Council Regulation (EC) No 1322/2008 of 28 November 2008 fixing the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in the Baltic Sea for 2009

COUNCIL REGULATION (EC) No 1322/2008

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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 Council Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of TACs and quotas[(2)], and in particular Article 2 thereof,

Having regard to Council Regulation (EC) No 1098/2007 of 18 September 2007 establishing a multiannual plan for the cod stocks in the Baltic Sea and the fisheries exploiting those stocks[(3)], and in particular Articles 5 and 8(3) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) Article 4 of Regulation (EC) No 2371/2002 requires the Council to adopt the measures necessary to ensure access to waters and resources and the sustainable pursuit of fishing activities taking account of available scientific advice and, in particular, the report prepared by the Scientific, Technical and Economic Committee for Fisheries, as well as in the light of any advice received from the Baltic Sea Regional Advisory Council.

(2) Under Article 20 of Regulation (EC) No 2371/2002, it is incumbent upon the Council to establish fishing opportunity limits by fishery or group of fisheries and the allocation of these opportunities to Member States.

(3) In order to ensure effective management of fishing opportunities, the specific conditions under which fishing operations are carried out should be established.

(4) The principles and certain procedures for fishery management need to be laid down at Community level, so that Member States can ensure the management of the vessels flying their flag.

(5) Article 3 of Regulation (EC) No 2371/2002 lays down definitions of relevance for the allocation of fishing opportunities.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 1322/2008. (See end of Document for details)*

(6) In accordance with Article 2 of Council Regulation (EC) No 847/96, the stocks that are subject to the various measures referred to therein are to be identified.

(7) Fishing opportunities should be used in accordance with Community legislation, 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[4], Council Regulation (EEC) No 2930/86 of 22 September 1986 defining characteristics for fishing vessels[5], Commission Regulation (EEC) No 1381/87 of 20 May 1987 establishing detailed rules concerning the marking and documentation of fishing vessels[6], 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[7], Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy[8], Commission Regulation (EC) No 2244/2003 of 18 December 2003 laying down detailed provisions regarding satellite-based Vessel Monitoring Systems[9], 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[10] and Regulation (EC) No 1098/2007.

(8) To ensure that annual fishing opportunities are set at a level commensurate with the sustainable exploitation of resources in environmental, economic and social terms, account has been taken of the guiding principles for fixing total allowable catches (TACs) as described in the Communication from the Commission to the Council on fishing opportunities for 2009: Policy Statement from the European Commission.

(9) To help conserve fish stocks, certain supplementary measures on technical conditions of fishing should be implemented in 2009.

(10) 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:

CHAPTER I

SCOPE AND DEFINITIONS

Article 1

Subject matter

This Regulation fixes fishing opportunities for 2009 for certain fish stocks and groups of fish stocks in the Baltic Sea and the associated conditions under which such fishing opportunities may be used.

***Changes to legislation:** There are currently no known outstanding effects for the Council Regulation (EC) No 1322/2008. (See end of Document for details)*

Article 2

Scope

1 This Regulation shall apply to Community fishing vessels (Community vessels) operating in the Baltic Sea.

2 By way of derogation from paragraph 1, this Regulation shall not apply to fishing operations conducted solely for the purpose of scientific investigations which are carried out with the permission and under the authority of the Member State concerned and of which the Commission and the Member State in whose waters the research is carried out have been informed in advance.

Article 3

Definitions

In addition to the definitions laid down in Article 3 of Regulation (EC) No 2371/2002, for the purposes of this Regulation the following definitions shall apply:

(a) the International Council for the Exploration of the Sea (ICES) zones are as defined in Regulation (EEC) No 3880/91;

(b) ‘Baltic Sea’ means ICES subdivisions 22-32;

(c) ‘total allowable catch (TAC)’ means the quantity that can be taken from each stock each year;

(d) ‘quota’ means a proportion of the TAC allocated to the Community, a Member State or a third country;

(e) ‘day absent from port’ means any continuous period of 24 hours or part thereof during which the vessel is absent from port.

CHAPTER II

FISHING OPPORTUNITIES AND ASSOCIATED CONDITIONS

Article 4

Catch limits and allocations

The catch limits, the allocation of such limits among Member States, and additional conditions in accordance with Article 2 of Regulation (EC) No 847/96 are set out in Annex I to this Regulation.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 1322/2008. (See end of Document for details)*

Article 5

Special provisions on allocations

1 The allocation of catch limits among Member States, as set out in Annex I, 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), 23(1) and 32(2) of Regulation (EEC) No 2847/93;

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 Article 5 of Regulation (EC) No 847/96.

2 For the purpose of withholding quotas to be transferred to 2010, Article 4(2) of Regulation (EC) No 847/96 may apply, by way of derogation from that Regulation, to all stocks subject to analytical TAC.

Article 6

Conditions for catches and by-catches

1 Fish from stocks for which catch limits are fixed shall only be retained on board or landed if:

a the catches have been taken by vessels of a Member State with a quota and that quota has not been exhausted; or

b species other than herring and sprat are mixed with other species, and are not sorted either on board or on landing and the catches have been taken with trawls, Danish seines or similar gears of a mesh size less than 32 mm.

2 All landings shall count against the quota or, if the Community share has not been allocated among Member States by quotas, against the Community share, except for catches made under paragraph 1(b).

3 Where the quota for herring allocated to a Member State is exhausted, vessels flying the flag of that Member State, registered in the Community, and operating in the fisheries to which the relevant quota applies shall not land catches that are unsorted and that contain herring.

4 Where the quota for sprat allocated to a Member State is exhausted, vessels flying the flag of that Member State, registered in the Community, and operating in the fisheries to which the relevant quota applies shall not land catches that are unsorted and that contain sprat.

Article 7

Fishing effort limits

1 Fishing effort limits are set out in Annex II.

2 The limits referred to in paragraph 1 shall apply to ICES subdivisions 27 and 28.2, in so far as the Commission has not taken a decision in accordance with Article 29(2) of Regulation (EC) No 1098/2007 to exclude those subdivisions from the restrictions provided for in Article 8(1)(b), (3), (4) and (5) and Article 13 of that Regulation.

***Changes to legislation:** There are currently no known outstanding effects for the Council Regulation (EC) No 1322/2008. (See end of Document for details)*

3 The limits referred to in paragraph 1 shall not apply to ICES subdivision 28.1, in so far as the Commission has not taken a decision in accordance with Article 29(4) of Regulation (EC) No 1098/2007 that the restrictions provided for in Article 8(1)(b), (3), (4) and (5) of Regulation (EC) No 1098/2007 shall apply to that subdivision.

Article 8

Transitional technical measures

Transitional technical measures are set out in Annex III.

CHAPTER III

FINAL PROVISIONS

Article 9

Data transmission

When Member States send data to the Commission relating to landings of quantities of stocks caught, pursuant to Article 15(1) of Regulation (EEC) No 2847/93, they shall use the stock codes set out in Annex I to this Regulation.

Article 10

Entry into force

This Regulation shall enter into force on the day of 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.

Done at Brussels, 28 November 2008.

For the Council

The President

M. BARNIER