



EUROPEAN
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2013/0405 (NLE)

Proposal for a

COUNCIL REGULATION

**fixing for 2014 the fishing opportunities for certain fish stocks and groups of fish stocks
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 2014.

• General context

The Communication from the Commission on the consultation on fishing opportunities for 2014 (COM(2013) 319 final), outlines the background to the proposal.

The scientific advice on fishing opportunities in the Black Sea in 2014 was delivered by the Scientific, Technical and Economic Committee for Fisheries (STECF) in October 2013.

The proposal contains one section of importance for the management of the Black Sea fisheries in 2014 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 such legal act is Council Regulation (EU) No 1261/2012 of 20 December 2012 fixing the fishing opportunities for certain fish stocks applicable in the Black Sea for 2013.

In addition to the annual fishing opportunities, the following measures relevant to the Black Sea fisheries covered by this proposal should be mentioned:

- Minimum conservation sizes and minimum mesh sizes regarding the turbot fishery in the Black Sea are established by Regulation (EU) No 227/2013 of the Council and the European Parliament of 13 March 2013¹ amending Council Regulation (EC) No 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms and Council Regulation (EC) No 1434/98 specifying conditions under which herring may be landed for industrial purposes other than direct human consumption.
- Recommendation GFCM/37/2013/2 establishing a set of minimum standards for bottom-set gillnet fisheries for turbot and conservation of cetaceans in the Black Sea adopted by the General Fisheries Commission for the Mediterranean (GFCM) in its 37th Session (Split, May 2013).

• 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.

¹ OJL 78, 20.3.2013, p.1

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

- **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, delivered in October 2013, covers 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 2014. The scientific basis for the proposal was 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 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 might therefore, in the medium to long term, result in reduced fishing effort but 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 in the Black Sea 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. OPTIONAL ELEMENTS

- **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 2014 and therefore does not include a revision clause.

- **Detailed Explanation**

The proposal fixes for 2014 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 2014.

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 Annex I.

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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 European Commission,

Whereas:

- (1) Article 43(3) of the Treaty provides that the Council, on a proposal from the Commission, is to adopt measures on the fixing and allocation of fishing opportunities.
- (2) Council Regulation (EC) No 2371/2002¹ 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 in the Black Sea 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's 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 fishing opportunities should be established on the basis of the available scientific advice, taking into account 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 1224/2009² and in particular to Articles 33 and 34 thereof concerning, respectively, the recording of catches and fishing effort and the notification of data on the exhaustion of fishing opportunities. It is therefore necessary to specify the codes to be used by the Member States when sending data to the Commission relating to landings of stocks subject to this Regulation.

¹ Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy (OJ L 358, 31.12.2002, p. 59).

² 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 policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p.1).

- (6) In accordance with Article 2 of Council Regulation (EC) No 847/96³, 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 Union fishermen, it is important to open the fisheries concerned in the Black Sea on 1 January 2014. 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 the fishing opportunities for 2014 for certain fish stocks and groups of fish stocks in the Black Sea.

Article 2

Scope

This Regulation shall apply to EU 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 geographical sub-area 29 as defined in Annex I to Regulation (EU) No 1343/2011 of the European Parliament and the Council⁴ and in the resolution GFCM/33/2009/2;
- (c) “EU vessel” means a fishing vessel flying the flag of a Member State and registered in the Union;
- (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.

³ Council Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of TACs and quotas (OJ L 115, 9.5.1996, p. 3).

⁴ Regulation (EU) No 1343/2011 of the European Parliament and of the Council of 13 December 2011 on certain provisions for fishing in the GFCM (General Fisheries Commission for the Mediterranean) Agreement area and amending Council Regulation (EC) No 1967/2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea (OJ L 347, 30.12.2011, p. 44).

CHAPTER II

Fishing opportunities

Article 4

Union quota and its allocation among Member States

The Union quota and its allocation among Member States, and the 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) deductions and 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 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 that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2014.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

For the Council
The President