Council Regulation (EC) No 338/2008 of 14 April 2008 providing for the adaptation of cod fishing quotas to be allocated to Poland in the Baltic Sea (Subdivisions 25-32, EC Waters) from 2008 to 2011

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2847/1993 of 12 October 1993 establishing a control system applicable to the Common Fisheries Policy[(1)], and in particular Article 23(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) Council Regulation (EC) No 1941/2006 of 11 December 2006, fixing the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in the Baltic Sea for 2007[(2)], allocated cod fishing quotas to Poland in the Baltic Sea for 2007.

(2) Commission Regulation (EC) No 804/2007[(3)] established that catches for cod in the Eastern Baltic Sea (Subdivisions 25-32, EC Waters) were deemed to have exhausted the quota allocated to Poland for 2007 and therefore prohibited, as from 12 July 2007, fishing for that stock in the Baltic Sea by vessels flying the flag of Poland.

(3) On the basis of information in its possession, the Commission estimated in July 2007 that the catches of cod in the Eastern Baltic Sea (Subdivisions 25-32, EC Waters) by vessels flying the flag of Poland were three times the amounts originally declared by Poland. Moreover, fishing vessels flying the flag of Poland continued fishing for that stock after the prohibition, thereby further overshooting the quota allocated to Poland for 2007.

(4) Following several technical meetings between the Polish authorities and the Commission in order to establish a verified quantity of overshooting, Poland notified an overshooting of the quota by 8 000 tonnes.

(5) Article 23(2) of Regulation (EEC) No 2847/1993 provides that the Council is to adopt rules for deducting quantities fished in excess from the annual quotas. Those rules are to be established in accordance with the objective and management strategies of the common fisheries policy (CFP), taking into account, as a matter of priority, the degree of overfishing and the biological status of the resources concerned.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 338/2008. (See end of Document for details)*

(6) Such rules have been established by Council Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of TACs and quotas[4]. According to Article 5 of that Regulation the quantities fished in excess of the annual quotas should be deducted from the quota of the same stock in the following year.

(7) The main causes for the overfishing of cod by vessels flying the flag of Poland are a deficient control and enforcement scheme and a fleet for which the potential to catch cod is disproportionate with regard to the fishing opportunities allocated each year to Poland by the Council.

(8) In order to address comprehensively the serious shortcomings in the implementation of the common fisheries policy by Poland, resulting in particular in misreported and undeclared fishing for the cod in the Eastern Baltic Sea, and to avoid a repetition of the overfishing of cod that occurred in 2007, Poland has committed itself to adopt and implement National Action Plans including immediate measures to improve the control and enforcement systems in accordance with Community standards and specific measures to adjust the capacity of the Polish fleets in order to achieve a stable balance between that capacity and the fishing opportunities for cod in the Baltic Sea allocated to Poland.

(9) In light of this commitment and given the high amount of overfishing and the resulting socio-economic consequences of its immediate pay-back, it is appropriate to derogate from Article 5 of Regulation (EC) No 847/96 and to adopt specific rules for the deduction of the quantities fished in excess.

(10) The quantity of cod fished in excess by Poland in 2007 should therefore be deducted from Poland's quota over a period of four years, in such a way as to reduce the socio-economic consequences in particular in the first year.

(11) The Commission should evaluate the implementation of the National Action Plans adopted by Poland. If the actions and timelines laid down in the plans are not met, the Council may amend the rules for the deduction of the quantities fished in excess.

(12) In order to ensure certainty for the fishers concerned as regards the size of their cod fishing quotas for 2008 in the Baltic Sea and in order to avoid endangering resources, it is essential to decide any reduction in such quotas for 2008 as early as possible in the fishing season. Given the urgency of the matter, it is imperative to grant an exception to the six-week period referred to in Title I Article 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

For the purposes of this Regulation ‘amount overfished in the year 2007’ means the amount by which the quota allocated to Poland for cod (*Gadus morhua*) in the Baltic Sea (Subdivisions 25-32, EC Waters) was exceeded in the year 2007.