Council Regulation (EC) No 51/2006 of 22 December 2005 fixing for 2006 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 (EC) No 51/2006

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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 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 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 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.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 51/2006. (See end of Document for details)*

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

(6) 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.

(7) 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[5], the Faroe Islands[6] and Greenland[7]

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

(9) At its Annual Meeting in June 2005, the Inter-American Tropical Tuna Commission (IATTC) adopted catch limitations for yellowfin tuna, bigeye tuna and skipjack tuna, and technical measures as regards the treatment of by-catches. 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.

(10) At its Annual Meeting in 2005, 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.

(11) 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 established in this Regulation concerning the annual allocation of TACs.

(12) Fishing opportunities should be used in accordance with the Community legislation on the subject, 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[8], Commission Regulation (EEC) No 2807/83 of 22 September 1983 laying down detailed rules for recording information on Member States' catches of fish[9], Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy[10], 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[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 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[14], 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[15], 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[16], 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[17], Council Regulation (EC) No 423/2004 of 26 February 2004 establishing measures for the recovery of cod stocks[18], Commission Regulation (EC) No 2244/2003 of 18 December 2003 laying down detailed provisions regarding satellite-based Vessel Monitoring Systems[19], Council Regulation (EEC) No 2930/86 of 22 September 1986 defining characteristics for fishing vessels[20], 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[21], Council Regulation (EC) No 2347/2002 of 16 December 2002 establishing specific access requirements and associated conditions applicable to fishing for deep -sea stocks[22] and 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[23].

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

(14) It is necessary, following the advice from the ICES, to apply a temporary system to manage the fishing effort on sandeel in ICES Subarea IV and Division IIIa North.

(15) Having regard to the scientific knowledge as to the biological status of the blue whiting stock, and following the negotiations between the Coastal States on the management of that stock, it is necessary to modify the management areas while taking into account the specific characteristics of the fisheries concerned.

(16) 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.

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

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

(19) For the stocks of sole in the Western channel, it is necessary to apply a provisional effort management scheme. For the cod stocks in the Kattegat, 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 Divisions VIIIc and IXa, the effort management scheme needs to be adapted.

(20) Article 2 of Regulation (EC) No 1434/98 does not ensure that the catches of herring are limited to the catch limits fixed for the species. It is therefore necessary to introduce

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transitional measures ensuring an appropriate monitoring and counting of herring in unsorted landings.

(21) Current fishing practices when fishing with gillnets in deep waters west of Scotland and Ireland involve the use of gillnets of excessive lengths, leading to excessive soak times and high discard rates. Nets lost or deliberately discarded may continue to fish for a number of years without being retrieved. Scientific investigations have demonstrated that this fishing practice constitutes a serious threat to deep-sea species, and transitional measures to prohibit the fishery should be implemented until more permanent measures are adopted.

(22) In order to ensure sustainable exploitation of the hake stocks and to reduce discards, the latest developments on selective gears should be implemented as transitional measures in Subdivision VIII a, b, d.

(23) At its Annual Meeting in 2004, the North East Atlantic Fisheries Commission (NEAFC) adopted a recommendation to restrict fishing within certain areas in order to protect vulnerable deep-sea habitats. This recommendation should be implemented by the Community.

(24) In order to contribute to the conservation of octopus and in particular to protect the juveniles, it is necessary to establish, in 2006, 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.

(25) In November 2005 the NEAFC recommended placing 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.

(26) At the Annual Meeting of the General Fisheries Commission of the Mediterranean (GFCM) in 2005, the GFCM adopted a recommendation on the management of certain fisheries exploiting deep-sea species and a recommendation concerning the establishment of a GFCM record of vessels of over 15 metres authorised to operate in the GFCM area. As the Community is a contracting party to the GFCM, these recommendations are binding on the Community and should therefore be implemented.

(27) In order to contribute to the conservation of fish stocks, certain supplementary measures on control and technical conditions of fishing should be implemented in 2006.

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

(29) In order to ensure that catches of blue whiting by third-country vessels in Community waters are correctly accounted for, it is necessary to strengthen the control provisions for such vessels.

(30) 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.

(31) At its Annual Meeting in 2004, 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 2006 pending the adoption of a regulation amending Regulation (EC) No 973/2001.

(32) At its Annual Meeting in 2005, the South East Atlantic Fisheries Organisation (SEAFO) adopted a measure to place scientific observers on board all vessels operating in the Convention Area and targeting species not subject to the conservation and management regimes of other competent regional fisheries organisations from 1 January 2006. This measure is binding on the Community and should therefore be implemented.

(33) At its 27th Annual Meeting of 19 to 23 September 2005, the Northwest Atlantic Fisheries Organisation (NAFO) adopted a number of technical and control measures. It is necessary to implement these measures.

(34) In order to comply with international obligations assumed by the Community as a Contracting Party to the Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR), including the obligation to apply the measures adopted by the CCAMLR Commission, the TACs adopted by that Commission for the 2005-2006 season and the corresponding season limit dates should be applied.

(35) At its XXIVth annual meeting in 2005, the 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.

(36) In order to ensure the livelihood of Community fishermen, and in order to avoid endangering resources and any possible difficulty due to the lapsing of Council Regulation (EC) No 27/2005 of 22 December 2004 fixing for 2005 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[(24)], it is essential to open these fisheries on 1 January 2006 and maintain in force in January 2006 some of the rules of the said Regulation. 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.