# Council Regulation(EC) No 41/2007 of 21 December 2006 fixing for 2007 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required

## COUNCIL REGULATION[X1(EC) No 41/2007]

## of 21 December 2006

## fixing for 2007 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required

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 423/2004 of 26 February 2004 establishing measures for the recovery of cod stocks[(3)], and in particular Articles 6 and 8 thereof,

Having regard to Council Regulation (EC) No 811/2004 of 21 April 2004 establishing measures for the recovery of the Northern hake stock[(4)], and in particular Article 5 thereof,

Having regard to Council Regulation (EC) No 2166/2005 of 20 December 2005 establishing measures for the recovery of the Southern hake and Norway lobster stocks in the Cantabrian Sea and Western Iberian peninsula[(5)], and in particular Articles 5 and 6 thereof,

Having regard to Council Regulation (EC) No 388/2006 of 23 February 2006 establishing a multiannual plan for the sustainable exploitation of the stock of sole in the Bay of Biscay[(6)], and in particular Article 4 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 (STECF).

(2) Under Article 20 of Regulation (EC) No 2371/2002, it is incumbent upon the Council to establish the total allowable catches (TAC) by fishery or group of fisheries. Fishing

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opportunities should be allocated to Member States and third countries in accordance with the criteria laid down in Article 20 of that Regulation.

(3) In order to ensure effective management of the TACs and quotas, the specific conditions under which fishing operations occur 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.

(6) Fishing opportunities should be used in accordance with the Community legislation on the subject, 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[7], Council Regulation (EEC) No 2930/86 of 22 September 1986 defining characteristics for fishing vessels[8], Commission Regulation (EEC) No 1381/87 of 20 May 1987 establishing detailed rules concerning the marking and documentation of fishing vessels[9], Council Regulation (EEC) No 3880/91 of 17 December 1991 on the submission of nominal catch statistics by Member States in the north-east Atlantic[10], Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy[11], Council Regulation (EC) No 1626/94 of 27 June 1994 laying down certain technical measures for the conservation of fishery resources in the Mediterranean[12], Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing permits[13], 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[14], Council Regulation (EC) No 1434/98 of 29 June 1998 specifying conditions under which herring may be landed for industrial purposes other than direct human consumption[15], Council Regulation (EC) No 973/2001 of 14 May 2001 laying down certain technical measures for the conservation of certain stocks of highly migratory species[16], Council Regulation (EC) No 2347/2002 of 16 December 2002 establishing specific access requirements and associated conditions applicable to fishing for deep-sea stocks[17], Council Regulation (EC) No 1954/2003 of 4 November 2003 on the management of the fishing effort relating to certain Community fishing areas and resources[18], Commission Regulation (EC) No 2244/2003 of 18 December 2003 laying down detailed provisions regarding satellite-based Vessel Monitoring Systems[19], Regulation (EC) No 423/2004, Council Regulation (EC) No 601/2004 of 22 March 2004 laying down certain control measures applicable to fishing activities in the area covered by the Convention on the conservation of Antarctic marine living resources[20], Regulation (EC) No 811/2004, Regulation (EC) No 2166/2005, Regulation (EC) No 388/2006 and Council Regulation (EC) No 2015/2006 of 19 December 2006 fixing for 2007 and 2008 the fishing opportunities for Community fishing vessels for certain deep-sea fish stocks[21].

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(7) It is necessary, following the advice from the International Council for the Exploration of the Sea (ICES), to maintain the application of a temporary system to manage the catch limits of anchovy in ICES zone VIII.

(8) Commission Regulation (EC) No 1116/2006 of 20 July 2006 prohibiting fishing for anchovy in ICES Sub-area VIII[(22)] should be repealed. inserted by me

(9) It is necessary, following the advice from the ICES, to maintain and revise a system to manage the fishing effort on sandeel in ICES zones IIIa and IV and EC waters of ICES zone IIa.

(10) As a transitional measure in the light of the most recent scientific advice from the ICES, the fishing effort on certain deep-sea species should be further reduced.

(11) Under Article 20 of Regulation (EC) No 2371/2002 it is incumbent upon the Council to decide on the conditions associated with the limits on catches and/or fishing effort limits. Scientific advice indicates that substantial catches in excess of agreed TACs result in the sustainability of fishing operations being prejudiced. It is therefore appropriate to introduce associated conditions that will result in improved implementation of the agreed fishing possibilities.

(12) At its Annual Meeting in 2006, the Northwest Atlantic Fisheries Organisation (NAFO) adopted a number of technical and control measures. It is necessary to implement these measures.

(13) At its XXVth annual meeting in 2006, the Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR) adopted relevant catch limits for the stocks open to established fisheries by any CCAMLR Member. CCAMLR also approved the participation of Community vessels in exploratory fisheries for *Dissostichus spp.* in Subareas FAO 88.1 and 88.2 as well as in Divisions 58.4.1, 58.4.2, 58.4.3a) and 58.4.3b) and made the relevant fishing activities subject to catch and by-catch limits, as well as to certain specific technical measures. Those limits and technical measures should also be applied.

(14) In order to comply with international obligations assumed by the Community as a Contracting Party to the CCAMLR, including the obligation to apply the measures adopted by the CCAMLR Commission, the TACs adopted by that Commission for the 2006-2007 season and the corresponding season limit dates should be applied.

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

(16) In accordance with the procedure provided for in the agreements or protocols on fisheries relations, the Community has held consultations on fishing rights with Norway[(23)], the Faroe Islands[(24)] and Greenland[(25)].

(17) The Community is a contracting party to several regional fisheries organisations. Those fisheries organisations have recommended the setting of catch limitations and/or effort limitations and other conservation rules for certain species. Such recommendations should therefore be implemented by the Community.

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(18) For the adjustment of fishing effort limitations on cod as laid down in Regulation (EC) No 423/2004, alternative arrangements are maintained in order to manage fishing effort consistently with the TAC, as laid down in Article 8(3) of that Regulation.

(19) Certain temporary provisions should be maintained on the use of VMS data in order to provide for greater efficiency and effectiveness in the monitoring, control and surveillance of effort management.

(20) Scientific advice indicates that the stock of plaice and sole in the North Sea are not fished sustainably and that levels of discards of plaice are very high. Scientific advice and advice from the North Sea Regional Advisory Council indicate that it is appropriate to adjust the fishing opportunities in terms of fishing effort of vessels targeting plaice.

(21) Scientific advice recommends the adoption of a recovery plan for the stocks of sole in the Western channel. It is necessary to apply a provisional effort management scheme, while the Council is considering a long-term arrangement. For the cod stocks in the North Sea, the Skagerrak and the Western channel, in the Irish Sea and in the west of Scotland, and the stocks of hake and of Norway lobster in ICES zones VIIIc and IXa, the levels of permissible effort within the management scheme needs to be adapted.

(22) In order to contribute to the conservation of fish stocks, certain supplementary measures on control and technical conditions of fishing should be implemented in 2007.

(23) Scientific investigations have demonstrated that the fishing practices when fishing with gillnets and entangling nets in ICES zones VIa, VIb, VIIb, VIIc, VIIj, VIIk and XII constitute a serious threat to deep-sea species. However, transitional measures to allow these fisheries to take place under certain conditions should be implemented until more permanent measures are adopted.

(24) In order to ensure sustainable exploitation of the hake stocks and to reduce discards, the latest developments on selective gears should be maintained as transitional measures in ICES zones VIIIa, VIIIb and VIIId.

(25) The control of landings and transhipments of frozen fish by third-country fishing vessels landed in Community ports needs to be improved. In November 2006 the North-East Atlantic Fisheries Commission (NEAFC) adopted a recommendation involving port State control. Implementation of that recommendation in the Community legal order should be ensured.

(26) In November 2006 the NEAFC recommended replacing a number of vessels on the list of vessels that have been confirmed as having engaged in illegal, unreported and unregulated fisheries. Implementation of the recommendations in the Community legal order should be ensured.

(27) In order to contribute to the conservation of octopus and in particular to protect juveniles, it is necessary to maintain, in 2007, a minimum size of octopus from the maritime waters under the sovereignty or jurisdiction of third countries and situated in the CECAF region pending the adoption of a regulation amending Regulation (EC) No 850/98.

(28) In the light of advice from STECF, fishing with beam trawl using electrical pulse current should be allowed in ICES zones IVc and IVb south under certain conditions.

(29) At its Annual Meeting in 2006, the Inter-American Tropical Tuna Commission (IATTC) adopted catch limitations for yellowfin tuna, bigeye tuna and skipjack tuna. Although the Community is not a member of the IATTC, it is necessary to implement those measures to ensure sustainable management of the resource under the jurisdiction of that organisation.

(30) At its Second Annual Meeting, the Western and Central Pacific Fisheries Commission (WCPFC) adopted effort limitations for yellowfin tuna, bigeye tuna, skipjack tuna and south pacific albacore, as well as technical measures as regards the treatment of by-catches. The Community is a member of the WCPFC since January 2005. It is therefore necessary to implement those measures into Community law to ensure sustainable management of the resource under the jurisdiction of that organisation.

(31) At its Annual Meeting in 2006, the International Commission for the Conservation of Atlantic Tunas ICCAT adopted tables indicating the under-utilisation and over-utilisation of the fishing possibilities of the ICCAT contracting parties. In that context, the ICCAT adopted a Decision observing that during the year 2004, the Community had under-exploited its quota for several stocks.

(32) In order to respect the adjustments to the Community quotas established by the ICCAT, it is necessary for the distribution of the fishing opportunities arising from the under-utilisation to be carried out on the basis of the respective contribution of each Member State towards the under-utilisation without modifying the distribution key concerning the annual allocation of TACs.

(33) At its Annual Meeting in 2006, the ICCAT adopted a number of technical measures for certain stocks of highly migratory species in the Atlantic and the Mediterranean, specifying inter alia a new minimum size for bluefin tuna, restrictions on fishing within certain areas and time periods in order to protect bigeye tuna, measures concerning sport and recreational fishing activities in the Mediterranean Sea and the establishment of a sampling programme for the estimation of the size of the caged bluefin tuna. In order to contribute to the conservation of fish stocks it is necessary to implement these measures in 2007 pending the adoption of a regulation amending Regulation (EC) No 973/2001.

(34) At its Annual Meeting in 2006, the South East Atlantic Fisheries Organisation (SEAFO) adopted conservation measures to close certain areas from 1 January 2007 in order to protect vulnerable deep-sea habitats, the prohibition of transhipments at sea in the Convention Area to fight illegal, unreported and unregulated (IUU) Fishing activities, an interim control scheme amending the Interim Arrangement annexed to the SEAFO Convention, incorporating the Conservation Measures adopted at the 2005 Annual Meeting, and technical measures to reduce the incidental mortality of seabirds in association with fishing activities. These measures are binding on the Community and should therefore be implemented.

(35) It is no longer appropriate to provide fishing opportunities for vessels flying the flag of Barbados, Guyana, Surinam, Trinidad and Tobago, Japan and Korea in French Guyana