

*Article 3*

**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*.

This Regulation applies from 1 January 2012.

However, Article 1(1), Article 2(2) and (4), Annex I point (1) and Annex II point (1) shall apply from 23 February 2012, and Article 2(3) shall apply from 31 March 2012.

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 692/2012. (See end of Document for details)*