Council Regulation (EU) No 43/2014 of 20 January 2014 fixing for 2014 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, to Union vessels, in certain non-Union waters

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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) Article 43(3) of the Treaty provides that the Council, on a proposal from the Commission, is to adopt measures on the fixing and allocation of fishing opportunities.

(2) Regulation (EU) No 1380/2013 of the European Parliament and of the Council[(1)] requires that conservation measures be adopted taking into account available scientific, technical and economic advice, including, where relevant, reports drawn up by the Scientific, Technical and Economic Committee for Fisheries (STECF).

(3) 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 allocated to Member States in such a way as to ensure relative stability of fishing activities of each Member State for each fish stock or fishery and having due regard to the objectives of the Common Fisheries Policy established in Regulation (EU) No 1380/2013.

(4) The total allowable catch (TACs) should be established on the basis of available scientific advice, taking into account biological and socio-economic aspects whilst ensuring fair treatment between fishing sectors, as well as in the light of the opinions expressed during the consultation of stakeholders, in particular at the meetings of the Regional Advisory Councils concerned.

(5) For stocks subject to specific multiannual plans, the TACs should be established in accordance with the rules laid down in those plans. Consequently, the TACs for stocks of Southern hake and Norway lobster, of sole in the Western Channel, of plaice and sole in the North Sea, of herring to the west of Scotland, of cod in the Kattegat, to the west of Scotland, the Irish Sea, the North Sea, Skagerrak and the Eastern Channel and of bluefin tuna in the Eastern Atlantic and the Mediterranean should be established in accordance with the rules laid down in Council Regulations (EC) No 2166/2005[(2)], (EC) No 509/2007[(3)], (EC) No 676/2007[(4)], (EC) No 1300/2008[(5)], (EC) No 1342/2008[(6)] (the "Cod Plan") and (EC) No 302/2009[(7)].

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) No 43/2014. (See end of Document for details)*

With regard, however, to the stocks of northern hake (Council Regulation (EC) No 811/2004[8] and sole in the Bay of Biscay (Council Regulation (EC) No 388/2006[9], the minimum targets of the relevant recovery and management plans have been reached and, therefore, it is appropriate to follow scientific advice provided in order to achieve or maintain the TACs at maximum sustainable yield levels, as the case may be.

(6) For stocks for which there is no sufficient or reliable data in order to provide size estimates, management measures and TAC levels should follow the precautionary approach to fisheries management as defined in Article 4(1)(8) of Regulation (EU) No 1380/2013, while taking into account stock-specific factors, including, in particular, available information on stock trends and mixed fisheries considerations.

(7) In accordance with Article 2 of Council Regulation (EC) No 847/96[10], the stocks that are subject to the various measures referred to therein should be identified.

(8) Where a TAC relating to a stock is allocated to one Member State only, it is appropriate to empower that Member State in accordance with Article 2(1) of the Treaty to determine the level of such TAC. Provisions should be made to ensure that, when fixing that TAC level, the Member State concerned acts in a manner fully consistent with the principles and rules of the Common Fisheries Policy.

(9) It is necessary to establish the fishing effort ceilings for 2014 in accordance with Article 8 of Regulation (EC) No 2166/2005, Article 5 of Regulation (EC) No 509/2007, Article 9 of Regulation (EC) No 676/2007, Articles 11 and 12 of Regulation (EC) No 1342/2008 and Articles 5 and 9 of Regulation (EC) No 302/2009, while taking into account Council Regulation (EC) No 754/2009[11].

(10) In the light of the most recent scientific advice from International Council for the Exploration of the Sea (ICES) and in accordance with the international commitments in the context of the North East Atlantic Fisheries Convention (NEAFC), it is necessary to limit the fishing effort on certain deep-sea species.

(11) For certain species, such as certain species of sharks, even a limited fishing activity could result in a serious risk to their conservation. Fishing opportunities for such species should therefore be fully restricted through a general prohibition on fishing those species.

(12) The use of fishing opportunities available to Union vessels set out in this Regulation is subject to Council Regulation (EC) No 1224/2009[12], and in particular to Articles 33 and 34 of that Regulation, concerning the recording of catches and fishing effort and the notification of data on the exhaustion of fishing opportunities. It is therefore necessary to specify the codes to be used by Member States when sending data to the Commission relating to landings of stocks subject to this Regulation.

(13) For certain TACs Member States should be allowed to grant additional allocations for vessels participating in trials on fully documented fisheries. The aim of those trials is to test a catch-quota system, i.e. a system where all catches should be landed and counted against quotas in order to avoid discards and the waste of otherwise usable fish resources they entail. Uncontrolled discards of fish are a threat to the long term sustainability of fish as a public good and thus to the Common Fisheries Policy objectives. By contrast,

catch-quota systems inherently present the fishers with an incentive to optimise the catch selectivity of their operations. In order to achieve a rational management of discards, a fully documented fishery should cover every operation at sea, rather than what is landed at port. The conditions for Member States to grant such additional allocations should therefore include an obligation to ensure the use of close circuit television cameras (CCTV) associated to a system of sensors (jointly referred to as "CCTV system"). This should enable the recording, in detail, of all retained and discarded parts of catches. A system based on human observers operating in real time on board would be less efficient, more costly, and less reliable. Consequently, the use of CCTV systems is, at this time, a prerequisite for the achievement of discard reduction schemes such as fully documented fisheries. In the use of such system, the requirements of Directive 95/46/EC of the European Parliament and of the Council[(13)] should be complied with.

(14) In order to ensure that trials of fully documented fisheries can effectively evaluate the potential of catch-quota systems to control the absolute fishing mortality of the stocks concerned, it is necessary for all fish caught in those trials, including those under minimum landing size, to be counted against the total allocation assigned to the participating vessel, and for fishing operations to cease when that total allocation has been fully utilised by that vessel. It is also appropriate to allow transfers of allocations between vessels participating in the fully documented fisheries trials and non-participating vessels provided that it can be demonstrated that discards by non-participating vessels do not increase.

(15) In November 2013, STECF assessed positively the rebuilding management plan proposed by the Pelagic Regional Advisory Council (PELRAC) for the stock of herring in ICES VIaS, VIIb and VIIc. The distribution of this herring stock overlaps with that of its northern neighbouring stock in a mixing zone located between 56° N and 57° 30′ N within ICES VIa. In order to ensure the correct assessment of these two stocks as regards their conservation state and to control the fishing mortality inflicted on each of them, it is necessary to exclude all catches taken in the mixing zone.

(16) It is appropriate, following advice from the ICES, to maintain and revise a system to manage sandeel in Union waters of ICES divisions IIa and IIIa and ICES subarea IV. Given that the ICES scientific advice is expected to become available only in February 2014, it is appropriate to set the TAC and quotas provisionally at zero until such advice is released.

(17) Since there is no scientific evidence that the TAC areas for pollack correspond to distinct biological stocks and the distribution of this species is continuous from the North of the British Isles to the South of the Iberian Peninsula, it is appropriate, in order to guarantee full use of fishing opportunities, to allow for the implementation of a flexible arrangement between some of these TAC areas. In the same vein, it is appropriate to allow a higher degree of flexibility arrangements between some management areas in respect of certain stocks whose distribution extends over several management areas and where the same biological stocks are concerned.

(18) In accordance with the procedure provided for in the agreements or protocols on fisheries relations with Norway[14], the Faroe Islands[15] and Iceland[16], the Union has held consultations on fishing rights with those partners. The consultations with Norway and the Faroe Islands on arrangements for 2014 have not been finalised. In order to avoid the interruption of Union fishing activities, whilst allowing for the necessary flexibility for the conclusion of those arrangements early in 2014, it is appropriate to establish the fishing opportunities for stocks subject to those arrangements on a provisional basis. It has not been possible to conclude consultations with Iceland on fisheries arrangements for 2014. In accordance with the procedure provided for in the agreement and protocol on fisheries relations with Greenland[17], the Joint Committee has established the concrete level of fishing opportunities available for the Union in Greenland waters in 2014.

(19) At its Annual Meeting in 2013, the International Commission for the Conservation of Atlantic Tunas (ICCAT) adopted a one year extension of the existing TAC and quotas for bluefin tuna, and confirmed TACs and quotas for North-Atlantic swordfish, Southern-Atlantic swordfish and North-Atlantic Albacore at the current level for the 2014-2016 period. As a result, the Union quota for these stocks remains the same as in 2013. Although the TAC of Southern-Atlantic albacore was also maintained at the current level for the 2014-2016 period, individual quotas of Contracting Parties, including the Union, were slightly reduced in order to grant a quota to another Contracting Party. All these measures should be implemented in the law of the Union.

(20) Pursuant to the accession of the Republic of Croatia to the European Union in July 2013, provisions on fishing opportunities for Croatia are included in this Regulation.

(21) At its Annual Meeting in 2013, the Parties to the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) adopted catch limits for both target and by-catch species. Those measures should be implemented in the law of the Union.

(22) 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 Zones of the Member State whose flag they fly.

(23) The second Annual Meeting of the South Pacific Regional Fisheries Management Organisation (SPRFMO) will be held from 27 to 31 January 2014. Until such Annual Meeting is held, it is appropriate that the current measures remain in place provisionally and that the TAC for jack mackerel in the SPRFMO Convention Area is provisionally established at the same level as in 2013.

(24) At its 84th Annual Meeting in 2013, the Inter-American Tropical Tuna Commission (IATTC) maintained its conservation measures for yellowfin tuna, bigeye tuna and skipjack tuna. IATTC also maintained its resolution on the conservation of oceanic

whitetip sharks. Those measures should continue to be implemented in the law of the Union.

(25) At its Annual Meeting in 2013, the South East Atlantic Fisheries Organisation (SEAFO) adopted a recommendation for new bi-annual TACs for Patagonian toothfish and deep-sea red crab for 2014 and 2015, the existing TACs for orange roughy and alfonsinos agreed for 2013 and 2014 at its annual meeting in 2012 remained in force. The currently applicable measures on allocation of fishing opportunities adopted by SEAFO should be implemented in the law of the Union.

(26) The 10th Annual Meeting of the Western and Central Pacific Fisheries Commission (WCPFC) in 2013 modified its measures regarding fishing opportunities by setting a total amount of days that can be fished in the high seas and by adapting the closure concerning aggregation devices (FAD) fishing. The revision of the measure of FAD fishing requires that the Union as a Contracting Party to WCPFC decides on one of two available options, either to confirm the current period of FAD fishing closure or to opt for a reduction of FAD sets. Until such a decision is taken, the currently applicable closure adopted by the WCFPC should continue to be implemented in the law of the Union.

(27) At its Annual Meeting in 2013, the Parties to the Convention on the Conservation and Management of Pollock resources in the central Bering Sea did not modify its measures regarding fishing opportunities. Those measures should be implemented in the law of the Union.

(28) At its 35th Annual Meeting in 2013, the Northwest Atlantic Fisheries Organisation (NAFO) adopted a number of fishing opportunities for 2014 of certain stocks in Subareas 1-4 of the NAFO Convention Area. In that context, NAFO adopted a procedure for increasing the TAC for white hake in NAFO Subdivision 3NO fixed for 2014, if certain conditions related to the situation of this stock are met. A Contracting Party to NAFO may notify to the Executive Secretary of NAFO that higher than normal catches per unit of effort have been observed for the stock of white hake in NAFO Subdivision 3NO. If the in-year 2014 TAC increase is confirmed by a positive vote within NAFO, it should be implemented into the law of the Union and the quotas of the Member States concerned should be increased.

(29) Certain international measures which create or restrict fishing opportunities for the Union are adopted by the relevant Regional Fisheries Management Organisations (RFMOs) at the end of the year and become applicable before the entry into force of this Regulation. It is therefore necessary for the provisions that implement such measures in the law of the Union to apply retroactively. In particular, since the fishing season in CCAMLR Convention Area runs from 1 December to 30 November, and thus certain fishing opportunities or prohibitions in the CCAMLR Convention Area are laid down for a period of time starting from 1 December 2013, it is appropriate that the relevant provisions of this Regulation apply from that date. Such retroactive application will be without prejudice to the principle of legitimate expectations as CCAMLR members are forbidden to fish in the CCAMLR Convention Area without authorisation.