COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 5.10.2009
COM(2009) 517 final

Proposal for a

COUNCIL REGULATION

fixing the fishing opportunities and the conditions relating thereto for certain fish stocks applicable in the Black Sea for 2010

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Objectives of the proposal

Following the accession of Bulgaria and Romania to the EU on 1 January 2007 and in continuation of the conservation measures already implemented in 2008 and 2009 the objective of this proposal is to fix, for the commercially most important fish stocks in the Black Sea, fishing opportunities and associated conditions thereto for Member States for 2010.

General context

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 shall ensure exploitation of living aquatic resources that provides sustainable economic, environmental and social conditions. An important tool to achieve these objectives is the annual fixing of the fisheries opportunities in the form of total allowable catches (TACs), quotas and fishing effort limits.

The fixing of fishing opportunities in the Black Sea and the conditions related thereto were implemented for the first time by Community legislation in 2008.

These first precautionary Community management measures for the Black Sea call upon national administrations, the stakeholders and the scientific community to improve the control of catches and landings, as well as the quality of data for better scientific and economic analysis.

Furthermore, these measures will strengthen the Community position in discussions within a possible future regional fisheries management body involving all Black Sea countries.

Pending the development of a more advanced and integrated scheme of management measures for sustainable fisheries in the region, to be agreed at multilateral level, the intention of this proposal is to propose conservation measures for 2010 in line with points 4 and 5, and points 7-9 of the Commission' Communication on Consultation on Fishing Opportunities for 2010[1].

The objective is that the Council adopts the draft Regulation in October 2009.

The proposal contains management measures fixing the Community TACs and quotas and related technical measures.

Existing provisions in the area of the proposal

No fisheries conservation measures exist at multilateral level.

This proposal represents a continuation of the regulation for 2009, Council Regulation (EC) No 1139/2008 of 10 November 2008.

[1] COM(2009) 224 of 12 May 2009

Consistency with other policies and objectives of the Union

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

2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

Consultation of interested parties

The two Member States concerned are aware that the Commission intends to present conservation measures for the Black Sea in line with rules presented in the Commission Consultation on Fishing Opportunities for 2010.

On 5 June 2009 DG MARE invited fisheries counsellors of Romania and Bulgaria to discuss the implications of the spring STECF report on the in-year review of the turbot TAC foreseen in Council Regulation (EC) No 1139/2008. Both Member States have reacted in writing and have agreed jointly to ask for an increase to 130 tonnes of the turbot TAC.

In the light of the statement by STECF of 17 July 2009, any possibility of increasing the turbot TAC must be entirely excluded. However, no specific structured consultations have taken place so far with the national administrations and stakeholders of the two Member States concerned. Such consultations are foreseen for the beginning of September 2009.

Collection and use of expertise

Two working groups of scientists of the Black Sea region (Bulgaria, Romania, Turkey and Ukraine) were convened by the Scientific, Technical and Economic Committee for Fisheries (STECF) in March and July 2009. The groups prepared reports describing the situation of the sprat and turbot stocks in the Black Sea with special attention to Community waters. The reports were forwarded to the Scientific, Technical and Economic Committee for Fisheries (STECF) that reviewed the turbot fishery in the Black Sea at its Plenary meeting in April 2009 and for both sprat and turbot at its July session in Copenhagen on 13-17 July 2009.

The scientific advice on fishing opportunities in 2010 in the Black Sea was delivered by the Scientific, Technical and Economic Committee for Fisheries (STECF) on 17 July 2009[2].

The STECF notes that the turbot stock should be classified under category 10 according to the Commission Consultation on Fishing Opportunities for 2010, which means that the TAC for turbot should be reduced by at least 25% from the 2009 Community TAC of 100 t to 75 t. Recovery measures should be implemented including effort reductions and introduction of more selective fishing gear. There are no new elements indicating a change in the current 50/50 allocation key between the two Member States concerned.

For sprat STECF proposes to classify this stock in category 6, implying that no Community TAC is set for this stock. In fact, category 6 concerns the situation where the state of the stock is unknown and STECF advises on an appropriate catch. The action to be taken is to aim to set the TAC according to STECF advice but not to change the TAC by more than 15 %. In the absence of adequate stock abundance data, the TAC should remain unchanged.

[2] STECF review of Scientific Advice for 2010 Part I, p. 159-160

Impact assessment

The proposal significantly suggests to reduce the allowed catch levels adopted for 2009, the likely impact on the fisheries sector was examined with the national administrations as well as with experts and scientists of the two Member States concerned in 2007 and 2008. The proposed reductions call for accompanying measures to be discussed with the Member States concerned.

Regarding fishing possibilities for turbot in 2009, the Bulgarian turbot fishery has been closed nationally and at Community level since 1 April. The fishery is closed seasonally from 15 April to 15 June. In order to verify control of catches and landings a control mission by Commission inspectors is foreseen in October 2009.

Application of the 2010 Fishing Opportunities rules for sprat means that the 2009 unallocated TAC should remain unchanged. This will not create difficulties considering that the combined annual catches of Bulgaria and Romania in recent years are less that half this amount.

Considering that fishing for turbot has considerably increased in Bulgaria in 2009 and that the yearly quota was exhausted on 1 April 2009, implementation of the TAC and quota reductions should in the short run lead to very important restrictions in Bulgarian fishing activities.

The proposal should be basically regarded as a continuation of the measures applicable for 2008 and 2009 aiming at creating conditions for log-term sustainable exploitation in the area.

3. LEGAL ELEMENTS OF THE PROPOSAL

Legal basis

The legal basis for this proposal is Council Regulation (EC) No 2371/2002, and in particular Article 20 thereof.

4. BUDGETARY IMPLICATIONS

Fleet adjustments might be required, as foreseen under the Operational Programmes implementing the European Fisheries Fund measures in the two Member States concerned. However, that notwithstanding, the proposal has no implication for the Community budget.

5. ADDITIONAL INFORMATION

Detailed Explanation

The proposal fixes for 2010 the fishing opportunities for Member States fishing in the Black Sea. The TACs and quotas allocated to Member States are given in Annex I. The proposed figures are based on the Commission Consultation on Fishing Opportunities for 2010.

The technical measures accompanying the quantitative restrictions consist of a ban for turbot fishing from 15 April to 15 June, a minimum landing size of 45cm for turbot and the use of a 400 mm minimum legal mesh size for bottom-set nets used to catch turbot. The phasing-out period for using smaller nets has now expired.

A high-grading ban for any species subjected to quota is established. The overall aim of the high-grading ban is the reduction of discards. A high grading ban implies a prohibition to discard species subject to quota that can legally be caught and landed under Community fisheries legislation.

The Commission is also promoting cooperation in fisheries management with third countries bordering the Black Sea in bilateral consultations with Turkey and Ukraine and though the

appropriate Regional Fisheries Organisation such as GFCM (General Fisheries Commission for the Mediterranean).

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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[3], and in particular Article 20 thereof,

Having regard to Council Regulation (EC) No 847/1996 of 6 May 1996 introducing additional conditions for year-to-year management of TAC's and quotas[4], and in particular Article 2 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 necessary measures governing access to areas 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.

(2) Under Article 20 of Regulation (EC) No 2371/2002, the Council establishes the fishing opportunities by fishery or group of fisheries and the allocation of those opportunities to Member States.

(3) In order to ensure effective management of the fishing opportunities, the specific conditions under which fishing operations are carried out should be established.

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

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

(6) In order to contribute to the conservation of fish stocks, certain supplementary measures relating to the technical conditions of fishing should be implemented in2010.

(7) The reduction in the total allowable catch (TAC) for sprat should not affect its future stock levels, which should take into account the fishing activities of other Black Sea coastal States.

(8) Fishing opportunities should be used in accordance with Community legislation on the subject, in particular with Council Regulation (EEC) No 2847/93 of 12 October 1993

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[3] OJ L 358, 31.12.2002, p. 59.

[4] OJ L 115, 9.5.1996, p. 3.

establishing a control system applicable to the common fisheries policy[5] and 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[6].

(9) In order to ensure proper enforcement and control, the mesh size should be measured in accordance with Commission Regulation (EC) No 517/2008 of 10 June 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 850/98 as regards the determination of the mesh size and assessing the thickness of twine of fishing nets[7].

(10) In order to reduce discards, it is appropriate to establish a high-grading ban for any species subject to quota, implying a prohibition to discard species subject to quota that can legally be caught and landed under Community fisheries legislation.

(11) To ensure the livelihood of Community fishermen, it is important to open these fisheries on 1 January 2010. In view of 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
Subject matter, scope and definitions

Article 1
Subject matter

This Regulation fixes fishing opportunities for the year 2010 for certain fish stocks in the Black Sea and the specific conditions under which such fishing opportunities may be used.

Article 2
Scope

1. This Regulation shall apply to Community fishing vessels (Community vessels) operating in the Black Sea.

2. By way of derogation from paragraph 1, this Regulation shall not apply to fishing operations conducted solely for the purpose of scientific investigations which are carried out with the permission and under the authority of the Member State concerned and of which the Commission and the Member State in the waters of which the research is carried out have been informed in advance.

Article 3
Definitions

In addition to the definitions laid down in Article 3 of Regulation (EC) No 2371/2002, for the purposes of this Regulation the following definitions shall apply:

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5 OJ L 261, 20.10.1993, p. 1
6 OJ L 125, 27.4.1998, p. 1
7 OJ L 151, 11.6.2008, p. 5

(a) "GFCM" shall mean General Fisheries Commission for the Mediterranean;

(b) “Black Sea” shall mean the GFCM geographical sub-area as defined in resolution GFCM/31/2007/2;

(c) "total allowable catch (TAC)" means the quantity that can be taken from each stock each year;

(d) “quota” shall mean a proportion of the TAC allocated to the Community, a Member State or a third country.

CHAPTER II
Fishing opportunities and the conditions relating thereto

Article 4
Catch limits and allocations

The catch limits, the allocation of such limits among Member States, and the additional conditions applicable pursuant to Article 2 of Regulation (EC) No 847/96 are set out in Annex I to this Regulation.

Article 5
Special provisions on allocations

The allocation of catch limits among Member States as set out in Annex I shall be without prejudice to:

1) exchanges made pursuant to Article 20(5) of Regulation (EC) No 2371/2002;

2) reallocations made pursuant to Articles 21(4), 23(1) and 32(2) of Regulation (EEC) No 2847/93 and the second subparagraph of Article 23(4) of Regulation (EC) No 2371/2002;

3) additional landings allowed under Article 3 of Regulation (EC) No 847/96;

4) deductions made pursuant to Article 5 of Regulation (EC) No 847/96 and the first subparagraph of Article 23(4) of Regulation (EC) No 2371/2002.

Article 6
Conditions for catches and by-catches

1. Fish from stocks for which catch limits are fixed shall be retained on board or landed only if the catches have been taken by fishing vessels of a Member State with a quota and the quota has not been exhausted.

2. All landings shall count against the quota or, if the Community share has not been allocated among Member States by quotas, against the Community share.

Article 7
Prohibition of high-grading

Any species subject to quota which is caught during fishing operations shall be brought aboard the vessel and subsequently landed unless this would be contrary to obligations laid down in Community fisheries legislation establishing technical, control, and conservation measures, and in particular in this Regulation, in Regulation (EEC) No 2847/93, and in Regulation (EC) No 2371/2002.

Article 8
Transitional technical measures

The transitional technical measures shall be as set out in Annex II.

CHAPTER III
Final provisions

Article 9
Data transmission

When Member States send data to the Commission relating to landings of quantities of stocks caught pursuant to Article 15(1) of Regulation (EEC) No 2847/93, they shall use the stock codes set out in Annex I to this Regulation.

Article 10
Entry into force

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

It shall apply from 1 January 2010.

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

Done at Brussels,

For the Council
The President

ANNEX

Catch limits and the conditions relating thereto for year-to-year management of catch limits applicable to Community vessels in areas where catch limits have been fixed

The following tables set out the TAC's and quotas (in tonnes live weight, except where otherwise specified) by stock, the allocation to the Member States and associated conditions for year-to-year management of the quotas.

Within each area, fish stocks are referred to following the alphabetical order of the Latin names of the species. For the purposes of these tables the codes used for the different species are as follows:

Scientific name	Alpha-3 code	Common name
Psetta maxima	TUR	Turbot
Sprattus sprattus	SPR	Sprat

Species:	Turbot *Psetta maxima*	Zone: Black Sea
Bulgaria	38	Precautionary TAC
Romania	38	Article 3 of Regulation (EC) No 847/96 applies.
EC	76	Article 4 of Regulation (EC) No 847/96 does not apply.
TAC	Not relevant	Article 5 of Regulation (EC) No 847/96 applies.

Species:	Sprat *Sprattus sprattus*	Zone: Black Sea
EC	12750 (1)	Precautionary TAC Article 3 of Regulation (EC) No 847/96 applies.
TAC	Not relevant	Article 4 of Regulation (EC) No 847/96 does not apply. Article 5 of Regulation (EC) No 847/96 applies.

(1) May only be fished by vessels flying the flag of Bulgaria or Romania.

ANNEX II

TRANSITIONAL TECHNICAL MEASURES

1. No fishing activity for turbot shall be permitted from 15 April to 15 June in the European Community waters of the Black Sea.

2. The minimum legal mesh size for bottom-set nets used to catch turbot should be no less than 400 mm.

3. The minimum landing size for turbot shall be 45 cm total length, measured in accordance with Article 18 of Regulation (EC) No 850/98.