Commission Regulation (EU) No 724/2010 of 12 August 2010 laying down detailed rules for the implementation of real-time closures of certain fisheries in the North Sea and Skagerrak

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006[(1)], and in particular 51(3) thereof,

Whereas:

(1) Articles 51, 52 and 53 of Regulation (EC) No 1224/2009 establish rules and procedures regarding the adoption of real-time closures by Member States. According to those provisions, Member States shall temporarily close the fishery in a certain area if a trigger catch level of a particular species, or group of species, has been reached.

(2) The Agreed Record of the Conclusions between the European Union and Norway of 3 July 2009 lays down the procedures and sampling methodology for the adoption of real-time closures in the North Sea and Skagerrak. Those provisions were transposed into Union law by way of Council Regulation (EC) No 753/2009[(2)], amending Regulation (EC) No 43/2009 and fixing for 2009 the fishing opportunities and associated conditions for certain fish stocks.

(3) Those provisions thus introduced in Regulation (EC) No 43/2009 applied to cod, haddock, saithe and whiting caught by any fishing gear other than pelagic trawls, purse seines, driftnets and jiggers targeting herring, mackerel and horse mackerel, and pots, scallop dredges and gillnets. In addition, they specified, inter alia, the obligations of the coastal Member States regarding the decisions on real-time closures and the information to be provided to other Member States and/or third countries concerned and the Commission.

(4) Considering that the concerned provisions ceased to apply as from 1 January 2010, it is necessary to provide for the transposition of the Agreed Record by way of detailed rules implementing Articles 51, 52 and 53 of Regulation (EC) No 1224/2009 in the North Sea and Skagerrak.

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EU) No 724/2010. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(5) The measures provided for in this Regulation are in accordance with the opinion of the Committee for Fisheries and Aquaculture,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation establishes detailed rules for the implementation of real-time closures of certain fisheries in the North Sea and Skagerrak in accordance with Articles 51, 52 and 53 of Regulation (EC) No 1224/2009.

Article 2

Scope

This Regulation shall apply to cod, haddock, saithe and whiting caught in the North Sea and Skagerrak by any fishing gear other than:

(a) pelagic trawls, purse seines, driftnets and jiggers targeting herring, mackerel, and horse mackerel;

(b) pots;

(c) scallop dredges;

(d) gillnets.

Article 3

Definitions

For the purpose of this Regulation, the following definitions shall apply:

(a) ICES (International Council for the Exploration of the Sea) zones means zones as defined in Council Regulation (EEC) No 3880/91[(3)];

(b) ‘Skagerrak’ means the area bounded on the west by a line drawn from the Hanstholm lighthouse to the Lindesnes lighthouse and on the south by a line drawn from the Skagen lighthouse to the Tistlarna lighthouse and from this point to the nearest point on the Swedish coast;

(c) ‘North Sea’ means ICES zone IV;

(d) ‘haul’ means the act between the deployment and retrieval of a net.

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[F1 Article 4

Catch trigger level

1 The catch level which shall trigger real-time closures of fisheries, as referred to in Article 51 of Regulation (EC) No 1224/2009, shall be 10 % by weight of juveniles as compared to the total of the four species referred to in Article 2, in a haul.

2 However, if the quantity of cod in the sample exceeds 75 % as compared to the total of the four species in a haul, the catch trigger level shall be 7,5 % by weight of juveniles as compared to the total of the four species in a haul.**]**

Textual Amendments

F1 Substituted by Commission Implementing Regulation (EU) No 783/2011 of 5 August 2011 amending Regulation (EU) No 724/2010 laying down detailed rules for the implementation of real-time closures of certain fisheries in the North Sea and Skagerrak.

Article 5

Definition of juveniles

For the purpose of this Regulation, ‘juveniles’ means:

— specimens of cod smaller than 35 cm,

— specimens of haddock smaller than 30 cm,

— specimens of saithe smaller than 35 cm,

— specimens of whiting smaller than 27 cm.

Article 6

Calculation of the catch level of juveniles

1 For the purpose of calculating the catch level of juveniles in accordance with Article 51(2) of Regulation (EC) No 1224/2009, the coastal Member State and/or the Member State participating in a joint operation under a Joint Deployment Plan shall identify areas where there is a risk of reaching the trigger level.

2 In the areas identified in accordance with paragraph 1, the coastal Member State and/or the Member State participating in a joint operation under a Joint Deployment Plan shall carry out inspections to measure whether the percentage of juveniles reaches the trigger level, including through Joint Deployment Plans.

3 When carrying out the inspections referred to in paragraph 2, the coastal Member State and/or the Member State participating in a joint operation under a Joint Deployment Plan shall:

a take and measure samples of cod, haddock, saithe and whiting from a haul in accordance with provisions in Annex I;

b document each sampling by completing a sampling report as set out in Annex II and send it to the coastal State.

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4 Member States may invite other countries undertaking inspections in the area concerned to carry out samples on their behalf.

5 The coastal Member State concerned shall publish without delay on its website the position at which the sample referred to in paragraph 3(a) was taken, the time it was taken and the quantity of juveniles as a percentage of the total catch of cod, haddock, saithe and whiting in weight. The percentage shall be published both by species and as a total of the four species.

Article 7

Closure of fisheries

1 When a sample referred to in Article 6(3)(a) shows a percentage of juveniles that reaches the trigger level, the coastal Member State concerned shall prohibit fishing in the area concerned with any fishing gear other than:

a pelagic trawls, purse seines, driftnets and jiggers targeting herring, mackerel, and horse mackerel;

b pots;

c scallop dredges; and

d gillnets,

in accordance with Article 53 of Regulation (EC) No 1224/2009.

2 The area to be closed in accordance with paragraph 1 shall be defined on the basis of the following criteria:

a the area shall have 4, 5 or 6 joining points;

b the midpoint of the fishing operation or operations with samples above the trigger level shall equal the midpoint of the closed area;

c when the closed area is based on one sample and lies outside the waters up to 12 miles from the baseline of the coastal Member State, it shall be 50 square miles.

3 The real-time closure referred to in paragraph 1 shall:

a enter into force 12 hours following the decision by the concerned Member State; and

b apply for 21 days after which it shall automatically cease to apply at midnight UTC.

4 If the area to be closed includes zones under the jurisdiction or sovereignty of neighbouring third countries, the coastal Member State concerned shall without delay inform those third countries.

Article 8

Information

1 For the purpose of Article 53(5) of Regulation (EC) No 1224/2009, the coastal Member State shall without delay make the details of the real-time closure decided in accordance with Article 7 available on its website and inform of the real-time closure:

a the vessels in the vicinity of the area to the extent possible;

b the Commission;

c the Fisheries Monitoring Centres (‘FMCs’), as referred to in Article 3 of Commission Regulation (EC) No 2244/2003[(4)]; and

d the other Member States and third countries whose fishing vessels are authorised to operate in the area concerned.