Council Regulation (EC) No 2270/2004 of 22 December 2004 fixing for 2005 and 2006 the fishing opportunities for Community fishing vessels for certain deep-sea fish stocks

COUNCIL REGULATION (EC) No 2270/2004

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fixing for 2005 and 2006 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 (EEC) 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 establish the measures necessary to ensure access to waters and resources and the sustainable pursuit of fishing activities taking into account, *inter alia*, available scientific advice.

(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 Area VII is far too high. Scientific advice further indicates that orange roughy in Area VI is heavily depleted, and areas of vulnerable aggregations of these species have been identified. It is therefore appropriate to prohibit fishing for orange roughy in those areas.

(5) The Community is a contracting party to the North-East Atlantic Fisheries Convention, which has recommended a limitation on the fishing effort deployed to catch certain deep-sea species. That recommendation should therefore be implemented by the Community.

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

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 2270/2004. (See end of Document for details)*

(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[(2)], it is necessary to indicate which stocks are subject to the various measures fixed therein.

(8) Scientific advice from ICES concerning most of the deep-sea species indicates that fishing effort should be reduced. In the absence of specific measures limiting the activity of vessels fishing for deep-sea species, it is therefore appropriate to adjust available effort by adjusting the power and capacity of the fishing fleet in accordance with the scientific advice.

(9) 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 Northeast Atlantic[(3)] 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[(4)].

(10) The fishing opportunities should be utilised in accordance with the Community legislation on the matter, and in particular with Commission Regulation (EEC) No 1381/87 of 20 May 1987 establishing detailed rules concerning the marking and documentation of fishing vessels[(5)], Council Regulation (EEC) No 2807/83 of 22 September 1983 laying down detailed rules for recording information on Member States' catches of fish[(6)], Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy[(7)], Council Regulation (EC) No 88/98 of 18 December 1997 laying down certain technical measures for the conservation of fishery resources in the waters of the Baltic Sea, the Belts and the Sound[(8)], Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing permits[(9)] and 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)].

(11) In order to ensure the livelihood of Community fishermen, it is important to open these fisheries on 1 January 2005. Given the urgency of the matter, it is imperative to grant an exception to the six-week period referred to in paragraph 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 2005 and for 2006, for stocks of deep-sea species and for Community fishing vessels, annual fishing opportunities in zones in Community waters and in certain non Community waters where catch limitations are required, and the specific conditions under which fishing opportunities may be utilised.

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 of 16 December 2002 establishing specific access requirements and associated conditions applicable to fishing for deep-sea stocks[11].

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 (EEC) 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 this Regulation shall be considered 'Analytic' 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 2270/2004. (See end of Document for details)*

Article 6

Conditions for landing catch and by-catch

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.

The first subparagraph shall not apply to catches taken in the course of scientific investigations carried out under Regulation (EC) No 850/98, which shall not count against the quota.

Article 7

Orange Roughy

1 The Orange Roughy Protection Areas are defined as 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, 9° 38′ 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 Member States shall ensure that vessels holding a deep-sea fishing permit shall be 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.

3 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:

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

***Changes to legislation:** There are currently no known outstanding effects for the Council Regulation (EC) No 2270/2004. (See end of Document for details)*

— the average speed during transit is not less than 8 knots.

Article 8

Effort limitations and associated conditions for the management of stocks

Each Member State shall ensure that for 2005 the fishing effort levels, measured in kilowatt days absent from port, by vessels holding deep-sea fishing permits do not exceed 90 % of the fishing effort deployed by its vessels in 2003 on trips when deep-sea fishing permits were held and deep sea species, as listed in Annex I and Annex II to Council Regulation (EC) No 2347/2002, excluding greater silver smelt, were caught.

Article 9

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 as from 1 January 2005.

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