

Council Regulation (EU) No 40/2013 of 21 January 2013 fixing for 2013 the fishing opportunities available in EU waters and, to EU vessels, in certain non-EU waters for certain fish stocks and groups of fish stocks which are subject to international negotiations or agreements

TITLE II

FISHING OPPORTUNITIES FOR EU VESSELS

CHAPTER III

Fishing opportunities in waters of regional fisheries management organisations

Article 15

Quota transfers and exchanges

1 Where, under the rules of a regional fisheries management organisation ("RFMO"), quota transfers or exchanges between the Contracting Parties to the RFMO are permitted, a Member State ("the Member State concerned") may discuss with a Contracting Party to the RFMO and, as appropriate, establish a possible outline of an intended quota transfer or exchange.

2 Upon notification to the Commission by the Member State concerned, the Commission may endorse the outline of the intended quota transfer or exchange that the Member State has discussed with the concerned Contracting Party to the RFMO. Thereupon, the Commission shall exchange, without undue delay, the consent to be bound by such quota transfer or exchange with the concerned Contracting Party to the RFMO. The Commission shall then give notification of the agreed quota transfer or exchange to the secretariat of the RFMO in accordance with the rules of that organisation.

3 The Commission shall inform the Member States of the agreed quota transfer or exchange.

4 The fishing opportunities received from or transferred to the concerned Contracting Party to the RFMO under the quota transfer or exchange shall be deemed to be quotas allocated to or deducted from the allocation of, the Member State concerned, as of the moment that the quota transfer or exchange takes effect in accordance with the terms of the agreement reached with the concerned Contracting Party to the RFMO or in accordance with the rules of the relevant RFMO, as appropriate. Such allocation shall not change the existing distribution key for the purpose of allocating fishing opportunities among Member States in accordance with the principle of relative stability of fishing activities.

Status: Point in time view as at 31/12/2020.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EU) No 40/2013. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

Section 1

ICCAT Convention Area

Article 16

Fishing, farming and fattening capacity limitations for bluefin tuna

1 The number of EU bait boats and trolling boats authorised to fish actively for bluefin tuna between 8 kg/75 cm and 30 kg/115 cm in the Eastern Atlantic shall be limited as set out in point 1 of Annex IV.

2 The number of EU coastal artisanal fishing vessels authorised to fish actively for bluefin tuna between 8 kg/75 cm and 30 kg/115 cm in the Mediterranean shall be limited as set out in point 2 of Annex IV.

3 The number of EU vessels fishing for bluefin tuna in the Adriatic Sea for farming purposes authorised to fish actively for bluefin tuna between 8 kg/75 cm and 30 kg/115 cm shall be limited as set out in point 3 of Annex IV.

4 The number and total capacity in gross tonnage of fishing vessels authorised to fish for, retain on board, tranship, transport, or land bluefin tuna in the eastern Atlantic and Mediterranean shall be limited as set out in point 4 of Annex IV.

5 The number of traps engaged in the eastern Atlantic and Mediterranean bluefin tuna fishery shall be limited as set out in point 5 of Annex IV.

6 The bluefin tuna farming capacity, the fattening capacity and the maximum input of wild caught bluefin tuna allocated to the farms in the eastern Atlantic and Mediterranean shall be limited as set out in point 6 of Annex IV.

Article 17

Recreational and sport fisheries

Member States shall allocate a specific quota of bluefin tuna for recreational and sport fisheries from their quotas allocated in Annex ID.

Article 18

Sharks

1 Retaining on board, transhipping or landing any part or whole carcass of bigeye thresher sharks (*Alopias superciliosus*) in any fishery shall be prohibited.

2 It shall be prohibited to undertake a directed fishery for species of thresher sharks of the genus *Alopias*.

3 Retaining on board, transhipping or landing any part or whole carcass of hammerhead sharks of the family *Sphyrnidae* (except for the *Sphyrna tiburo*) in association with fisheries in the ICCAT Convention Area shall be prohibited.

4 Retaining on board, transhipping or landing any part or whole carcass of oceanic whitetip sharks (*Carcharhinus longimanus*) taken in any fishery shall be prohibited.

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5 Retaining on board silky sharks (*Carcharhinus falciformis*) taken in any fishery shall be prohibited.

Section 2

CCAMLR Convention Area

Article 19

Prohibitions and catch limitations

1 Direct fishing of the species set out in Annex V, Part A, shall be prohibited in the zones and during the periods set out therein.

2 For exploratory fisheries, the TACs and by-catch limits set out in Annex V, Part B, shall apply in the subareas set out therein.

Article 20

Exploratory fisheries

1 Only those Member States which are members of the CCAMLR Commission may participate in longline exploratory fisheries for *Dissostichus* spp. in FAO Subareas 88.1 and 88.2 as well as in Divisions 58.4.1, 58.4.2 and 58.4.3a outside areas of national jurisdiction in 2013. If such a Member State intends to participate in such fisheries, it shall notify the CCAMLR Secretariat in accordance with Articles 7 and 7a of Regulation (EC) No 601/2004 and in any case no later than 1 June 2013.

2 With regard to FAO Subareas 88.1 and 88.2 as well as Divisions 58.4.1, 58.4.2 and 58.4.3a TACs and by-catch limits per subarea and division, and their distribution among Small Scale Research Units (SSRUs) within each of them, shall be as set out in Annex V, Part B. Fishing in any SSRU shall cease when the reported catch reaches the specified TAC, and the SSRU shall be closed to fishing for the remainder of the season.

3 Fishing shall take place over as large a geographical and bathymetric range as possible to obtain the information necessary to determine fishery potential and to avoid over-concentration of catch and fishing effort. However, fishing in FAO Subareas 88.1 and 88.2 as well as in Divisions 58.4.1, 58.4.2 and 58.4.3a shall be prohibited in depths less than 550 m.

Article 21

Krill fishery during the 2013/2014 fishing season

1 Only those Member States which are members of the CCAMLR Commission may fish for krill (*Euphausia superba*) in the CCAMLR Convention Area during the 2013/2014 fishing season. If such a Member State intends to fish for krill in the CCAMLR Convention Area, it shall notify the CCAMLR Secretariat, in accordance with Article 5a of Regulation (EC) No 601/2004, and the Commission, and in any case no later than 1 June 2013:

- a of its intention to fish for krill, using the format laid down in Annex V, Part C;
- b of the net configuration form, using the format laid down in Annex V, Part D.

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2 The notification referred to in paragraph 1 of this Article shall include the information provided for in Article 3 of Regulation (EC) No 601/2004 for each vessel to be authorised by the Member State to participate in the krill fishery.

3 A Member State intending to fish for krill in the CCAMLR Convention Area shall only notify its intention to do so in respect of authorised vessels either flying its flag at the time of the notification or flying the flag of another CCAMLR member that are expected, at the time the fishery takes place, to be flying the flag of that Member State.

4 Member States shall be entitled to authorise participation in a krill fishery by vessels other than those notified to CCAMLR Secretariat in accordance with paragraphs 1, 2 and 3 of this Article, if an authorised vessel is prevented from participation due to legitimate operational reasons or *force majeure*. In such circumstances the Member States concerned shall immediately inform the CCAMLR Secretariat and the Commission, providing:

- a full details of the intended replacement vessel(s), including information provided for in Article 3 of Regulation (EC) No 601/2004;
- b a comprehensive account of the reasons justifying the replacement and any relevant supporting evidence or references.

5 Member States shall not authorise a vessel on either of the CCAMLR illegal, unreported and unregulated (IUU) Vessel Lists to participate in krill fisheries.

Section 3

IOTC Convention Area

Article 22

Limitation of fishing capacity of vessels fishing in the IOTC Convention Area

1 The maximum number of EU vessels fishing for tropical tunas in the IOTC Convention Area and the corresponding capacity in gross tonnage shall be as set out in point 1 of Annex VI.

2 The maximum number of EU vessels fishing for swordfish (*Xiphias gladius*) and albacore (*Thunnus alalunga*) in the IOTC Convention Area and the corresponding capacity in gross tonnage shall be as set out in point 2 of Annex VI.

3 Member States may re-allocate vessels assigned to one of the two fisheries referred to in paragraphs 1 and 2 to the other fishery, provided that they can demonstrate to the Commission that this change does not lead to an increase of fishing effort on the fish stocks involved.

4 Member States shall ensure that, where there is a proposed transfer of capacity to their fleet, vessels to be transferred are on the IOTC Record of Vessels or on the record of vessels of other tuna regional fisheries organisations. Furthermore, no vessels featuring on the list of vessels engaged in IUU fishing activities (IUU vessels) of any RFMO may be transferred.

5 In order to take into account the implementation of the development plans submitted to the IOTC, Member States may only increase their fishing capacity beyond the ceilings referred to in paragraphs 1 and 2 within the limits set out in those plans.

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[^{F1}Article 23

Sharks

1 Retaining on board, transshipping or landing any part or whole carcass of thresher sharks of all the species of the family *Alopiidae* in any fishery shall be prohibited.

2 Retaining on board, transshipping or landing any part or whole carcass of oceanic whitetip sharks (*Carcharhinus longimanus*) in any fishery shall be prohibited, except for vessels under 24 metres overall length engaged solely in fishing operations within the Exclusive Economic Zone of the Member State whose flag they fly, and provided that their catch is destined solely for local consumption.

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

Textual Amendments

F1 Substituted by [Council Regulation \(EU\) No 1182/2013 of 19 November 2013 amending Regulations \(EC\) No 754/2009, \(EU\) No 1262/2012, \(EU\) No 39/2013 and \(EU\) No 40/2013 as regards certain fishing opportunities.](#)

Section 4

SPRFMO Convention Area

[^{F2}Article 24

Pelagic fisheries - capacity limitation

Member States having actively exercised pelagic fisheries activities in the SPRFMO Convention Area in 2007, 2008 or 2009 shall limit the total level of gross tonnage of vessels flying their flag and fishing for pelagic stocks in 2013 to the total Union level of 78 600 gross tonnage in that area.]

Textual Amendments

F2 Substituted by [Council Regulation \(EU\) No 297/2013 of 27 March 2013 amending Regulations \(EU\) No 44/2012, \(EU\) No 39/2013 and \(EU\) No 40/2013 as regards certain fishing opportunities.](#)

[^{F2}Article 25

Pelagic fisheries - TACs

1 Only Member States having actively exercised pelagic fisheries activities in the SPRFMO Convention Area in 2007, 2008 or 2009, as specified in Article 24, may fish for pelagic stocks in that area in accordance with the TACs set out in Annex IJ.

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2 The fishing opportunities set out in Annex IJ may only be fished under the condition that Member States send to the Commission, in order to communicate them to the SPRFMO Secretariat, the list of vessels actively fishing or engaged in transshipment in the SPRFMO Convention Area, records from vessel monitoring systems (VMS), monthly catch reports and, where available, port calls at the latest by the fifth day of the following month.]

Textual Amendments

F2 Substituted by [Council Regulation \(EU\) No 297/2013 of 27 March 2013 amending Regulations \(EU\) No 44/2012, \(EU\) No 39/2013 and \(EU\) No 40/2013 as regards certain fishing opportunities.](#)

Article 26

Bottom fisheries

Member States with a track record in bottom fishing effort or catch in the SPRFMO Convention Area over the period from 1 January 2002 to 31 December 2006 shall limit their effort or catch to:

- (a) the average level of catches or effort parameters over that period; and
- (b) only those parts of the SPRFMO Convention Area where bottom fisheries have occurred in any previous fishing season.

Section 5

IATTC Convention Area

Article 27

Purse-seine fisheries

1 The fishing by purse-seine vessels for yellowfin tuna (*Thunnus albacares*), bigeye tuna (*Thunnus obesus*) and skipjack tuna (*Katsuwonus pelamis*) shall be prohibited:

- a from 29 July to 28 September 2013 or from 18 November 2013 to 18 January 2014 in the area defined by the following limits:
 - the Pacific coastlines of the Americas,
 - longitude 150° W,
 - latitude 40° N,
 - latitude 40° S;
- b from 29 September to 29 October 2013 in the area defined by the following limits:
 - longitude 96° W,
 - longitude 110° W,
 - latitude 4° N,
 - latitude 3° S.

2 The Member States concerned shall notify the Commission of the selected period of closure referred to in paragraph 1 before 1 April 2013. All the purse-seine vessels of the Member

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States concerned shall stop purse-seine fishing in the areas defined in paragraph 1 during the selected period.

3 Purse-seine vessels fishing for tuna in the IATTC Convention Area shall retain on board and then land or tranship all yellowfin, bigeye and skipjack tuna caught.

4 Paragraph 3 shall not apply in the following cases:

- a where the fish is considered unfit for human consumption for reasons other than size; or
- b during the final set of a trip when there may be insufficient well space remaining to accommodate all the tuna caught in that set.

5 It shall be prohibited to fish for oceanic whitetip sharks (*Carcharhinus longimanus*) in the IATTC Convention Area, and to retain on board, to tranship, to store, to offer to sell, to sell or to land any part or whole carcass of oceanic whitetip sharks in that area.

6 When accidentally caught, the species referred to in paragraph 5 shall not be harmed. Specimens shall be promptly released by vessel operators, who shall also:

- a record the number of releases with indication of status (dead or alive);
- b report the information specified in paragraph (a) to the Member State of which they are nationals. Member States shall transmit this information to the Commission by 31 January 2013.

Section 6

SEAFO Convention Area

Article 28

Prohibition of fishing for deep water sharks

Directed fishing for the following deep water sharks in the SEAFO Convention Area shall be prohibited:

- skates (*Rajidae*),
- spiny dogfish (*Squalus acanthias*),
- blurred smooth lanternshark (*Etmopterus bigelowi*),
- shorttail lanternshark (*Etmopterus brachyurus*),
- great lanternshark (*Etmopterus princeps*),
- smooth lanternshark (*Etmopterus pusillus*),
- ghost catshark (*Apristurus manis*),
- velvet dogfish (*Scymnodon squamulosus*),
- deep-sea sharks of super-order *Selachimorpha*.

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Section 7

WCPFC Convention Area

[^{F1}Article 29

Conditions for bigeye tuna, yellowfin tuna, skipjack tuna and south Pacific albacore fisheries

1 Member States shall ensure that the number of fishing days allocated to purse-seine vessels fishing for bigeye tuna (*Thunnus obesus*), yellowfin tuna (*Thunnus albacares*) and skipjack tuna (*Katsuwonus pelamis*) in the part of the WCPFC Convention Area in the high seas and located between 20° N and 20° S does not increase.

2 EU vessels shall not target south Pacific albacore (*Thunnus alalunga*) in the WCPFC Convention Area south of 20° S.]

Textual Amendments

- F1** Substituted by [Council Regulation \(EU\) No 1182/2013 of 19 November 2013 amending Regulations \(EC\) No 754/2009, \(EU\) No 1262/2012, \(EU\) No 39/2013 and \(EU\) No 40/2013 as regards certain fishing opportunities.](#)

Article 30

Closed area for FAD fishing

[^{F21} In the part of the WCPFC Convention Area located between 20 ° N and 20 ° S, fishing activities of purse-seine vessels making use of fish aggregating devices (FADs) shall be prohibited between 00:00 hours of 1 July 2013 and 24:00 hours of 31 October 2013. During that period, a purse-seine vessel may only engage in fishing operations within that part of the WCPFC Convention Area if it carries onboard an observer to monitor that at no time does the vessel:

- a deploy or service a FAD or associated electronic device;
- b fish on schools in association with FADs.]

2 All purse- seine vessels fishing in the part of the WCPFC Convention Area referred to in paragraph 1 shall retain onboard and land or tranship all bigeye, yellowfin and skipjack tuna caught.

3 Paragraph 2 shall not apply in the following cases:

- a in the final set of a trip, if the vessel has insufficient well space left to accommodate all fish;
- b where the fish is unfit for human consumption for reasons other than size; or
- c when a serious malfunction of freezer equipment occurs.

Textual Amendments

- F2** Substituted by [Council Regulation \(EU\) No 297/2013 of 27 March 2013 amending Regulations \(EU\) No 44/2012, \(EU\) No 39/2013 and \(EU\) No 40/2013 as regards certain fishing opportunities.](#)

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F³ Article 30a

Overlap area between IATTC and WCPFC

1 Vessels listed exclusively in the WCPFC register shall apply the measures set out in Articles 29 to 31 when fishing in the overlap area between IATTC and WCPFC as defined in point (n) of Article 4.

2 Vessels listed in both the WCPFC register and the IATTC register and vessels listed exclusively in the IATTC register shall apply the measures set out in point (a) of Article 27(1) and in Article 27(2) to (6) when fishing in the overlap area between IATTC and WCPFC as defined in point (n) of Article 4.]

Textual Amendments

F3 Inserted by Council Regulation (EU) No 297/2013 of 27 March 2013 amending Regulations (EU) No 44/2012, (EU) No 39/2013 and (EU) No 40/2013 as regards certain fishing opportunities.

Article 31

Limitations to the number of EU vessels authorised to fish swordfish

The maximum number of EU vessels authorised to fish for swordfish (*Xiphias gladius*) in areas south of 20° S of the WCPFC Convention Area shall be as indicated in Annex VII.

Section 8

Bering Sea

Article 32

Prohibition on fishing in the high seas of the Bering Sea

Fishing for pollock (*Theragra chalcogramma*) in the high seas of the Bering Sea shall be prohibited.

Status:

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