



EUROPEAN
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Proposal for a

COUNCIL REGULATION

amending Council Regulation (EU) No 43/2014 as regards certain catch limits

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Council Regulation (EU) No 43/2014¹ fixes for 2014 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, to Union vessels, in certain non-Union waters. Fishing opportunities are usually amended several times during the period in which they are in effect.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

Not applicable.

3. LEGAL ELEMENTS OF THE PROPOSAL

The proposed amendments seek to modify the Regulation mentioned above as outlined below.

On the basis of the allocation established by Greenland, and in accordance with the Fisheries Partnership Agreement (FPA) between the European Community on the one hand, and the Government of Denmark and the Home Rule Government of Greenland, on the other hand, and the Protocol thereto, the Union is to receive 7.7 % of the TAC for capelin in Greenland waters of ICES subareas V and XIV. By the time the proposal below was sent for adoption, neither the offer from Greenland nor the opinion of Member States on that offer were available. Therefore, this TAC is shown in "pm" (pro memoria) in this proposal, and is to be completed after its adoption..

As regards redfish in international waters of I and II, Regulation (EU) No 43/2014 included an incorrect figure (19,300 tonnes) that did not reflect the TAC level established by the North-East Atlantic Fisheries Commission (NEAFC): 19,500 tonnes. This TAC is not to be fished prior to 1 July 2014, as stated in the footnote attached to the Union quota, which is not being modified. Another error was identified in the TAC for Greenland halibut in Greenland waters of V and XIV: the Union quota distributed between Norway, the Faroe Islands, and some Member States was 200 tonnes higher than the actual offer made by Greenland: 4,665 tonnes, instead of 4,465 tonnes. Finally, certain errors are corrected in the TAC for mackerel in IIIa and IV; Union waters of IIa, IIIb, IIIc and Subdivisions 22-32: firstly, the Union quota can be fished in Faroese waters; secondly, the Faroe Islands should be able to fish part of their mackerel quota (46,850 tonnes) in certain EU areas and this should be reflected in the relevant table; in relation to this, the description of the Union waters area where Faroese vessels can be authorised to fish for mackerel must also be corrected (Annex VIII of Regulation (EU) No 43/2014).

Finally, this proposal contains amendments linked to the implementation of measures linked to Regional Fisheries Management Organisations (RFMOs). At its 8th Regular Session in 2012, the Western and Central Pacific Fisheries Commission (WCPFC) adopted a conservation and management measure prohibiting certain fishing activities as regards oceanic whitetip sharks (*Carcharhinus longimanus*). At its 9th Regular Session, WCPFC adopted a similar prohibition for silky sharks (*Carcharhinus falciformis*). Both prohibitions should be implemented in Union law.

¹ Council Regulation (EU) No 43/2014 of 20 January 2014 fixing for 2014 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in Union waters and, to Union vessels, in certain non-Union waters (OJ L 24, 28/01/2014, p. 1–145).

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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) The Fisheries Partnership Agreement between the European Community on the one hand, and the Government of Denmark and the Home Rule Government of Greenland, on the other hand², and the Protocol thereto³, provide that the Union is to receive 7.7 % of the total available catches (TAC) for capelin in Greenland waters of ICES zones V and XIV.
- (2) Council Regulation (EU) No 43/2014⁴ fixed a Union quota of 0 tonnes for 2014 for the stock of capelin in those Greenland waters, to be applied until 30 April 2014.
- (3) On *[date to be added]* the Union received information from the Greenland authorities that the TAC for capelin in Greenland waters of ICES subareas V and XIV had been established at *[pm]* tonnes for the period from *[date to be added]* until *[date to be added]*. The relevant Union quota for that period should therefore be fixed at *[pm]* tonnes.
- (4) It is necessary to correct the TAC established for the stock of redfish in international waters of I and II and the TAC established for Greenland halibut in Greenland waters of V and XIV. It is also necessary to correct the TAC for mackerel in the North Sea and adjacent waters, in order to include the mutual access arrangements between the Union and the Faroe Islands; furthermore, the area where Faroese vessels may obtain fishing authorisations for mackerel fishing should be modified accordingly.
- (5) At its 8th Regular Session, the Western and Central Pacific Fisheries Commission (WCPFC) adopted a prohibition to retain on board, tranship, store or land oceanic whitetip sharks (*Carcharhinus longimanus*). At its 9th Regular Session, WCPFC adopted a similar prohibition for silky sharks (*Carcharhinus falciformis*). Both prohibitions should be implemented in the law of the Union. In accordance with Article 2 of Council Regulation (EC) No 847/96⁵, the stocks that are subject to the various measures referred to therein should be identified.

² OJ L 172, 30.6.2007, p. 4.

³ OJ L 293, 23.10.2012, p. 5.

⁴ OJ L 24, 28/01/2014, p. 1–145.

⁵ Council Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of TACs and quotas (OJ L 115, 9.5.1996, p. 3).

- (6) The catch limits provided for in Regulation (EU) No 43/2014 apply from 1 January 2014. The provisions of this Regulation concerning catch limits should therefore in principle also apply from this date. Such retroactive application is without prejudice to the principles of legal certainty and protection of legitimate expectations as the fishing opportunities concerned have not yet been exhausted. However, the prohibition to fish silky sharks in the WCPFC Convention Area becomes effective on 1 July 2014 and should apply from that date. Similarly, the corrected TAC for Greenland halibut in Greenland waters of V and XIV should apply from the date of entry into force of this Regulation, as it entails a reduction of fishing opportunities for Union vessels. Moreover, in view of the fishing season for capelin, the catch limits for the stock in question provided for by this Regulation should apply from [date to be added].
- (7) Since the modification of some catch limits has an influence on the economic activities and the planning of the fishing season of Union vessels, this Regulation should enter into force immediately after its publication.
- (8) Regulation (EU) No 43/2014 should be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1
Amendments to Regulation (EU) No 43/2014

- (1) In Regulation (EU) No 43/2014, the following Article 37a is inserted:

“Article 37a
Oceanic whitetip sharks

1. Retaining on board, transshipping, storing or landing any part or whole carcass of oceanic whitetip sharks (*Carcharhinus longimanus*) shall be prohibited.
3. When accidentally caught, species referred to in paragraph 1 shall not be harmed. Specimens shall be promptly released.”

- (2) the following Article 37b is inserted:

“Article 37b
Silky sharks

1. Retaining on board, transshipping, storing or landing any part or whole carcass of silky sharks (*Carcharhinus falciformis*) shall be prohibited.
2. When accidentally caught, species referred to in paragraph 1 shall not be harmed. Specimens shall be promptly released.”

- (3) Annex IA to Regulation (EU) No 43/2014 is amended in accordance with the text set out in Annex I to this Regulation.
- (4) Annex IB to Regulation (EU) No 43/2014 is amended in accordance with the text set out in Annex II to this Regulation.
- (5) Annex VIII to Regulation (EU) No 43/2014 is amended in accordance with the text set out in Annex III to this Regulation.

Article 2
Entry into force

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

Point (2) of Article 1 shall apply from 1 July 2014.

Points (3) and (5) of Article 1 and point (c) of Annex II shall apply from 1 January 2014.

Point (a) of Annex II shall apply from [*date to be added*].

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

Done at Brussels,

For the Council
The President