Council Regulation (EU) No 43/2012 of 17 January 2012 fixing for 2012 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 43/2012

of 17 January 2012

fixing for 2012 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) 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) 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.

(3) It is incumbent upon the Council to adopt measures on the fixing and allocation of fishing opportunities by fishery or by group of fisheries, 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.

[[X1](4) 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.**]**

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

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) No 43/2012. (See end of Document for details)*

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[(2)].

(6) Where a total allowable catch (TAC) relating to a stock is allocated to one Member State only, it is appropriate to empower the Member State concerned 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.

(7) Certain TACs allow Member States 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 to avoid discards and the waste of otherwise usable fish resources it entails. 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. This should enable to record in detail 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 is at this time a prerequisite for the achievement of discard reduction schemes such as fully documented fisheries, provided that 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[(3)] are complied with.

(8) The 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 with the Advisory Committee for Fisheries and Aquaculture and the Regional Advisory Councils concerned.

(9) 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 hake, of Norway lobster, of sole in the Bay of Biscay and 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 811/2004 of 21 April 2004 establishing measures for the recovery of the northern hake stock[(4)]; 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 Western Iberian peninsula[(5)]; Council Regulation (EC) No 388/2006 of 23 February 2006 establishing a multiannual plan for the sustainable exploitation of the stock of sole in the Bay of Biscay[(6)]; 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[7]; 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[8]; 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[9] (the 'Cod Plan').

(10) 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 Council Regulation (EC) No 2371/2002, while taking into account stock-specific factors, including, in particular, available information on stock trends and mixed fisheries considerations.

(11) 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[10], the stocks that are subject to the various measures referred to therein should be identified.

(12) 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.

(13) Norway lobster is caught in mixed demersal fisheries together with various other species. In a zone to the west of Ireland, known as the Porcupine Bank, scientific advice has recommended that catches of this species do not increase in 2012. In order to help continue the recovery of the stock, it is appropriate to keep fishing opportunities confined, in a certain part of that zone and in certain periods, to the catching of pelagic species with which Norway lobster is not caught.

(14) 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 the fishing opportunities, to allow the implementation of a flexible arrangement between some of the TAC areas.

(15) It is necessary to establish the fishing effort ceilings for 2012 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[11].

(16) 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[12], and in particular to Articles 33 and 34 thereof 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

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Member States when sending data to the Commission relating to landings of stocks subject to this Regulation.

(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 2012, except for the provisions concerning fishing effort limits, which should apply from 1 February 2012. For reasons of urgency, this Regulation should enter into force immediately after its publication.

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

HAS ADOPTED THIS REGULATION:

Editorial Information

X1 Substituted by Corrigendum to Council Regulation (EU) No 43/2012 of 17 January 2012 fixing for 2012 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 (Official Journal of the European Union L 25 of 27 January 2012).

TITLE I

SCOPE AND DEFINITIONS

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 2012; and

b fishing effort limits for the period from 1 February 2012 to 31 January 2013.

Article 2

Scope

This Regulation shall apply to EU vessels.

Article 3

Definitions

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

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(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.

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) 'VII (Porcupine Bank – Unit 16)' 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;

(e) 'Gulf of Cádiz' means the geographical area of ICES division IXa east of longitude 7° 23′ 48″ W;