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

COUNCIL REGULATION (EC) No 27/2005

of 22 December 2004

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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 423/2004 of 26 February 2004establishing measures for the recovery of cod stocks[(2)], 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[(3)], 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 into account available scientific advice and, in particular, the report prepared by the Scientific, Technical and Economic Committee for Fisheries.

(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) It is necessary to establish the principles and certain procedures of fishery management at Community level, so that Member States can ensure the management of the vessels flying their flag.

(5) 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[(4)],

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it is necessary to identify the stocks which are subject to the various measures referred to therein.

(6) 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)].

(7) Pursuant to the Article 6 of the 2003 Act of Accession, fisheries agreements concluded by Latvia and Lithuania with third countries shall be managed by the Community. In accordance with these agreements, the Community has held consultations with the Russian Federation.

(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. Those recommendations should therefore be implemented by the Community.

(9) At its Annual Meeting in June 2004, 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 2004, 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 2003, the European 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 underutilisation without modifying the distribution key established in this Regulation concerning the annual allocation of TACs.

(12) At its Annual Meeting, 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 area and time periods in order to protect the bigeye tuna, measures concerning sport and recreational fishing activities in the Mediterranean Sea and the establishment of a sampling program for the estimation of the size of the bluefin tuna caged. In order to contribute to the conservation of fish stocks it is necessary to implement these measures in 2005 pending the adoption of a Council Regulation amending Regulation (EC) No 973/2001 of 14 May 2001 laying down certain technical measures for the conservation of certain stocks of highly migratory species[(8)].

(13) At its Annual Meeting in 2004, the North East Atlantic Fisheries Commission (NEAFC) has adopted a recommendation to restrict fishing within certain areas in order to protect

vulnerable deep-water habitats. This recommendation should be implemented by the Community.

(14) As a temporary measure, catches of herring in mixed fisheries as referred to in Article 2 of Regulation (EC) No 973/2001 should be counted against the relevant quota for herring.

(15) As a temporary measure, the fishing effort concerning certain deep-sea species should be reduced in accordance with scientific advice from the International Council for the Exploration of the Sea (ICES).

(16) The execution of fishing opportunities should be 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[(9)], Commission Regulation (EEC) No 2807/83 of 22 September 1983 laying down detailed rules for recording information on Member States' catches of fish[(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 1954/2003 of 4 November 2003 on the management of the fishing effort relating to certain Community fishing areas and resources, 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 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[(15)], 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[(16)], Council Regulation (EC) No 1434/98 of 29 June 1998 specifying conditions under whichherring may be landed for industrial purposes other than direct human consumption[(17)], Council Regulation 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)].

(17) In order to contribute to the conservation of fish stocks, certain complementary measures on control and technical conditions of fishing should be implemented in 2005.

Changes to legislation: *There are currently no known outstanding effects for the Council Regulation (EC) No 27/2005. (See end of Document for details)*

(18) For the stocks of sole in the Western channel, of Southern hake and of Nephrops, it is necessary to apply a provisional effort management scheme. For the cod stocks in the Kattegat, in the North Sea, Skagerrak and the Western channel, in the Irish Sea and in the west of Scotland, the existing effort management scheme needs to be adapted.

(19) 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 prejudice to the sustainability of fishing operations. It is therefore appropriate to introduce associated conditions that will result in improved implementation of the agreed fishing possibilities.

(20) It is necessary, following the advice from the ICES, to apply a temporary system to manage the fishing effort of the industrial fishery for sandeel in ICES Sub-area IV and Division IIIa North.

(21) 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.

(22) 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.

(23) At its 25th Annual Meeting of 15 to 19 September 2003, the Northwest Atlantic Fisheries Organisation (NAFO) adopted a rebuilding plan for Greenland halibut in NAFO Sub-area 2 and divisions 3KLMNO. The plan foresees a reduction of the TAC level until 2007 as well as additional measures to ensure its effectiveness. It is necessary to implement that plan for 2005 pending the adoption of a Council Regulation implementing multiannual measures to rebuild the Greenland halibut stock.

(24) At its 26th Annual Meeting of 13 to 17 September 2004, the NAFO adopted Management Measures for a number of previously unregulated stocks, namely skates in Division 3LNO, redfish in Division 3O and white hake in Division 3NO. It is therefore necessary to implement these measures and to establish an allocation between Member States.

(25) In order to comply with international obligations undertaken 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 2004-2005 season and the corresponding season limit dates should be applied.

(26) At its XXIII Annual meeting in 2004, the CCAMLR adopted relevant catch limits for the stocks open to established fisheries by any CCAMLR Member. CCAMLR also approved the participation of Community fishing vessels in exploratory fisheries for *Dissostichus* spp. in Sub-areas FAO 88.1 and 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,

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as well as to certain specific technical measures. Those limits and technical measures should also be applied.

(27) 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:

CHAPTER I

SCOPE AND DEFINITIONS

Article 1

Subject matter

This Regulation fixes fishing opportunities for the year 2005, for certain fish stocks and groups of fish stocks, and the specific conditions under which such fishing opportunities may be used.

However, for certain Antarctic stocks, it fixes the fishing opportunities and specific conditions for the periods set out in Annex IF.

Article 2

Scope

This Regulation shall apply to:

(a) Community fishing vessels (‘Community vessels’); and

(b) fishing vessels flying the flag of, and registered in, third countries (‘third country vessels’) in waters falling within the sovereignty or jurisdiction of Member States (‘EC waters’).

Article 3

Definitions

For the purposes of this Regulation, the following definitions shall apply:

(a) ‘fishing opportunities’ means:

  (i) total allowable catches (‘TACs’) or the number of vessels authorised to fish and/or the duration of these authorisations;

  (ii) shares of the TACs available to the Community;

  (iii) quotas allocated to the Community in third country waters;