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COM(2012) 720 final

2012/0339 (NLE)

Proposal for a

COUNCIL REGULATION

**fixing for 2013 the fishing opportunities for certain fish stocks and groups of fish stocks
applicable in the Black Sea**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

In accordance with Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy, the Common Fisheries Policy seeks to ensure that living aquatic resources are exploited under sustainable economic, environmental and social conditions. One important tool in this respect is the annual fixing of fisheries opportunities in the form of total allowable catches (TACs), quotas and fishing effort limits.

The objective of this proposal is to fix, for the commercially most important fish stocks in the Black Sea, the fishing opportunities for Member States for 2013.

- **General context**

The Communication from the Commission on the consultation on fishing opportunities for 2013 (COM(2012)278final), outlines the background to the proposal.

The scientific advice on fishing opportunities in the Black Sea in 2013 will be delivered by the Scientific, Technical and Economic Committee for Fisheries (STECF) in November 2012.

The proposal contains one section of importance for the management of the Black Sea fisheries in 2013 which fixes the TACs and quotas.

- **Existing provisions in the area of the proposal**

Fishing opportunities and the way they are allocated to Member States are regulated annually. The latest is Council Regulation (EU) No 5/2012 of 19 December 2011 fixing the fishing opportunities for certain fish stocks applicable in the Black Sea for 2012.

- **Consistency with other policies and objectives of the EU**

The proposed measures are in accordance with the objectives and rules of the Common Fisheries Policy and are consistent with the Union's policy on sustainable development.

2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Collection and use of expertise**

Main organisations/experts consulted

The scientific organisation consulted is the Scientific, Technical and Economic Committee for Fisheries (STECF).

The Community asks STECF each year for scientific advice on the state of important fish stocks. The advice is expected to cover all Black Sea stocks for which TACs are proposed.

- **Consultation of interested parties**

Interested parties were consulted via the Communication from the Commission on the Consultation on fishing opportunities for 2013. The scientific basis for the proposal has been provided by STECF.

- **Impact assessment**

Based on the scientific advice, the proposed measures will result in a change in fishing opportunities in terms of catch volumes for turbot for EU vessels in the Black Sea.

The proposal reflects not only short-term concerns but is also part of a longer-term approach whereby the level of fishing is gradually adapted to long-term sustainable levels.

The approach taken in the proposal will imply in the short term a reduction of the fishing opportunities for turbot in the Black Sea. It is expected however that this approach will result in stable or increasing quotas in the long term. The long-term consequences of the approach are expected to be a reduced impact on the environment as a consequence of the adaptation in fishing effort and unchanged or increased landings. The sustainability of fishing activities will increase in the long term.

3. LEGAL ELEMENTS OF THE PROPOSAL

- **Summary of the proposed action**

The proposal establishes the catch and effort limitations applicable to EU fisheries and to international fisheries where EU vessels participate, in order to achieve the objective of the Common Fisheries Policy of ensuring fisheries at levels that are biologically, economically and socially sustainable.

- **Legal basis**

Article 43(3) of the Treaty on the Functioning of the European Union.

- **Subsidiarity principle**

The proposal falls under the Union exclusive competence as referred to in Article 3(1)(d) of the Treaty on the Functioning of the European Union. The subsidiarity principle therefore does not apply.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason.

The Common Fisheries Policy is a common policy. According to Article 43(3) TFEU it is incumbent upon the Council to adopt the measures on the fixing and allocation of fishing opportunities.

The Council Regulation in question allocates fishing opportunities to Member States. Having regard to Article 20(3) of Regulation 2371/2002, Member States are free to allocate such opportunities among regions or operators as they see fit. Therefore, Member States have ample room for manoeuvre on decisions related to the social/economic model of their choice to exploit their allocated fishing opportunities.

The proposal has no new financial implications for Member States. This Regulation is adopted by Council every year, and the public and private means to implement it are already in place.

- **Choice of instruments**

Proposed instruments: Regulation.

This is a proposal for fisheries management on the basis of Article 43(3) TFEU and in accordance with Article 20 of Council Regulation (EC) No 2371/2002.

4. BUDGETARY IMPLICATION

The proposal has no implications for the EU budget.

5. ADDITIONAL INFORMATION

- **Simplification**

The proposal provides for simplification of administrative procedures for public authorities (EU or national), in particular as regards requirements regarding the effort management.

- **Review/revision/sunset clause**

The proposal concerns an annual Regulation for the year 2013 and therefore does not include a revision clause.

- **Detailed Explanation**

The proposal fixes for 2013 the fishing opportunities for certain stocks or groups of stocks for Member States fishing in the Black Sea.

The proposed figures reflect the scientific advice and the framework for setting the TACs and quotas outlined in the Communication from the Commission on the Consultation on fishing opportunities for 2013.

Given the Commission's intention to ensure the sustainable use of fishery resources in line with the Union's policy and international commitments while maintaining stable fishing opportunities, annual variations in TACs are limited as far as practicable taking account of the status of a given stock.

The TACs and quotas allocated to Member States are given in the Annex.

Proposal for a

COUNCIL REGULATION

fixing for 2013 the fishing opportunities for certain fish stocks and groups of fish stocks applicable in the Black Sea

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(3) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) According to Article 43(3) of the Treaty, the Council, on a proposal from the Commission, shall adopt measures on the fixing and allocation of fishing opportunities.
- (2) Regulation (EC) No 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy¹ requires that measures governing access to waters and resources and the sustainable pursuit of fishing activities be established taking into account available scientific advice and, in particular, the report drawn up by the Scientific, Technical and Economic Committee for Fisheries (STECF).
- (3) It is incumbent upon the Council to adopt measures on the fixing and allocation of fishing opportunities by fishery or group of fisheries, including certain conditions functionally linked thereto, as appropriate. Fishing opportunities should be distributed among Member States in such a way as to assure each Member State relative stability of fishing activities for each stock or fishery and having due regard to the objectives of the Common Fisheries Policy established in Regulation (EC) No 2371/2002.
- (4) The total allowable catch TACs should be established on the basis of the available scientific advice and by taking into account the biological and socio-economic aspects whilst ensuring fair treatment between fishing sectors, as well as in the light of the opinions expressed during the consultation of stakeholders.
- (5) The use of fishing opportunities set out in this Regulation is subject to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy²

¹ OJ L 358, 31.12.2002, p. 59.

² OJ L 343, 22.12.2009, p.1.

and in particular to Articles 33 and 34 of that Regulation concerning the recording of catches and fishing effort and the notification of data on the exhaustion of fishing opportunities. It is therefore necessary to specify codes to be used by the Member States when sending data to the Commission relating to landings of stocks subject to this Regulation.

- (6) 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 quotas³, the stocks that are subject to the various measures referred to therein must be identified.
- (7) In order to avoid interruption of fishing activities and to ensure the livelihood of the fishermen of the Union, it is important to open these fisheries on 1 January 2013. For reasons of urgency this Regulation should enter into force immediately after its publication.

HAS ADOPTED THIS REGULATION:

CHAPTER I

Scope and definitions

Article 1

Subject matter

This Regulation fixes fishing opportunities for 2013 for certain fish stocks and groups of fish stocks in the Black Sea.

Article 2

Scope

This Regulation shall apply to Union vessels operating in the Black Sea.

Article 3

Definitions

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

- (a) GFCM means General Fisheries Commission for the Mediterranean;
- (b) 'Black Sea' means the GFCM geographical sub-area as defined in resolution GFCM/33/2009/2;
- (c) 'Union vessel' means a fishing vessel flying the flag of a Member State and registered in the Union;

³ OJ L 115, 9.5.1996, p.3.

- (d) 'total allowable catch (TAC)' means the quantity that can be taken from each stock each year;
- (e) 'quota' means a proportion of the TAC allocated to the Union, a Member State or a third country;

CHAPTER II

Fishing opportunities

Article 4

TACs and allocations

The TACS, the allocation of such TACs among Member States, and conditions functionally linked thereto, where appropriate, are set out in the Annex.

Article 5

Special provisions on allocations

The allocation of fishing opportunities among Member States as set out in in this Regulation shall be without prejudice to:

- (a) exchanges made pursuant to Article 20(5) of Regulation (EC) No 2371/2002;
- (b) reallocations made pursuant to Article 37 of Regulation (EC) No 1224/2009;
- (c) additional landings allowed under Article 3 of Regulation (EC) No 847/96;
- (d) quantities withheld in accordance with Article 4 of Regulation (EC) No 847/96;
- (e) deductions made pursuant to Articles 37, 105, and 107 of Regulation (EC) No 1224/2009.

Article 6

Conditions for landing catches and by-catches

Fish from stocks for which fishing opportunities are fixed by this Regulation shall be retained on board or landed only if:

- (a) the catches have been taken by vessels of a Member State having a quota and that quota is not exhausted; or
- (b) the catches consist of a share in a Union quota which has not been allocated by quota among Member States, and that Union quota has not been exhausted.

CHAPTER III

Final provisions

Article 7

Data transmission

When, pursuant to Articles 33 and 34 of Regulation (EC) No 1224/2009, Member States send the Commission data relating to landings of quantities of stocks caught, they shall use the stock codes set out in the Annex to this Regulation.

Article 8

Entry into force

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2013.

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

Done at Brussels,

For the Council
The President

ANNEX

TACS applicable to Union vessels in areas where TACs exist by species and by area

The following tables set out the TACs and quotas (in tonnes live weight, except where otherwise specified) by stock, and conditions functionally linked thereto, where appropriate.

Fish stocks are referred to following the alphabetical order of the Latin names of the species. The following table of correlations between Latin names and common names is given for the purposes of this Regulation:

Scientific name	Alpha-3 code	Common name
<i>Psetta maxima</i>	TUR	Turbot
<i>Sprattus sprattus</i>	SPR	Sprat

Species:	Turbot <i>Psetta maxima</i>	Zone:	Union waters in the Black Sea TUR/F37.4.2.C.
Bulgaria	37	Analytical TAC	
Romania	37	Article 3 of Regulation (EC) No 847/96 does not apply. Article 4 of Regulation (EC) No 847/96 does not apply.	
Union	74 (1)		
TAC	Not relevant		

(1) No fishing activity, including transshipment, taking on board, landing and first sale shall be permitted from 15 April to 15 June

Species:	Sprat <i>Sprattus sprattus</i>	Zone:	Union waters in the Black Sea SPR/F37.4.2.C
Bulgaria	8032.5	Analytical TAC	
Romania	3442.5	Article 3 of Regulation (EC) No 847/96 does not apply. Article 4 of Regulation (EC) No 847/96 does not apply.	
Union	11475		
TAC	Not relevant		