# Council Regulation (EU) No 1106/2011 of 20 October 2011 amending Regulations (EU) No 57/2011 and (EC) No 754/2009 as regards the protection of the species 'porbeagle', certain TACs and certain fishing effort limits set for Germany and Ireland

## COUNCIL REGULATION (EU) No 1106/2011

## of 20 October 2011

## amending Regulations (EU) No 57/2011 and (EC) No 754/2009 as regards the protection of the species 'porbeagle', certain TACs and certain fishing effort limits set for Germany and Ireland

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 (EU) No 57/2011[(1)] fixes for 2011 the 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) An inconsistency between the wording of Regulation (EU) No 57/2011 and the wording of the entry in Annex IA thereto concerning the Norway pout should be corrected.

(3) Regulation (EU) No 57/2011 prohibits fishing for porbeagle in international waters, with a prompt release obligation for accidental catches. Annex IA to that Regulation fixes the total allowable catches for porbeagle at 0 tonnes in certain ICES zones, with no provision regarding accidental catches. As a consequence in some areas within EU waters catches of porbeagle are unrestricted, whereas in others (the Atlantic ocean) some zones (ICES zones) are managed by total allowable catch (TAC) and some others are not (CECAF zones). Given the status of this species and the discussions underway regarding the possibility of its listing under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES convention )(Appendix III), it is appropriate to provide for enhanced protection for porbeagle in all areas and to cover both EU vessels and third-country vessels fishing in EU waters.

(4) The scientific assessment of cod in the Celtic Sea has improved, and has confirmed that the advice on which the current TAC is based underestimated the strong year class of 2009 and thus the dynamic increase in biomass for this stock. Further to the new selectivity measures planned by the North Western Regional Advisory Council (NWWRAC), which would reduce the risk of haddock and whiting discards in this cod fishery, it is appropriate to adapt the TAC for cod in the Celtic Sea to the new scientific advice for the remainder of 2011.

(5) On 29 July 2011, Northwest Atlantic Fisheries Organisation (NAFO) communicated to all contracting parties the adoption of a revision of the 2011 NAFO TAC for redfish in

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Subarea 2, Division 1F and 3K, with immediate effect. The Commission, on 1 August 2011, submitted the same information to all Member States with an interest in this fishery. The revision should be implemented in the law of the Union and apply to EU vessels from 2 August 2011.

(6) Within the context of establishing fishing opportunities and in accordance with Regulation (EC) No 1342/2008 of 18 December 2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks[(2)], the Council may, acting on a Commission proposal and on the basis of the information provided by Member States and the advice of the Scientific, Technical and Economic Committee for Fisheries (STECF), exclude certain groups of vessels from the application of the fishing effort regime provided that appropriate data is available on the cod catches and discards of the vessels concerned, that the percentage of cod catches does not exceed 1,5 % of the total catches of the group of vessels and that the inclusion of the group in the effort regime would constitute an administrative burden disproportionate to its overall impact on cod stocks.

(7) Based on Regulation (EC) No 1342/2008, Regulation (EC) No 754/2009[(3)] excluded certain groups of vessels from the fishing effort regime laid down in Regulation (EC) No 1342/2008.

(8) Ireland provided information on cod catches by a group of vessels operating in the west of Scotland using bottom trawls of mesh size equal to or larger than 120 mm with square mesh panels in the area stated in point 6.1 of Annex III to Council Regulation (EC) No 43/2009 of 16 January 2009 fixing for 2009 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required[(4)], and using 100 mm mesh size elsewhere in the west of Scotland. On the basis of that information, as assessed by the STECF, it can be established that cod catches, including discards, by that group of vessels do not exceed 1,5 % of their total catches. Moreover, the control and monitoring measures in place ensure the monitoring and control of the fishing activities of that group of vessels. Finally, the inclusion in the fishing effort regime of that group constitutes an administrative burden disproportionate to the overall impact of that inclusion on cod stocks. It is therefore appropriate to amend Regulation (EC) No 754/2009 in order to exclude that group of vessels from the fishing effort regime laid down in Regulation (EC) No 1342/2008. The effort limits set for Ireland in Regulation (EU) No 57/2011 should be amended accordingly.

(9) A group of vessels from Germany 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 Germany in 2011, STECF was not in a position to assess whether the conditions set out in Regulation (EC) No 1342/2008 remained fulfilled in the 2010 management period. It is therefore appropriate to reinclude this group of German vessels in that fishing effort regime. Regulation (EC) No 754/2009 should be amended accordingly.

(10) Regulation (EU) No 57/2011 applies, in general, from 1 January 2011. However, the fishing effort limits laid down in Regulation (EU) No 57/2011 apply for a 1-year period

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starting from 1 February 2011. As a consequence, the provisions of this Regulation concerning catch limits and allocations should apply from 1 January 2011, except for the new provisions for redfish in Subarea 2, Division 1F and 3K, which should apply from 2 August 2011. The provisions of this Regulation concerning fishing effort limits should apply from 1 February 2011. 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:

*Article 1*

**Amendment to Regulation (EU) No 57/2011**

Regulation (EU) No 57/2011 is hereby amended as follows:

(1) in Article 5(4), point (b) is replaced by the following:

(b) the stock of Norway pout and associated by-catches in ICES Subarea IIIa and EU waters of ICES division IIa and ICES Subarea IV and the stock of sprat in EU waters of ICES division IIa and ICES Subarea IV.;

(2) in Article 8 (1), point (e) is replaced by the following:

(e) porbeagle (*Lamna nasus*) in all waters, except where it is provided otherwise in Annex IA; and;

(3) in Article 37, paragraph 1 is replaced by the following:

1. It shall be prohibited for third-country vessels to fish for, to retain on board, to tranship or to land the following species:
   a basking shark (*Cetorhinus maximus*) and white shark (*Carcharodon carcharias*) in all EU waters;
   b angel shark (*Squatina squatina*) in all EU waters;
   c common skate (*Dipturus batis*) in EU waters of ICES division IIa and ICES Subareas III, IV, VI, VII, VIII, IX and X;
   d undulate ray (*Raja undulata*) and white skate (*Rostroraja alba*) in EU waters of ICES Subareas VI, VII, VIII, IX and X;
   e porbeagle (*Lamna nasus*) in all EU waters; and
   f guitarfishes (*Rhinobatidae*) in EU waters of ICES Subareas I, II, III, IV, V, VI, VII, VIII, IX, X and XII.;

(4) in Annex IA, the entry for cod in VIIb, VIIc, VIIe-k, VIII, IX and X; EU waters of CECAF 34.1.1 is replaced by the following:

| **SpeciesCod*Gadus morhua*** | | **ZoneVIIb, VIIc, VIIe-k, VIII, IX and X; EU waters of CECAF 34.1.1(COD/7XAD34)** |
|---|---|---|
| Belgium | 233 | Analytical TAC |

| | | |
|---|---|---|
| France | 3 811 | Article 12 of this Regulation applies. |
| Ireland | 923 | |
| The Netherlands | 1 | |
| United Kingdom | 411 | |
| EU | 5 379 | |
| TAC | 5 379 | |

(5) in Annex IA, the entry for porbeagle in EU and international waters of III, IV, V, VI, VII, VIII, IX, X and XII is replaced by the following:

| **‘SpeciesPorbeagle*Lamna nasus*** | | **ZoneFrench Guyana waters, Kattegat; EU waters of Skagerrak, I, II, III, IV, V, VI, VII, VIII, IX, X, XII and XIV; EU waters of CECAF 34.1.1, 34.1.2 and 34.2(POR/3-1234)** |
|---|---|---|
| Denmark | 0[a] | Analytical TAC |
| France | 0[a] | |
| Germany | 0[a] | |
| Ireland | 0[a] | |
| Spain | 0[a] | |
| United Kingdom | 0[a] | |
| EU | 0[a] | |
| | 0[a] | |
| TAC | 0[a] | |

**a** Catches of this species shall be promptly released unharmed to the extent practicable.’

(6) in Annex IA, the entry for Norway lobster in VII is replaced by the following:

| **‘SpeciesNorway lobster*Nephrops norvegicus*** | | **ZoneVII(NEP/07.)** |
|---|---|---|
| Spain | 1 306[a] | Analytical TAC Article 13 of this Regulation applies |
| France | 5 291[a] | |

**a** Of which no more than the following quotas may be taken in VII (Porcupine Bank – Unit 16) (NEP/*07U16):

| | |
|---|---|
| Spain | 377 |
| France | 241 |
| Ireland | 454 |
| United Kingdom | 188 |
| EU | 1 260’ |