Council Regulation (EU) No 39/2013 of 21 January 2013 fixing for 2013 the fishing opportunities available to EU vessels for certain fish stocks and groups of fish stocks which are not subject to international negotiations or agreements

COUNCIL REGULATION (EU) No 39/2013

of 21 January 2013

fixing for 2013 the fishing opportunities available to EU vessels for certain fish stocks and groups of fish stocks which are not subject to international negotiations or agreements

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 measures governing access to waters and resources and the sustainable pursuit of fishing activities be established taking into account available scientific, technical and economic 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 (EC) No 2371/2002.

(3) 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.

(4) 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, of Norway lobster, of sole in the Western Channel, of herring to the west of Scotland and of cod in the Kattegat, to the west of Scotland and in the Irish Sea should be established in accordance with the rules laid down in: Council Regulation (EC) No 2166/2005 of 20 December 2005 establishing measures for the recovery of the Southern hake and Norway lobster stocks in the Cantabrian Sea and

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) No 39/2013. (See end of Document for details)*

Western Iberian peninsula[2]; Council Regulation (EC) No 509/2007 of 7 May 2007 establishing a multi-annual plan for the sustainable exploitation of the stock of sole in the Western Channel[3]; Council Regulation (EC) No 1300/2008 of 18 December 2008 establishing a multi-annual plan for the stock of herring distributed to the west of Scotland and the fisheries exploiting that stock[4]; and Council Regulation (EC) No 1342/2008 of 18 December 2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks[5] (the "Cod Plan"). With regard, however, to the stocks of northern hake (Regulation (EC) No 811/2004[6] and sole in the Bay of Biscay (Regulation (EC) No 388/2006[7], 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.

(5) 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 point (i) of Article 3 of Regulation (EC) No 2371/2002, while taking into account stock-specific factors, including, in particular, available information on stock trends and mixed fisheries considerations.

(6) In accordance with Article 2 of Council Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of TACs and quotas[8], the stocks that are subject to the various measures referred to therein should be identified.

(7) 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.

(8) 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 of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data[(9)] should be complied with.

(9) 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.

(10) It is necessary to establish the fishing effort ceilings for 2013 in accordance with Article 8 of Regulation (EC) No 2166/2005, Article 5 of Regulation (EC) No 509/2007, Articles 11 and 12 of Regulation (EC) No 1342/2008, while taking into account Council Regulation (EC) No 754/2009 of 27 July 2009 excluding certain groups of vessels from the fishing effort regime laid down in Chapter III of Regulation (EC) No 1342/2008[(10)].

(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) Since the four TAC areas for the northern stock of hake correspond to the same biological stock, it is appropriate, in order to guarantee full use of the fishing opportunities, to allow the implementation of a flexible arrangement for Member States involved in this fishery between the TAC for IIIa, EU waters of Subdivisions 22-32 and the TAC for EU waters of IIa and IV.

(13) Fishing opportunities should be used in full compliance with the applicable law of the Union.

(14) The use of fishing opportunities available to EU vessels set out in this Regulation is subject 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[(11)], 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.

(15) In order to ensure uniform conditions for the implementation concerning the granting to an individual Member State an authorisation to benefit from the system of managing its fishing effort allocations in accordance with a kilowatt days system, implementing powers should be conferred on the Commission.

(16) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission relating to granting of

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additional days at sea for permanent cessation of fishing activities and for enhanced scientific observer coverage as well as to establishing the formats of spreadsheet for the collection and transmission of information concerning transfer of days at sea between fishing vessels flying the flag of a Member State. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers[(12)].

(17) In order to avoid the interruption of fishing activities and to ensure the livelihood of the fishermen of the Union, this Regulation should apply from 1 January 2013, except for the provisions concerning fishing effort limits, which should apply from 1 February 2013. For reasons of urgency, this Regulation should enter into force immediately after its publication,

HAS ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1

Subject matter

1 This Regulation fixes the fishing opportunities available to EU vessels for certain fish stocks and groups of fish stocks which are not subject to international negotiations or agreements.

2 The fishing opportunities referred to in paragraph 1 shall include:

a catch limits for the year 2013;

b fishing effort limits for the period from 1 February 2013 to 31 January 2014.

Article 2

Scope

This Regulation shall apply to EU vessels.

Article 3

Definitions

For the purposes of this Regulation the following definitions shall apply:

(a) 'EU vessel' means a fishing vessel flying the flag of a Member State and registered in the Union;

(b) 'EU waters' means waters under the sovereignty or jurisdiction of the Member States with the exception of waters adjacent to the overseas countries and territories listed in Annex II to the Treaty;

(c) 'total allowable catch' (TAC) means the quantity that can be taken and landed from each fish stock each year;

(d) 'quota' means a proportion of the TAC allocated to the Union or a Member State;

(e) 'international waters' means waters falling outside the sovereignty or jurisdiction of any State;

(f) 'mesh size' means the mesh size of fishing nets as determined in accordance with Regulation (EC) No 517/2008[13];

(g) 'EU fishing fleet register' means the register set up by the Commission in accordance with Article 15(3) of Regulation (EC) No 2371/2002;

(h) 'fishing logbook' means the logbook referred to in Article 14 of Regulation (EC) No 1224/2009;

(i) 'analytical assessments' means a quantitative evaluation of trends in a given stock, based on data about the stock's biology and exploitation, which scientific review has indicated to be of sufficient quality to provide scientific advice on options for future catches.

Article 4

Fishing zones

For the purposes of this Regulation the following zone definitions shall apply:

(a) ICES (International Council for the Exploration of the Sea) zones are the geographical areas specified in Annex III to Regulation (EC) No 218/2009[14];

(b) 'Skagerrak' means the geographical 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) 'Kattegat' means the geographical area bounded on the north by a line drawn from the Skagen lighthouse to the Tistlarna lighthouse and from this point to the nearest point on the Swedish coast and on the south by a line drawn from Hasenøre to Gnibens Spids, from Korshage to Spodsbjerg and from Gilbjerg Hoved to Kullen;

(d) 'Functional Unit 16 of ICES Subarea VII' means the geographical area bounded by rhumb lines sequentially joining the following positions:

53° 30′ N 15° 00′ W,
53° 30′ N 11° 00′ W,
51° 30′ N 11° 00′ W,
51° 30′ N 13° 00′ W,
51° 00′ N 13° 00′ W,
51° 00′ N 15° 00′ W,
53° 30′ N 15° 00′ W;