

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

## 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<sup>(1)</sup>;

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- (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<sup>(2)</sup>;
- (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;
- (e) 'Gulf of Cádiz' means the geographical area of ICES division IXa east of longitude 7° 23' 48" W;
- (f) CECAF (Committee for Eastern Central Atlantic Fisheries) areas are the geographical areas specified in Annex II to Regulation (EC) No 216/2009<sup>(3)</sup>.

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## 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

##### TACs to be determined by Member States

- 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 2013, 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;
  - c details on how the TACs adopted comply with paragraph 2.

#### Article 7

##### Additional allocations 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 and participating in trials on fully documented fisheries. Those stocks are identified in Annex I.
- 2 The additional allocation referred to in paragraph 1 shall not exceed the overall limit set out in Annex I as a percentage of the quota allocated to that Member State.
- 3 The additional allocation referred to in paragraph 1 shall comply with the following conditions:

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- a the vessel makes use of close circuit television cameras (CCTV) associated to a system of sensors (jointly referred to as "the CCTV system") to record all on board fishing and processing activities;
  - b the additional allocation granted to an individual vessel that participates in trials on fully documented fisheries shall not exceed any of the following limits:
    - (i) 75 % of the discards of the stock, as estimated by the relevant Member State, produced by the type of vessel to which the individual vessel that has been granted the additional allocation belongs.
    - (ii) 30 % of the vessel's individual allocation prior to participating in the trials.
  - c all catches by the vessel from the stock subject to the additional allocation, including fish that are under minimum landing size as defined in Annex XII of Regulation (EC) No 850/98, shall be counted against the individual allocation of the vessel, as resulting from any additional allocation granted under this Article.
  - d once the individual allocation for any stock subject to the additional allocation has been fully utilised by a vessel, the vessel in question must cease all fishing activity in the relevant TAC area.
  - e in respect of the stocks for which this Article may be used, the Member States may allow transfers of the individual allocation or any part thereof from vessels not participating in the fully documented fisheries trials to vessels participating in those trials provided that it can be demonstrated that discards by the non-participating vessels do not increase.
- 4 Notwithstanding point (i) of point (b) of paragraph 3, a Member State may exceptionally grant to a vessel flying its flag an additional allocation exceeding 75 % of the estimated discards of the stock produced by the type of vessel to which the individual vessel that has been granted the additional allocation belongs, provided that:
- a the rate of stock discards, as estimated for the relevant type of vessel, is less than 10 %;
  - b the inclusion of that type of vessel is important to evaluate the potential of the CCTV system for control purposes;
  - c an overall limit of 75 % of the estimated stock discards produced by all vessels participating in the trials is not exceeded.
- 5 To the extent that the recordings obtained in accordance with point (a) of paragraph 3 involve the processing of personal data within the meaning of Directive 95/46/EC, that Directive shall apply to the processing of such data.
- 6 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 3, 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 2013.
- 7 Prior to granting the additional allocation referred to in paragraphs 1 to 6, a Member State shall submit to the Commission the following information:
- a the list of vessels flying its flag and 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;
  - e the amount of catches of the stock subject to the relevant TAC made in 2012 by the vessels participating in the trials.

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8 The Commission may request any Member State that avails itself of this Article to submit its assessment of the discards produced per type of vessel to a scientific advisory body for review, in order to monitor the implementation of the requirement set out in point (i) of point (b) of paragraph 3. In the absence of an assessment confirming such discards, the Member State concerned shall take any appropriate measure to ensure compliance with that requirement and inform the Commission thereof.

#### *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 2013 to 31 January 2014, 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>(4)</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.

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## 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 May 2013: cod, megrims, anglerfish, 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 while 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 all 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;

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- 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 (*Raja 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;
- g giant manta ray (*Manta birostris*) in all waters.

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

### 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.

### TITLE III

#### FINAL PROVISIONS

### Article 14

#### Committee procedure

1 The Commission shall be assisted by the Committee for Fisheries and Aquaculture established by Regulation (EC) No 2371/2002. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2 Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

### Article 15

#### Entry into force and application

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2013.

However, Article 9 shall apply from 1 February 2013.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

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- (1) Commission Regulation (EC) No 517/2008 of 10 June 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 850/98 as regards the determination of the mesh size and assessing the thickness of twine of fishing nets ([OJ L 151, 11.6.2008, p. 5](#)).
- (2) 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 ([OJ L 87, 31.3.2009, p. 70](#)).
- (3) 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 ([OJ L 87, 31.3.2009, p. 1](#)).
- (4) 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](#)