Council Regulation (EU) No 57/2011 of 18 January 2011 fixing 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

COUNCIL REGULATION (EU) No 57/2011

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fixing 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

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) According to Article 43(3) of the Treaty, the Council, on a proposal from the Commission, shall 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).

(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.

(4) Where a total allowable catch (TAC) 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 and ensures that the stock in question is exploited at levels that shall, with as high a probability as possible, produce maximum sustainable yield from 2015 onwards, including by taking the necessary measures to collect relevant data, assess the stock concerned and determine maximum sustainable yield levels of that stock.

(5) The TACs should be established on the basis of the available scientific advice, by taking into account the 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.

(6) 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, the Western Channel and the North Sea, of plaice in the North Sea, of herring to the west of Scotland and of cod in the Kattegat, North Sea, Skagerrak, eastern Channel, 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[(2)]; 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[(3)]; 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[(4)]; 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[(5)]; Council Regulation (EC) No 676/2007 of 11 June 2007 establishing a multiannual plan for fisheries exploiting stocks of plaice and sole in the North Sea[(6)]; 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[(7)]; Council Regulation (EC) No 1342/2008 of 18 December 2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks[(8)] and Council Regulation (EC) No 302/2009 of 6 April 2009 concerning a multiannual recovery plan for bluefin tuna in the eastern Atlantic and Mediterranean[(9)].

(7) 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.

(8) 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.

(9) 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 there is an urgent conservation need to reduce catches of Norway lobster as much as possible. It is therefore appropriate to limit the fishing opportunities in this area only to the catching of pelagic species with which Norway lobster is not caught.

(10) Considering the recent developments in fisheries targeting boarfish in ICES subareas VI, VII and VIII and in order to ensure sustainable management of this stock, it is appropriate to provide for catch limits for this stock.

(11) It is necessary to establish the fishing effort ceilings for 2011 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 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)].

(12) A group of French vessels is excluded from the application of the fishing effort regime laid down in Article 11 of Regulation (EC) No 1342/2008 by virtue of Regulation (EC) 754/2009. On the basis of information provided by France in 2010, the exclusion of that group of vessels from the effort regime no longer constitutes a reduction of the administrative burden. Therefore one of the conditions for exclusion is no longer fulfilled. It is therefore appropriate to re-include that group of French vessels in the abovementioned fishing effort regime. Since the fishing management period established by Annex IIA to Regulation (EU) No 53/2010[(12)] ceases to apply on 31 January 2011, this re-inclusion should apply starting from 1 February 2011.

(13) It is necessary, following the advice from the ICES, to maintain and revise a system to manage sandeel in EU waters of ICES divisions IIa and IIIa and ICES subarea IV.

(14) In the light of the most recent scientific advice from the 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.

(15) In accordance with the procedure provided for in the agreements or protocols on fisheries relations with Norway[(13)], the Faroe Islands[(14)] and Greenland[(15)], the Union has held consultations on fishing rights with those partners. The consultations with the Faroe Islands have not been finalised and the arrangements for 2011 with that partner are expected to be concluded in early 2011. In order to avoid interruption of Union fishing activities whilst allowing for the necessary flexibility for the conclusion of those arrangements in early 2011, it is appropriate for the Union to establish the fishing opportunities for stocks subject to the agreement with the Faroe Islands on a provisional basis.

(16) The Union is a contracting party to several fisheries organisations and participates in other organisations as a cooperating non-party. Moreover, by virtue of the 2003 Act of Accession, fisheries agreements previously concluded by the Republic of Poland, such as the Convention on the Conservation and Management of Pollock resources in the central Bering Sea, are as from the date of accession of Poland to the European Union managed by the Union. Those fisheries organisations have recommended the introduction for 2011 of a number of measures, including fishing opportunities for EU vessels. Those fishing opportunities should be implemented in the law of the Union.

(17) At its Annual Meeting in 2010, the Inter-American Tropical Tuna Commission (IATTC) failed to reach consensus on the adoption of conservation measures for yellowfin tuna, bigeye tuna and skipjack tuna. Nevertheless, the majority of Contracting Parties, including the Union, considered that the fishing opportunities for those three stocks should be regulated in order to ensure their sustainable management. It is therefore appropriate for the Union to adopt measures to that effect.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) No 57/2011. (See end of Document for details)*

(18) At its Annual Meeting in 2010, the International Commission for the Conservation of Atlantic Tunas (ICCAT) adopted tables indicating the under-utilisation and over-utilisation of the fishing opportunities of the ICCAT Contracting Parties. In that context, ICCAT adopted a decision observing that, during the year 2009, the Union had under-exploited its quota for Northern and Southern swordfish, bigeye tuna and Northern albacore. In order to respect the adjustments to the Union quotas established by the ICCAT, it is necessary for the distribution of the fishing opportunities arising from this under-utilisation to be carried out on the basis of the respective contribution of each Member State towards the under-utilisation without modifying the distribution key established in this Regulation concerning the annual allocation of TACs. At the same meeting the recovery plan for bluefin tuna was amended. ICCAT further adopted recommendations on the conservation of bigeye thresher sharks, hammerhead sharks and oceanic whitetip sharks. In order to contribute to the conservation of fish stocks it is necessary to implement those measures in the law of the Union.

(19) At its Annual Meeting in 2010, the Indian Ocean Tuna Commission (IOTC) revised the overall capacity of the fleets targeting tropical tunas between 2006-2008 as well as swordfish and albacore between 2007-2008. The IOTC also approved the implementation of fleet development plans. Furthermore, IOTC approved a Resolution on the conservation of thresher sharks (family *Alopiidae*) caught in association with fisheries in its area of competence.

(20) During the Third International Meeting, held in May 2007, for the creation of a Regional Fisheries Management Organisation (RFMO) in the high seas of the South Pacific (SPRFMO), the participants adopted interim measures, including fishing opportunities, in order to regulate pelagic fishing activities as well as bottom fisheries in that area until the establishment of such RFMO. Those interim measures have been revised at the 8th International Consultations for the Establishment of the SPRFMO in November 2009 and are expected to be revised again at the forthcoming 2nd Preparatory Conference for the SPRFMO Commission in January 2011. According to the agreement reached by the participants, those interim measures are voluntary and are not legally binding under international law. It is nevertheless advisable, in the light of the related provisions of the United Nations Fish Stock Agreement, to implement those measures in the law of the Union.

(21) At its Annual Meeting in 2010, the South East Atlantic Fisheries Organisation (SEAFO) adopted catch limits for four fish stocks in the SEAFO Convention Area. It is necessary to implement those catch limits in the law of the Union.

(22) In accordance with Article 291 of the Treaty, the measures necessary for the fixing of the catch limits for certain short-lived stocks should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[16] for reasons of urgency.

(23) Certain international measures which create or restrict fishing opportunities for the Union are adopted by the relevant RFMO 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

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particular, since certain fishing opportunities in the CCAMLR Convention Area are laid down for a period of time starting from 1 December 2010, it is appropriate that the relevant provisions of this Regulation apply from that date. Such retroactive application would be without prejudice to the principle of legitimate expectations as CCAMLR members are forbidden to fish in the Convention Area without authorisation.

(24) The use of fishing opportunities 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[17], 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 Member States when sending data to the Commission relating to landings of stocks subject to this Regulation.

(25) 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 2011, except for the provisions concerning effort limits, which should apply from 1 February 2011, and specific provisions in particular regions, which should have a specific date of application as indicated in recital 23. For reasons of urgency, this Regulation should enter into force immediately after its publication.

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

HAS ADOPTED THIS REGULATION:

TITLE I

SCOPE AND DEFINITIONS

[F1 Article 1

Subject matter

This Regulation fixes the following fishing opportunities:

(a) for the year 2011, catch limits for certain fish stocks and groups of fish stocks;

(b) for the period from 1 February 2011 to 31 January 2012, certain effort limits;

(c) for the periods set out in Articles 20, 21 and 22 and in Annexes IE and V, fishing opportunities for certain stocks in the Convention Area of the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR);

(d) for the periods set out in Article 28, fishing opportunities for certain stocks in the Convention Area of the Inter American Tropical Tuna Commission (IATTC); and

(e) additional fishing opportunities for mackerel resulting from uncaught quota in 2010.**]**