Council Regulation (EC) No 1359/2008 of 28 November 2008 fixing for 2009 and 2010 the fishing opportunities for Community fishing vessels for certain deep-sea fish stocks

COUNCIL REGULATION (EC) No 1359/2008

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fixing for 2009 and 2010 the fishing opportunities for Community fishing vessels for certain deep-sea fish stocks

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy[(1)], and in particular Article 20 thereof,

Having regard to the proposal of the Commission,

Whereas:

(1) Under Article 4 of Regulation (EC) No 2371/2002 the Council is to adopt the measures necessary to ensure access to waters and resources and the sustainable pursuit of fishing activities taking into account available scientific advice and any advice received from Regional Advisory Councils established under Article 31 of that Regulation.

(2) Under Article 20 of Regulation (EC) No 2371/2002, it is incumbent upon the Council to establish fishing opportunities by fishery or group of fisheries and to allocate them in accordance with prescribed criteria.

(3) The latest scientific advice from the International Council for the Exploration of the Sea (ICES) concerning certain stocks of fish found in the deep sea indicates that those stocks are harvested unsustainably, and that fishing opportunities for those stocks should be reduced in order to assure their sustainability.

(4) The ICES has further advised that the exploitation rate of orange roughy in ICES subarea VII is much too high. Scientific advice further indicates that orange roughy in subarea VI is heavily depleted, and areas of vulnerable aggregations of that species have been identified. It is therefore appropriate to prohibit fishing for orange roughy in those areas.

(5) In accordance with Council Regulation (EC) No 2347/2002 of 16 December 2002 establishing specific access requirements and associated conditions applicable to fishing for deep-sea stocks[(2)], the fishing opportunities for deep-sea species, as defined in Annex I to that Regulation, are decided on a bi-annual basis. Nevertheless, an exception is made for the stocks of greater silver smelt and blue ling for which the fishing opportunities depend on the outcome of the annual negotiations with Norway.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 1359/2008. (See end of Document for details)*

The fishing possibilities for those stocks therefore remain to be established in the annual fishing opportunities regulation decided by the Council in December.

(6) In order to ensure effective management of quotas, the specific conditions under which fishing operations occur should be established.

(7) In accordance with Article 2 of Council Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of TACs and quotas[(3)], it is necessary to indicate which stocks are subject to the various measures fixed therein.

(8) The measures provided for in this Regulation should be fixed by reference to ICES zones as defined in Council Regulation (EEC) No 3880/91 of 17 December 1991 on the submission of nominal catch statistics by Member States fishing in the north-east Atlantic[(4)] and to CECAF zones (Committee for Eastern Central Atlantic Fisheries) as defined in Council Regulation (EC) No 2597/95 of 23 October 1995 on the submission of nominal catch statistics by Member States fishing in certain areas other than those of the North Atlantic[(5)].

(9) The fishing opportunities should be used in accordance with the Community legislation on the matter, 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[(6)], Commission Regulation (EEC) No 1381/87 of 20 May 1987 establishing detailed rules concerning the marking and documentation of fishing vessels[(7)], Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy[(8)], Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing permits[(9)], 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[(10)], Regulation (EC) No 2347/2002 and Council Regulation (EC) No 2187/2005 of 21 December 2005 for the conservation of fishery resources through technical measures in the Baltic Sea, the Belts and the Sound[(11)].

(10) In order to ensure the livelihood of Community fishermen, it is important to open these fisheries on 1 January 2009. Given the urgency of the matter, it is imperative to grant an exception to the six-week period referred to in point I(3) of the Protocol on the role of national parliaments in the European Union, annexed to the Treaty on European Union and to the Treaties establishing the European Communities,

HAS ADOPTED THIS REGULATION:

Article 1

Subject-matter

This Regulation fixes for the years 2009 and 2010 the annual fishing opportunities available to Community fishing vessels for stocks of deep-sea species in Community waters and in certain non-Community waters where catch limitations are required, and the specific conditions under which such fishing opportunities may be used.

Article 2

Definitions

1 For the purposes of this Regulation, 'deep-sea fishing permit' means the fishing permit referred to in Article 3 of Regulation (EC) No 2347/2002.

2 The definitions of ICES and CECAF zones are those given, respectively, in Regulation (EEC) No 3880/91 and Regulation (EC) No 2597/95.

Article 3

Fixing of fishing opportunities

Fishing opportunities for stocks of deep-sea species for Community vessels are fixed as set out in the Annex.

Article 4

Allocation among Member States

The allocation of fishing opportunities among Member States provided for in the Annex shall be without prejudice to:

(a) exchanges made pursuant to Article 20(5) of Regulation (EC) No 2371/2002;

(b) reallocations made pursuant to Articles 21(4) and 32(2) of Regulation (EEC) No 2847/93 and Article 23(4) of Regulation (EC) No 2371/2002;

(c) additional landings allowed pursuant to Article 3 of Regulation (EC) No 847/96;

(d) quantities withheld pursuant to Article 4 of Regulation (EC) No 847/96;

(e) deductions made pursuant to Article 5 of Regulation (EC) No 847/96 and Article 23(4) of Regulation (EC) No 2371/2002.

Article 5

Quota flexibility

For the purposes of Regulation (EC) No 847/96, all quotas in the Annex to the present Regulation shall be considered 'Analytical' quotas.

However, the measures provided for in Article 5(2) of Regulation (EC) No 847/96 shall not apply to those quotas.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 1359/2008. (See end of Document for details)*

Article 6

Conditions for landing catch and by-catch

1 Fish from stocks for which fishing opportunities are fixed by this Regulation may be retained on board or landed only if they were taken by vessels of a Member State which has a quota which is not exhausted. All landings shall count against the quota.

2 Paragraph 1 shall not apply to catches taken in the course of scientific investigations carried out in accordance with Article 43 of Regulation (EC) No 850/98. Such catches shall not count against the quota.

Article 7

Orange roughy

1 Fishing for orange roughy shall be prohibited in the following sea areas:

a that sea area enclosed by rhumb lines sequentially joining the following positions:
57°00′ N, 11°00′ W
57°00′ N, 8°30′ W
56°23′ N, 8°30′ W
55°00′ N, 8°30′ W
55°00′ N, 11°00′ W
57°00′ N, 11°00′ W;

b that sea area enclosed by rhumb lines sequentially joining the following positions:
55°30′ N, 15°49′ W
53°30′ N, 14°11′ W
50°30′ N, 14°11′ W
50°30′ N, 15°49′ W;

c that sea area enclosed by rhumb lines sequentially joining the following positions:
55°00′ N, 13°51′ W
55°00′ N, 10°37′ W
54°15′ N, 10°37′ W
53°30′ N, 11°50′ W
53°30′ N, 13°51′ W.

Those positions and the corresponding rhumb lines and vessel positions shall be measured according to the WGS84 standard.

2 Vessels holding a deep-sea fishing permit that have entered the areas defined in paragraph 1 shall not retain on board or tranship any quantity of orange roughy, nor land any quantity of orange roughy at the end of that fishing trip unless:

a all gears carried on board are lashed and stowed during the transit in accordance with the conditions laid down in Article 20(1) of Regulation (EEC) No 2847/93; or

b the average speed during transit is equal to, or greater than, 8 knots.

3 Member States shall ensure that vessels holding a deep-sea fishing permit are properly monitored by the Fisheries Monitoring Centres (FMC), which shall have a system to detect and record the vessels' entry into, transit through and exit from the areas defined in paragraph 1.

Article 8

Entry into force

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

It shall apply from 1 January 2009.

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