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(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

REGULATIONS

COUNCIL REGULATION (EC) No 1359/2008

of 28 November 2008

fixing for 2009 and 2010 the fishing opportunities for Community fishing vessels for certain deep-sea fish stocks

THE COUNCIL OF THE EUROPEAN UNION,

stocks are harvested unsustainably, and that fishing opportunities for those stocks should be reduced in order to assure their sustainability.

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,

- (4) The ICES has further advised that the exploitation rate of orange roughy in ICES subarea VII is much too high. Scientific advice further indicates that orange roughy in subarea VI is heavily depleted, and areas of vulnerable aggregations of that species have been identified. It is therefore appropriate to prohibit fishing for orange roughy in those areas.

Having regard to the proposal of the Commission,

- (5) In accordance with Council Regulation (EC) No 2347/2002 of 16 December 2002 establishing specific access requirements and associated conditions applicable to fishing for deep-sea stocks ⁽²⁾, the fishing opportunities for deep-sea species, as defined in Annex I to that Regulation, are decided on a bi-annual basis. Nevertheless, an exception is made for the stocks of greater silver smelt and blue ling for which the fishing opportunities depend on the outcome of the annual negotiations with Norway. The fishing possibilities for those stocks therefore remain to be established in the annual fishing opportunities regulation decided by the Council in December.

Whereas:

- (1) Under Article 4 of Regulation (EC) No 2371/2002 the Council is 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 any advice received from Regional Advisory Councils established under Article 31 of that Regulation.
- (2) Under Article 20 of Regulation (EC) No 2371/2002, it is incumbent upon the Council to establish fishing opportunities by fishery or group of fisheries and to allocate them in accordance with prescribed criteria.
- (3) The latest scientific advice from the International Council for the Exploration of the Sea (ICES) concerning certain stocks of fish found in the deep sea indicates that those

- (6) In order to ensure effective management of quotas, the specific conditions under which fishing operations occur should be established.
- (7) 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⁾, it is necessary to indicate which stocks are subject to the various measures fixed therein.

⁽¹⁾ OJ L 358, 31.12.2002, p. 59.

⁽²⁾ OJ L 351, 28.12.2002, p. 6.

⁽³⁾ OJ L 115, 9.5.1996, p. 3.

- (8) The measures provided for in this Regulation should be fixed by reference to ICES zones as defined in Council Regulation (EEC) No 3880/91 of 17 December 1991 on the submission of nominal catch statistics by Member States fishing in the north-east Atlantic ⁽¹⁾ and to CECAF zones (Committee for Eastern Central Atlantic Fisheries) as defined in Council Regulation (EC) No 2597/95 of 23 October 1995 on the submission of nominal catch statistics by Member States fishing in certain areas other than those of the North Atlantic ⁽²⁾.
- (9) The fishing opportunities should be used in accordance with the Community legislation on the matter, and in particular with Commission Regulation (EEC) No 2807/83 of 22 September 1983 laying down detailed rules for recording information on Member States' catches of fish ⁽³⁾, Commission Regulation (EEC) No 1381/87 of 20 May 1987 establishing detailed rules concerning the marking and documentation of fishing vessels ⁽⁴⁾, Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy ⁽⁵⁾, Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing permits ⁽⁶⁾, 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 ⁽⁷⁾, Regulation (EC) No 2347/2002 and Council Regulation (EC) No 2187/2005 of 21 December 2005 for the conservation of fishery resources through technical measures in the Baltic Sea, the Belts and the Sound ⁽⁸⁾.
- (10) In order to ensure the livelihood of Community fishermen, it is important to open these fisheries on 1 January 2009. Given the urgency of the matter, it is imperative to grant an exception to the six-week period referred to in point 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:

Article 1

Subject-matter

This Regulation fixes for the years 2009 and 2010 the annual fishing opportunities available to Community fishing vessels for stocks of deep-sea species in Community waters and in certain non-Community waters where catch limitations are required, and the specific conditions under which such fishing opportunities may be used.

⁽¹⁾ OJ L 365, 31.12.1991, p. 1.

⁽²⁾ OJ L 270, 13.11.1995, p. 1.

⁽³⁾ OJ L 276, 10.10.1983, p. 1.

⁽⁴⁾ OJ L 132, 21.5.1987, p. 9.

⁽⁵⁾ OJ L 261, 20.10.1993, p. 1.

⁽⁶⁾ OJ L 171, 6.7.1994, p. 7.

⁽⁷⁾ OJ L 125, 27.4.1998, p. 1.

⁽⁸⁾ OJ L 349, 31.12.2005, p. 1.

Article 2

Definitions

1. For the purposes of this Regulation, 'deep-sea fishing permit' means the fishing permit referred to in Article 3 of Regulation (EC) No 2347/2002.
2. The definitions of ICES and CECAF zones are those given, respectively, in Regulation (EEC) No 3880/91 and Regulation (EC) No 2597/95.

Article 3

Fixing of fishing opportunities

Fishing opportunities for stocks of deep-sea species for Community vessels are fixed as set out in the Annex.

Article 4

Allocation among Member States

The allocation of fishing opportunities among Member States provided for in the Annex shall be without prejudice to:

- (a) exchanges made pursuant to Article 20(5) of Regulation (EC) No 2371/2002;
- (b) reallocations made pursuant to Articles 21(4) and 32(2) of Regulation (EEC) No 2847/93 and Article 23(4) of Regulation (EC) No 2371/2002;
- (c) additional landings allowed pursuant to Article 3 of Regulation (EC) No 847/96;
- (d) quantities withheld pursuant to Article 4 of Regulation (EC) No 847/96;
- (e) deductions made pursuant to Article 5 of Regulation (EC) No 847/96 and Article 23(4) of Regulation (EC) No 2371/2002.

Article 5

Quota flexibility

For the purposes of Regulation (EC) No 847/96, all quotas in the Annex to the present Regulation shall be considered 'Analytical' quotas.

However, the measures provided for in Article 5(2) of Regulation (EC) No 847/96 shall not apply to those quotas.

*Article 6***Conditions for landing catch and by-catch**

1. Fish from stocks for which fishing opportunities are fixed by this Regulation may be retained on board or landed only if they were taken by vessels of a Member State which has a quota which is not exhausted. All landings shall count against the quota.

2. Paragraph 1 shall not apply to catches taken in the course of scientific investigations carried out in accordance with Article 43 of Regulation (EC) No 850/98. Such catches shall not count against the quota.

*Article 7***Orange roughy**

1. Fishing for orange roughy shall be prohibited in the following sea areas:

(a) that sea area enclosed by rhumb lines sequentially joining the following positions:

57°00' N, 11°00' W

57°00' N, 8°30' W

56°23' N, 8°30' W

55°00' N, 8°30' W

55°00' N, 11°00' W

57°00' N, 11°00' W;

(b) that sea area enclosed by rhumb lines sequentially joining the following positions:

55°30' N, 15°49' W

53°30' N, 14°11' W

50°30' N, 14°11' W

50°30' N, 15°49' W;

(c) that sea area enclosed by rhumb lines sequentially joining the following positions:

55°00' N, 13°51' W

55°00' N, 10°37' W

54°15' N, 10°37' W

53°30' N, 11°50' W

53°30' N, 13°51' W.

Those positions and the corresponding rhumb lines and vessel positions shall be measured according to the WGS84 standard.

2. Vessels holding a deep-sea fishing permit that have entered the areas defined in paragraph 1 shall not retain on board or tranship any quantity of orange roughy, nor land any quantity of orange roughy at the end of that fishing trip unless:

(a) all gears carried on board are lashed and stowed during the transit in accordance with the conditions laid down in Article 20(1) of Regulation (EEC) No 2847/93; or

(b) the average speed during transit is equal to, or greater than, 8 knots.

3. Member States shall ensure that vessels holding a deep-sea fishing permit are properly monitored by the Fisheries Monitoring Centres (FMC), which shall have a system to detect and record the vessels' entry into, transit through and exit from the areas defined in paragraph 1.

*Article 8***Entry into force**

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

It shall apply from 1 January 2009.

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

Done at Brussels, 28 November 2008.

For the Council
The President
M. BARNIER

ANNEX

PART 1

Definition of Species and Species Groups

1. In the list set out in part 2 of this Annex, fish stocks are referred to following the alphabetical order of the Latin names of the species. However, deep-sea sharks are placed at the beginning of that list. A table of correspondences of common names and Latin names is given below for the purposes of this Regulation:

Common name	Scientific name
Black scabbardfish	<i>Aphanopus carbo</i>
Alfonsinos	<i>Beryx</i> spp.
Roundnose grenadier	<i>Coryphaenoides rupestris</i>
Orange roughy	<i>Hoplostethus atlanticus</i>
Blue ling	<i>Molva dypterygia</i>
Red seabream	<i>Pagellus bogaraveo</i>
Forkbeards	<i>Phycis blennoides</i>

2. For the purposes of this Regulation, 'deep-sea sharks', means the following list of species:

Common name	Scientific name
Iceland catshark	<i>Apristuris</i> spp.
Gulper shark	<i>Centrophorus granulosus</i>
Leafscale gulper shark	<i>Centrophorus squamosus</i>
Portuguese dogfish	<i>Centroscyrnus coelolepis</i>
Longnose velvet dogfish	<i>Centroscyrnus crepidater</i>
Black dogfish	<i>Centroscyllium fabricii</i>
Birdbeak dogfish	<i>Deania calceus</i>
Kitefin shark	<i>Dalatias licha</i>
Greater lanternshark	<i>Etmopterus princeps</i>
Velvet belly	<i>Etmopterus spinax</i>
Blackmouth dogfish	<i>Galeus melastomus</i>
Mouse catshark	<i>Galeus murinus</i>
Greenland shark	<i>Somniosus microcephalus</i>

PART 2

Annual fishing opportunities applicable for Community vessels in areas where catch limitations exist by species and by area (in tonnes live weight)

All references are to ICES subareas and/or divisions unless otherwise stated.

Species:	Deep-sea sharks		Zone:	Community waters and waters not under the sovereignty or jurisdiction of third countries of V, VI, VII, VIII and IX (DWS/56789-)	
Year	2009 ⁽¹⁾	2010 ⁽²⁾			
Germany	20	0			
Estonia	1	0			
Ireland	55	0			
Spain	93	0			
France	339	0			
Lithuania	1	0			
Poland	1	0			
Portugal	127	0			
United Kingdom	187	0			
EC	824	0			

⁽¹⁾ By-catches only. No directed fisheries for deep-sea sharks are permitted.

⁽²⁾ By-catches of up to 10 % of 2009 quotas are permitted.

Species:	Deep-sea sharks		Zone:	Community waters and waters not under the sovereignty or jurisdiction of third countries of X (DWS/10-)	
Year	2009 ⁽¹⁾	2010 ⁽²⁾			
Portugal	10	0			
EC	10	0			

⁽¹⁾ By-catches only. No directed fisheries for deep-sea sharks are permitted.

⁽²⁾ By-catches of up to 10 % of 2009 quotas are permitted.

Species:	Deep-sea sharks and <i>Deania histricosa</i> and <i>Deania profundorum</i>		Zone:	Community waters and waters not under the sovereignty or jurisdiction of third countries of XII (DWS/12-)	
Year	2009 ⁽¹⁾	2010 ⁽²⁾			
Ireland	1	0			
Spain	17	0			
France	6	0			
United Kingdom	1	0			
EC	25	0			

⁽¹⁾ By-catches only. No directed fisheries for deep-sea sharks are permitted.

⁽²⁾ By-catches of up to 10 % of 2009 quotas are permitted.

Species:	Black scabbardfish <i>Aphanopus carbo</i>	Zone:	Community waters and waters not under the sovereignty or jurisdiction of third countries of I, II, III and IV (BSF/1234-)
Year	2009	2010	
Germany	4	4	
France	4	4	
United Kingdom	4	4	
EC	12	12	

Species:	Black scabbardfish <i>Aphanopus carbo</i>	Zone:	Community waters and waters not under the sovereignty or jurisdiction of third countries of V, VI, VII and XII (BSF/56712-)
Year	2009	2010	
Germany	32	29	
Estonia	15	14	
Ireland	78	73	
Spain	156	145	
France	2 189	2 036	
Latvia	102	95	
Lithuania	1	1	
Poland	1	1	
United Kingdom	156	145	
Others ⁽¹⁾	8	8 ⁽¹⁾	
EC	2 738	2 547	

⁽¹⁾ By-catches only. No directed fisheries are permitted under this quota.

Species: Black scabbardfish <i>Aphanopus carbo</i>			Zone: Community waters and waters not under the sovereignty or jurisdiction of third countries of VIII, IX and X (BSF/8910-)		
Year	2009	2010			
Spain	11	11			
France	28	26			
Portugal	3 561	3 311			
EC	3 600	3 348			

Species: Black scabbardfish <i>Aphanopus carbo</i>			Zone: Community waters and waters not under the sovereignty or jurisdiction of third countries of CEEAF 34.1.2. (BSF/C3412-)		
Year	2009	2010			
Portugal	4 285	4 285			
EC	4 285	4 285			

Species: Alfonsinos <i>Beryx spp.</i>			Zone: Community waters and waters not under the sovereignty or jurisdiction of third countries of III, IV, V, VI, VII, VIII, IX, X, XII and XIV (ALF/3X14-)		
Year	2009	2010			
Ireland	10	10			
Spain	74	74			
France	20	20			
Portugal	214	214			
United Kingdom	10	10			
EC	328	328			

Species:	Roundnose grenadier <i>Coryphaenoides rupestris</i>	Zone:	Community waters and waters not under the sovereignty or jurisdiction of third countries of I, II, IV and Va (RNG/1245A-)
Year	2009	2010	
Denmark	2	2	
Germany	2	2	
France	11	11	
United Kingdom	2	2	
EC	17	17	

Species:	Roundnose grenadier <i>Coryphaenoides rupestris</i>	Zone:	Community waters and waters not under the sovereignty or jurisdiction of third countries of III (RNG/03-)
Year	2009	2010	
Denmark	804	804	
Germany	5	5	
Sweden	41	41	
EC	850	850	

Species:	Roundnose grenadier <i>Coryphaenoides rupestris</i>	Zone:	Community waters and waters not under the sovereignty or jurisdiction of third countries of Vb, VI, VII (RNG/5B67-)
Year	2009 ⁽¹⁾	2010 ⁽¹⁾	
Germany	7	6	
Estonia	57	49	
Ireland	254	216	
Spain	63	54	
France	3 222	2 738	
Lithuania	74	63	
Poland	37	32	
United Kingdom	189	160	
Others ⁽²⁾	7	6	
EC	3 910	3 324	

⁽¹⁾ A maximum of 8 % of each quota may be fished in Community waters and waters not under the sovereignty or jurisdiction of third countries of VIII, IX, X, XII and XIV.

⁽²⁾ By-catches only. No directed fisheries are permitted under this quota.

Species:	Roundnose grenadier <i>Coryphaenoides rupestris</i>	Zone:	Community waters and waters not under the sovereignty or jurisdiction of third countries of VIII, IX, X, XII and XIV (RNG/8X14-)
Year	2009 ⁽¹⁾	2010 ⁽¹⁾	
Germany	34	34	
Ireland	7	7	
Spain	3 734	3 734	
France	172	172	
Latvia	60	60	
Lithuania	7	7	
Poland	1 168	1 168	
United Kingdom	15	15	
EC	5 197	5 197	

⁽¹⁾ A maximum of 8 % of each quota may be fished in Community waters and waters not under the sovereignty or jurisdiction of third countries of Vb, VI, VII.

Species: Orange roughy <i>Hoplostethus atlanticus</i>			Zone: Community waters and waters not under the sovereignty or jurisdiction of third countries of VI (ORY/06-)	
Year	2009	2010		
Ireland	2	0		
Spain	2	0		
France	11	0		
United Kingdom	2	0		
EC	17	0		

Species: Orange roughy <i>Hoplostethus atlanticus</i>			Zone: Community waters and waters not under the sovereignty or jurisdiction of third countries of VII (ORY/07-)	
Year	2009	2010		
Ireland	15	0		
Spain	0	0		
France	50	0		
United Kingdom	0	0		
Others	0	0		
EC	65	0		

Species: Orange roughy <i>Hoplostethus atlanticus</i>			Zone: Community waters and waters not under the sovereignty or jurisdiction of third countries of I, II, III, IV, V, VIII, IX, X, XII and XIV (ORY/1CX14C)	
Year	2009	2010		
Ireland	2	0		
Spain	1	0		
France	9	0		
Portugal	2	0		
United Kingdom	1	0		
EC	15	0		

Species: Blue ling <i>Molva dypterygia</i>			Zone: Community waters and waters not under the sovereignty or jurisdiction of third countries of II, IV and V (BLI/245-)	
Year	2009	2010		
Denmark	5	4		
Germany	5	4		
Ireland	5	4		
France	28	25		
United Kingdom	18	15		
Others	5	4 ⁽¹⁾		
EC	66	56		

⁽¹⁾ By-catches only. No directed fisheries are permitted under this quota.

Species:	Blue ling <i>Molva dypterygia</i>	Zone:	Community waters and waters not under the sovereignty or jurisdiction of third countries of III (BLI/03-)
Year	2009	2010	
Denmark	5	4	
Germany	3	3	
Sweden	5	4	
EC	13	11	

Species:	Red seabream <i>Pagellus bogaraveo</i>	Zone:	Community waters and waters not under the sovereignty or jurisdiction of third countries of VI, VII and VIII (SBR/678-) ⁽¹⁾
Year	2009	2010	
Ireland	7	6 ⁽²⁾	
Spain	204	172 ⁽²⁾	
France	10	9 ⁽²⁾	
United Kingdom	25	22 ⁽²⁾	
Others	7	6 ⁽²⁾ ⁽³⁾	
EC	253	215	

⁽¹⁾ A minimum landing size of 30 cm (total length) shall be respected in 2009 and 35 cm (total length) in 2010. However, in 2010, 15 % of fish landed may have a minimum landing size of at least 30 cm (total length).

⁽²⁾ Up to 10 % of the 2010 quotas may be taken in December 2009.

⁽³⁾ By-catches only. No directed fisheries are permitted under this quota.

Species:	Red seabream <i>Pagellus bogaraveo</i>	Zone:	Community waters and waters not under the sovereignty or jurisdiction of third countries of IX (SBR/09-) ⁽¹⁾
Year	2009	2010 ⁽²⁾	
Spain	722	614	
Portugal	196	166	
EC	918	780	

⁽¹⁾ A minimum landing size of 30 cm (total length) shall be respected in 2009 and 35 cm (total length) in 2010. However, in 2010, 15 % of fish landed may have a minimum landing size of at least 30 cm (total length).

⁽²⁾ Up to 10 % of the 2010 quotas may be taken in December 2009.

Species:	Red seabream <i>Pagellus bogaraveo</i>	Zone:	Community waters and waters not under the sovereignty or jurisdiction of third countries of X (SBR/10-)
Year	2009	2010	
Spain	10	10 ⁽¹⁾	
Portugal	1 116	1 116 ⁽¹⁾	
United Kingdom	10	10 ⁽¹⁾	
EC	1 136	1 136 ⁽¹⁾	

⁽¹⁾ Up to 10 % of the 2010 quotas may be taken in December 2009.

Species:	Forkbeards <i>Phycis blennoides</i>	Zone:	Community waters and waters not under the sovereignty or jurisdiction of third countries of I, II, III and IV (GFB/1234-)
Year	2009	2010	
Germany	9	9	
France	9	9	
United Kingdom	13	13	
EC	31	31	

Species:	Forkbeards <i>Phycis blennoides</i>	Zone:	Community waters and waters not under the sovereignty or jurisdiction of third countries of V, VI and VII (GFB/567-)
Year	2009	2010	
Germany	10	10	
Ireland	260	260	
Spain	588	588	
France	356	356	
United Kingdom	814	814	
EC	2 028	2 028	

Species:	Forkbeards <i>Phycis blennoides</i>	Zone:	Community waters and waters not under the sovereignty or jurisdiction of third countries of VIII and IX (GFB/89-)
Year	2009	2010	
Spain	242	242	
France	15	15	
Portugal	10	10	
EC	267	267	

Species:	Forkbeards <i>Phycis blennoides</i>	Zone:	Community waters and waters not under the sovereignty or jurisdiction of third countries of X and XII (GFB/1012-)
Year	2009	2010	
France	9	9	
Portugal	36	36	
United Kingdom	9	9	
EC	54	54	