Council Regulation (EU) No 53/2010 of 14 January 2010 fixing for 2010 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in EU waters and, for EU vessels, in waters where catch limitations are required and amending Regulations (EC) No 1359/2008, (EC) No 754/2009, (EC) No 1226/2009 and (EC) No 1287/2009

[[X1]COUNCIL REGULATION (EU) No 53/2010**]**

of 14 January 2010

fixing for 2010 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in EU waters and, for EU vessels, in waters where catch limitations are required and amending Regulations (EC) No 1359/2008, (EC) No 754/2009, (EC) No 1226/2009 and (EC) No 1287/2009

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 Council Regulation (EC) No 1342/2008 of 18 December 2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks[(1)], and in particular Article 11 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) Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy[(2)] requires the Council to establish measures governing access to waters and resources and the sustainable pursuit of fishing activities, 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 establish the total allowable catches (TAC) by fishery or group of fisheries. 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. Moreover, in order for the fishing opportunities to be optimal and applied in an effective way, certain conditions essential to and functionally linked to them should be fixed.

(4) The TACs should be established on the basis of the available scientific advice and by taking into account the biological and socio-economic aspects whilst ensuring fair treatment between fishing sectors. In this regard, it is necessary to take account of the opinions expressed during the consultation of stakeholders, in particular at the

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EU) No 53/2010. (See end of Document for details)*

meeting on 23 July 2009 with the Advisory Committee for Fisheries and Aquaculture, the concerned Regional Advisory Councils and Member States and on 29 September 2009 with the Advisory Committee for Fisheries and Aquaculture and the concerned Regional Advisory Councils.

(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 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[(3)], 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[(4)],
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[(5)], 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[(6)], 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[(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)], Regulation (EC) No 1342/2008 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)] respectively.

(6) In accordance with Article 2 of Regulation (EC) No 847/96, the stocks that are subject to the various measures referred to therein must be identified.

(7) Fishing operations conducted solely for the purpose of scientific investigations should not be included in the scope of this Regulation, with the exception of the operations carried out by vessels participating in initiatives regarding fully documented fisheries.

(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 to fish those species.

(9) It is necessary to establish the maximum allowable effort ceilings for 2010 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[(10)].

(10) It is necessary, following the advice from the ICES, to maintain and revise a system to manage the fishing effort on sandeel in EU waters of ICES zones IIa, IIIa and IV.

(11) 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.

(12) Fishing opportunities should be used in accordance with the Union legislation on the subject, and in particular with Commission Regulation (EEC) No 2807/83 of 22 September 1983 laying down detailed rules for recording information on Member States' catches of fish[(11)], Council Regulation (EEC) No 2930/86 of 22 September 1986 defining characteristics for fishing vessels[(12)], Commission Regulation (EEC) No 1381/87 of 20 May 1987 establishing detailed rules concerning the marking and documentation of fishing vessels[(13)], Article 21 of Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy[(14)], Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing permits[(15)], Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms[(16)],
Council Regulation (EC) No 2347/2002 of 16 December 2002 establishing specific access requirements and associated conditions applicable to fishing for deep-sea stocks[(17)], Council Regulation (EC) No 1954/2003 of 4 November 2003 on the management of the fishing effort relating to certain Community fishing areas and resources[(18)], Commission Regulation (EC) No 2244/2003 of 18 December 2003 laying down detailed provisions regarding satellite-based Vessel Monitoring Systems[(19)], Council Regulation (EC) No 601/2004 of 22 March 2004 laying down certain control measures applicable to fishing activities in the area covered by the Convention on the conservation of Antarctic marine living resources[(20)], Council Regulation (EC) No 2115/2005 of 20 December 2005 establishing a recovery plan for Greenland halibut in the framework of the Northwest Atlantic Fisheries Organisation[(21)],
Regulation (EC) No 2166/2005, Regulation (EC) No 388/2006, Council Regulation (EC) No 1966/2006 of 21 December 2006 on electronic recording and reporting of fishing activities and on means of remote sensing[(22)], Council Regulation (EC) No 1967/2006 of 21 December 2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea[(23)], Regulation (EC) No 509/2007, Council Regulation (EC) No 520/2007 of 7 May 2007 laying down technical measures for the conservation of certain stocks of highly migratory species[(24)], Regulation (EC) No 676/2007, Council Regulation (EC) No 1386/2007 of 22 October 2007 laying down conservation and enforcement measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation[(25)], Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing[(26)], Council Regulation (EC) No 1006/2008 of 29 September 2008 concerning authorisations for fishing activities of Community fishing vessels outside Community waters and the access of third country vessels to Community waters[(27)],
Commission Regulation (EC) No 1077/2008 of 3 November 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 1966/2006 on electronic

recording and reporting of fishing activities and on means of remote sensing[28], Regulation (EC) No 1300/2008, Regulation (EC) No 1342/2008, Regulation (EC) No 216/2009 of the European Parliament and of the Council of 11 March 2009 on the submission of nominal catch statistics by Member States fishing in certain areas other than those of the North Atlantic (recast)[29], Regulation (EC) No 217/2009 of the European Parliament and of the Council of 11 March 2009 on the submission of catch and activity statistics by Member States fishing in the north-west Atlantic (recast)[30], Regulation (EC) No 218/2009 of the European Parliament and of the Council of 11 March 2009 on the submission of nominal catch statistics by Member States fishing in the north-east Atlantic (recast)[31], Regulation (EC) No 302/2009 and 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[32].

(13) In accordance with the procedure provided for in the agreements or protocols on fisheries relations with Norway[33], the Faroe Islands[34] and Greenland[35], the Union has held consultations on fishing rights with those partners. The consultations with Greenland were concluded on 25 November 2009 with the establishment of the fishing opportunities available for 2010 for EU vessels in Greenland waters. The consultations with the Faroe Islands and Norway have not been finalised and the arrangements for 2010 with those partners are expected to be concluded early 2010. In order to avoid interruption of Union fishing activities whilst allowing for the necessary flexibility for the conclusion of those arrangements early 2010, it is appropriate for the Union to establish the fishing opportunities for stocks subject to those arrangements on a provisional basis awaiting their conclusion.

(14) 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 2010 of a number of measures, including fishing opportunities for EU vessels. Those fishing opportunities should be implemented by the Union.

(15) The Inter-American Tropical Tuna Commission (IATTC) failed to adopt catch limitations for yellowfin tuna, bigeye tuna and skipjack tuna at its Annual Meeting in 2009, and although the Union is not a member of the IATTC, it is necessary to regulate the fishing opportunities for resource under the jurisdiction of the IATTC in order to ensure its sustainable management.

(16) At its Annual Meeting in 2009, the International Commission for the Conservation of Atlantic Tunas (ICCAT) adopted tables indicating the under-utilisation and over-utilisation of the fishing possibilities of the ICCAT contracting parties. In that context, ICCAT adopted a decision observing that during the year 2008, 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 a recommendation on the conservation of bigeye thresher sharks. In order to contribute to the conservation of fish stocks it is necessary to implement those measures.

(17) During the Third International Meeting, held in May 2007, for the creation of a Regional Fisheries Management Organisation (SPRFMO) in the high seas of the South Pacific, 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 measures were revised during the Eighth International Meeting for the creation of that SPRFMO held in November 2009. 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 incorporate those measures into Union law.

(18) At its Annual Meeting in 2009, the South East Atlantic Fisheries Organisation (SEAFO) adopted catch limits for two additional fish stocks in the SEAFO Convention Area. It is necessary to implement those catch limits into Union law.

(19) For continuity reasons, certain third-country fishing vessels should be allowed to fish in EU waters under certain conditions and subject to Regulation (EC) No 1006/2008 and its implementing provisions.

(20) Within the context of establishing fishing opportunities and in accordance with Article 11 of Regulation (EC) No 1342/2008, the Council may, on the basis of information provided by Member States and assessed by the STECF, exclude certain groups of vessels from the effort regime established in that Regulation, provided that appropriate data is available on cod catches and discards of the vessels concerned, that the percentage of cod catches does not exceed 1,5 % of the total catches of the group of vessels and that the inclusion of the group in the effort regime would constitute an administrative burden disproportionate to its overall impact on cod stocks. Poland provided information on the cod catches by a group of vessels consisting of one vessel targeting saithe in the North Sea with bottom trawls of mesh size equal to or larger than 100 mm. The United Kingdom provided information on the cod catches of two groups of vessels using bottom trawls to the west of Scotland. On the basis of that information as assessed by STECF, it can be established that the cod catches, including discards, of those groups of vessels do not exceed 1,5 % of their total catches. Having moreover regard to control and monitoring measures in place ensuring the monitoring and control of the fishing activities of those groups of vessels and considering that the inclusion of these groups would constitute an administrative burden disproportionate to the overall impact of that inclusion on cod stocks, it is appropriate to exclude those groups of vessels from the application of Chapter III of Regulation (EC) No 1342/2008, thus allowing to establish the effort limits for the concerned Member States accordingly.