

EUROPEAN COMMISSION

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2010/0336 (NLE)

Proposal for a

COUNCIL REGULATION (EU) No [..]/2011

fixing for 2011 the fishing opportunities for certain 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 CFP 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 2011.

- **General context**

The Communication from the Commission on the consultation on fishing opportunities for 2011 (COM(2010)241final), outlines the background to the proposal.

The scientific advice on fishing opportunities in the Black Sea in 2011 will be delivered by the Scientific, Technical and Economic Committee for Fisheries (STECF) in November 2010.

The proposal contains one section of importance for the management of the Black Sea fisheries in 2011 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 (EC) No 1287/2009 of 27 November 2009 fixing the fishing opportunities and the conditions relating thereto for certain fish stocks applicable in the Black Sea for 2010.

- **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 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 2011. The scientific basis for the proposal will be provided by STECF.

- **Impact assessment**

Pending the scientific advice, the proposed measures might, if implemented, 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 opportunities 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 activities 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 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 has no implications for simplification.

- **Review/revision/sunset clause**

The proposal concerns an annual Regulation for the year 2011 and therefore does not include a revision clause.

- **Detailed Explanation**

The proposal fixes for 2011 the fishing opportunities for certain stocks or groups of stocks for Member States fishing in the Black Sea.

Scientific advice will be available in November only. Meanwhile TACs are provided as "pro memoriam". Once advice has been received, figures will be included that reflect the scientific advice.

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

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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 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 Policy[1] 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 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 policy[2] and in particular to Articles 33 and 34 thereof 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 quotas[3],

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1 OJ L 358, 31.12.2002, p. 59.
2 OJ L 343, 22.12.2009, p.1.
3 OJ L 115, 9.5.1996, p.3.

the stocks that are subject to the various measures referred to therein must be identified.

(7) To ensure the livelihood of EU fishermen, it is important to open these fisheries on 1 January 2011.

HAS ADOPTED THIS REGULATION:

CHAPTER I
Scope and definitions

Article 1
Subject matter

This Regulation fixes fishing opportunities for 2011 for certain 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 GFCM geographical sub-area as defined in 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 (TACs)” 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 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 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 catch limits are established 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 2011.

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

The following tables set out the TACs and quotas (in tonnes live weight) 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 correspondences of Latin names and common names is given for the purposes of this Regulation:

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

Species:	Turbot *Psetta maximar*	Zone:	Black Sea TUR/F3742C.
Bulgaria	(1)(2)(3) pm (4)	Precautionary TAC Article 3 of Regulation (EC) No 847/96 does not apply.	
Romania	(1)(2)(3) pm (4)	Article 4 of Regulation (EC) No 847/96 does not apply.	
EU	pm (1)(2)(3) (4)		
TAC	Not relevant		

(1) Subject to the following condition: fishing is not authorised before 15 February 2011.Any by-catch in other fisheries before 15 February 2011 shall be landed and counted against the relevant quotas.

(2) Subject to the following condition: no fishing activity shall be permitted from 15 April to 15 June.

(3) Subject to the following condition: the minimum legal mesh size for bottom-set nets used to catch turbot shall be 400mm.

(4) Subject to the following condition: the minimum landing size shall be 45 cm, measured in accordance with Article 18 of Regulation (EC) No 850/98. All catches equal to or above minimum landing size must be landed and counted against the relevant quotas.

Species:	Sprat *Sprattus sprattus*	Zone:	Black Sea SPR/F3742C
Bulgaria	pm	Precautionary TAC	
Romania	pm	Article 3 of Regulation (EC) No 847/96 does not apply. Article 4 of Regulation (EC) No 847/96 does not apply.	
EU	pm		
TAC	Not relevant		