

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

## TITLE II

### FISHING OPPORTUNITIES

#### *Article 5*

##### **TACs and allocations**

The TACs for EU vessels in EU waters or in certain non-EU waters and the allocation of such TACs among Member States, and the conditions functionally linked thereto, where appropriate, are set out in Annex I.

#### *Article 6*

##### **Special provisions on certain TACs**

- 1 The TACs for certain fish stocks shall be determined by the Member State concerned. Those stocks are identified in Annex I.
- 2 The TACs to be determined by a Member State shall:
  - a be consistent with the principles and rules of the common fisheries policy, in particular the principle of sustainable exploitation of the stock; and
  - b result:
    - (i) if analytical assessments are available, in the exploitation of the stock consistent with maximum sustainable yield from 2015 onwards, with as high a probability as possible;
    - (ii) if analytical assessments are unavailable or incomplete, in the exploitation of the stock consistent with the precautionary approach to fisheries management.
- 3 By 15 March 2012, each Member State concerned shall submit to the Commission the following information:
  - a the TACs adopted;
  - b the data collected and assessed by the Member State concerned on which the TACs adopted are based; and
  - c details on how the TACs adopted comply with paragraph 2.

#### *Article 7*

##### **Additional allocation for vessels participating in trials on fully documented fisheries**

- 1 For certain stocks, a Member State may grant an additional allocation to vessels flying its flag participating in trials on fully documented fisheries. Those stocks are identified in Annex

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I. The additional allocation shall not exceed an overall limit set out in Annex I as a percentage of the quota allocated to that Member State.

2 The additional allocation referred to in paragraph 1 may be granted only in accordance with the following conditions:

- a the vessel makes use of close circuit television cameras (CCTV) associated to a system of sensors to record all fishing and processing activities on board the vessels;
- b the amount of the additional allocation granted to an individual vessel that participates in trials on fully documented fisheries shall be no more than 75 % of the discards estimated for the type of vessel to which it belongs, and in any case shall not represent more than a 30 % increase of the vessel's basic allocation; and
- c all catches of the relevant stock subject to the additional allocation by that vessel shall be counted against its total allocation.

Notwithstanding point (b), a Member State may exceptionally grant to vessel flying its flag additional allocation that corresponds to more than 75 % of the estimated discards for the type of vessel to which the vessel concerned belongs, provided that:

- (i) the estimated discards for the type of vessel are less than 10 %;
- (ii) it can be demonstrated that the inclusion of that type of vessel is important to evaluate the potential of the CCTV system for control purposes; and
- (iii) an overall limit of 75 % of the estimated discards is not exceeded for all vessels participating in the trials.

To the extent that the recordings obtained in accordance with point (a) involve the processing of personal data within the meaning of Directive 95/46/EC, that Directive shall apply to the processing of such data.

3 Where a Member State detects that a vessel participating in trials on fully documented fisheries fails to comply with the conditions set out in paragraph 2, it shall immediately withdraw the additional allocation granted to that vessel and exclude it from participation in those trials for the remainder of the year 2012.

4 Prior to granting the additional allocation referred to in paragraph 1, a Member State shall submit to the Commission the following information:

- a the list of vessels flying its flag participating in trials on fully documented fisheries;
- b the specifications of the remote electronic monitoring equipment installed on board those vessels;
- c the capacity, type and specification of gears used by those vessels;
- d the estimated discards for each type of vessel participating in the trials; and
- e the amount of catches of the stock subject to the relevant TAC made in 2011 by the vessels participating in the trials.

5 The Commission may request that the assessment of the estimated discards for the type of vessel referred to in point (b) of paragraph 2, be submitted to a scientific advisory body for review. In the absence of a confirming assessment, the Member State concerned shall inform the Commission, in writing, of the measures taken to ensure that the relevant vessels comply with the estimated discards condition established in point (b) of paragraph 2.

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## Article 8

### Conditions for landing catches and by-catches

Fish from stocks for which TACs are established shall be retained on board or landed only if:

- (a) the catches have been taken by vessels flying the flag of a Member State having a quota and that quota is not exhausted; or
- (b) the catches consist of a share in a EU quota which has not been allocated by quota among Member States, and that EU quota has not been exhausted.

## Article 9

### Fishing effort limits

From 1 February 2012 to 31 January 2013, the fishing effort measures laid down in:

- (a) Annex IIA, shall apply for the management of cod stocks in the Kattegat, ICES divisions VIIa and VIa, and EU waters of ICES division Vb;
- (b) Annex IIB, shall apply for the recovery of hake and Norway lobster in ICES divisions VIIIc and IXa, with the exception of the Gulf of Cádiz;
- (c) Annex IIC, shall apply for the management of the sole stock in ICES division VIIe.

## Article 10

### Special provisions on allocations of fishing opportunities

1 The allocation of fishing opportunities among Member States as set out in this Regulation shall be without prejudice to:

- a exchanges made pursuant to Article 20(5) of Regulation (EC) No 2371/2002;
- b reallocations made pursuant to Article 37 of Regulation (EC) No 1224/2009 or pursuant to Article 10(4) of Regulation (EC) No 1006/2008<sup>(1)</sup>;
- c additional landings allowed under Article 3 of Regulation (EC) No 847/96;
- d quantities withheld in accordance with Article 4 of Regulation (EC) No 847/96;
- e deductions made pursuant to Articles 37, 105, 106 and 107 of Regulation (EC) No 1224/2009.

2 Except where otherwise specified in Annex I to this Regulation, Article 3 of Regulation (EC) No 847/96 shall apply to stocks subject to precautionary TAC and Article 3(2) and (3) and Article 4 of that Regulation shall apply to stocks subject to analytical TAC.

## Article 11

### Closed fishing season

1 It shall be prohibited to fish or retain on board any of the following species in the Porcupine Bank during the period from 1 May to 31 July 2012: cod, megrims, anglerfish,

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haddock, whiting, hake, Norway lobster, plaice, pollack, saithe, skates and rays, common sole and spurdog.

2 For the purposes of this Article, the Porcupine Bank shall comprise the geographical area bounded by rhumb lines sequentially joining the following positions:

Point	Latitude	Longitude
1	52° 27' N	12° 19' W
2	52° 40' N	12° 30' W
3	52° 47' N	12° 39,600' W
4	52° 47' N	12° 56' W
5	52° 13,5' N	13° 53,830' W
6	51° 22' N	14° 24' W
7	51° 22' N	14° 03' W
8	52° 10' N	13° 25' W
9	52° 32' N	13° 07,500' W
10	52° 43' N	12° 55' W
11	52° 43' N	12° 43' W
12	52° 38,800' N	12° 37' W
13	52° 27' N	12° 23' W
14	52° 27' N	12° 19' W

3 By way of derogation from paragraph 1, transit through the Porcupine Bank, carrying on board the species referred to in that paragraph, shall be permitted in accordance with Article 50(3), (4) and (5) of Regulation (EC) No 1224/2009.

#### Article 12

#### Prohibitions

1 It shall be prohibited for EU vessels to fish for, to retain on board, to tranship or to land the following species:

- a basking shark (*Cetorhinus maximus*) and white shark (*Carcharodon carcharias*) in EU waters and non-EU waters;
- b porbeagle (*Lamna nasus*) in all waters, except where it is provided otherwise in Annex I Part B;
- c angel shark (*Squatina squatina*) in EU waters;
- d common skate (*Dipturus batis*) in EU waters of ICES division IIa and ICES subareas III, IV, VI, VII, VIII, IX and X;
- e undulate ray (*Raja undulata*) and white skate (*Rostroraja alba*) in EU waters of ICES subareas VI, VII, VIII, IX and X;
- f guitarfishes (*Rhinobatidae*) in EU waters of ICES subareas I, II, III, IV, V, VI, VII, VIII, IX, X and XII<sup>[F1];</sup>

<sup>[F2]</sup>g giant manta ray (*Manta birostris*) in all waters.]

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2 When accidentally caught, species referred to in paragraph 1 shall not be harmed. They shall be promptly released.

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**Textual Amendments**

- F1** Substituted by [Council Regulation \(EU\) No 692/2012 of 24 July 2012 amending Regulations \(EU\) No 43/2012 and \(EU\) No 44/2012 as regards the protection of the giant manta ray and certain fishing opportunities.](#)
- F2** Inserted by [Council Regulation \(EU\) No 692/2012 of 24 July 2012 amending Regulations \(EU\) No 43/2012 and \(EU\) No 44/2012 as regards the protection of the giant manta ray and certain fishing opportunities.](#)

*Article 13*

**Data transmission**

When, pursuant to Articles 33 and 34 of Regulation (EC) No 1224/2009, Member States submit to the Commission data relating to landings of quantities of stocks caught, they shall use the stock codes set out in Annex I to this Regulation.

*[<sup>F2</sup>Article 13a*

**Amendments to Regulation (EC) No 754/2009**

In Article 1 of Regulation (EC) No 754/2009, the following point is added:

- (i) the group of vessels flying the flag of the United Kingdom identified in the request from the United Kingdom dated 16 March 2012, which participate in a fishery targeting Queen Scallops (*Aequipecten opercularis*) in the Irish Sea (ICES area VIIa) around the Isle of Man, using a specialised otter trawl gear with an 80-100 mm mesh trawl configured to select against fish catches (2ft low headline, short or no bridles and small trawl mouth);]

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**Textual Amendments**

- F2** Inserted by [Council Regulation \(EU\) No 692/2012 of 24 July 2012 amending Regulations \(EU\) No 43/2012 and \(EU\) No 44/2012 as regards the protection of the giant manta ray and certain fishing opportunities.](#)

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- (1) 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 ([OJ L 286, 29.10.2008, p. 33](#)).

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**Changes and effects yet to be applied to :**

- [Regulation revoked by 2023 c. 28 Sch. 1 Pt. 2](#)