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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 13.3.2008
COM(2008) 88 final

Proposal for a

COUNCIL REGULATION

providing for the adaptation of cod fishing quotas to be allocated to Poland in the Baltic Sea (Subdivisions 25- 32, EC Waters) from 2008 to 2011

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Objectives of the proposal

The objective of this proposal is to provide the rules and conditions for the deduction of the amount of cod catches fished in excess of the quota allocated to Poland for cod in Subdivisions 25-32 in 2007.

• General context

Council Regulation (EC) No 1941/2006 of 11 December 2006 fixing the fishing opportunities and associated fishing conditions for certain fish stocks and groups of fish stocks, applicable in the Baltic Sea for 2007¹, fixes a quota for the amount of cod which may be fished in 2007 in the Baltic Sea by vessels flying the flag of Poland.

Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy lays down the procedure to be followed if the annual fishing quota is exceeded.

According to the official data on catches of cod in Subdivisions 25-32 by Polish vessels in 2007, the national quota was exceeded by 8000t.

At the Fisheries Council meeting of 23 October 2007, Poland recognised the need to develop and implement action plans to overcome present shortcomings in its national control system and to address the underlying causes of misreported and undeclared cod catches in the Baltic Sea. Based on this commitment and the need to address the difficulties encountered by Poland in implementing CFP instruments since accession, and in view of the consequences that the application of Article 5 of Council Regulation (EC) No 847/96 would have on the Polish fisheries sector in this particular case, the Commission has declared itself ready to consider flexibility for the pay-back of the quota overshooting for 2007, provided that the Action Plans and their implementation meet requirements to the Commission's satisfaction. Consequently, the Commission proposes that the quota overshooting for 2007 be paid back over a period of four years.

The Council is requested to adopt the Regulation establishing the deduction of the overfished amount from the quota for cod in Subdivisions 25-32 allocated to Poland over a period of four years. This is necessary in order to derogate from Article 5 of Council Regulation (EC) No 847/96.

• Existing provisions in the area of the proposal

Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy

Council Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of TACs and quotas

¹ OJ L 367, 22.12.2007, p. 1.

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

The measures proposed have been drafted 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**

Not applicable

- **Collection and use of expertise**

Based on the official catch reports by Poland for the period concerned it has been established that the quota for cod in Subdivisions 25-32 allocated to Poland in 2007 was exceeded by 8000t.

- **Impact assessment**

Not applicable.

3. LEGAL ELEMENTS OF THE PROPOSAL

- **Legal basis**

The legal basis for this proposal is Council Regulation (EC) No 2847/1993, and in particular Article 23(2) thereof.

4. BUDGETARY IMPLICATION

The proposal has no implications for the Community budget.

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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 2847/1993 of 12 October 1993 establishing a control system applicable to the Common Fisheries Policy², and in particular Article 23(2) thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Council Regulation (EC) No 1941/2006 of 11 December 2006, fixing the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks applicable in the Baltic Sea for 2007³, allocated cod fishing quotas to Poland in the Baltic Sea for 2007.
- (2) Commission Regulation (EC) No 804/2007⁴ established that catches for cod in the Eastern Baltic Sea (Subdivisions 25 -32, EC-waters) were deemed to have exhausted the quota allocated to Poland for 2007 and therefore prohibited, as from 12 July 2007, fishing for that stock in the Baltic Sea by vessels flying the flag of Poland.
- (3) On the basis of information in its possession, the Commission estimated in July 2007 that the catches of cod in the Eastern Baltic Sea (Subdivisions 25 -32, EC Waters) by vessels flying the flag of Poland were three times the amounts originally declared by Poland. Moreover, fishing vessels flying the flag of Poland continued fishing for that stock after the prohibition, thereby further overshooting the quota allocated to Poland for 2007.
- (4) Following several technical meetings between the Polish authorities and the Commission in order to establish a verified quantity of overshooting, Poland notified an overshooting of the quota by 8000t.

² OJ L 261, 20.10.1993, p.1. Regulation as last amended by Regulation (EC) No 1098/2007 (OJ L 248, 22.9.2007, p.1)

³ OJ L 367, 22.12.2006, p. 1. Regulation as last amended by Regulation (EC) No 754/2007 (OJ L 172, 30.6.2007, p. 26)

⁴ GU L 180, 10.7.2007, p. 3

- (5) Article 23(2) of Regulation (EC) No 2847/1993 provides that the Council is to adopt rules for deducting quantities fished in excess from the annual quotas. Those rules are to be established in accordance with the objective and management strategies of the Common Fisheries Policy (CFP), taking into account, as a matter of priority, the degree of overfishing and the biological status of the resources concerned.
- (6) Such rules have been established by Council Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of TACs and quotas⁵. According to Article 5 of that regulation the quantities fished in excess of the annual quotas should be deducted from the quota of the same stock in the following year.
- (7) The main causes for the overfishing of cod by vessels flying the flag of Poland are a deficient control and enforcement scheme and a fleet for which the potential to catch cod is disproportionate with regard to the fishing opportunities allocated each year to Poland by the Council.
- (8) In order to address comprehensively the serious shortcomings in the implementation of the Common Fisheries Policy by Poland, resulting in particular in misreported and undeclared fishing for the cod in the Eastern Baltic Sea, and to avoid a repetition of the overfishing of cod that occurred in 2007, Poland has committed itself to adopt and implement National action plans including immediate measures to improve the control and enforcement systems in accordance with Community standards and specific measures to adjust the capacity of the Polish fleets in order to achieve a stable balance between that capacity and the fishing opportunities for cod in the Baltic Sea allocated to Poland..
- (9) In light of this commitment and given the high amount of overfishing and the resulting socio-economic consequences of its immediate pay-back, it is appropriate to derogate from Article 5 of Regulation (EC) No 847/96 and to adopt specific rules for the deduction of the quantities fished in excess.
- (10) The quantity of cod fished in excess by Poland in 2007 should therefore be deducted from Poland's quota over a period of four years, in such a way as to reduce the socio-economic consequences in particular in the first year.
- (11) The Commission should evaluate the implementation of the National Action Plans adopted by Poland. If the actions and timelines laid down in the plans are not met, the Council may amend the rules for the deduction of the quantities fished in excess.

⁵ OJ L 115, 9.5.1996, p. 3

HAS ADOPTED THIS REGULATION:

Article 1

For the purposes of this Regulation "amount overfished in the year 2007" means the amount by which the quota allocated to Poland for cod (*Gadus morhua*) in the Baltic Sea (Subdivisions 25-32, EC Waters) was exceeded in the year 2007.

Article 2

By way of derogation from Article 5 of Regulation (EC) No 847/96 the quotas of cod (*Gadus morhua*) in the Baltic Sea (Subdivisions 25-32, EC Waters) to be allocated to Poland in the years from 2008 to 2011 shall be reduced over a period of four years according to the following method:

- (a) in the year 2008, a reduction of 10 % of the amount overfished in the year 2007, and
- (b) in the years 2009, 2010 and 2011, reductions of 30 % of the amount overfished in 2007

Article 3

1. Poland shall adopt and implement National Action Plans on control and fleet restructuring, including, in particular, measures aiming at:
 - (a) a reinforcement of the control of fishing activities, especially for that part of the fleet for which cod is a substantial part of the catch;
 - (b) an improved enforcement of Community and national conservation rules, and especially catch limits;
 - (c) an adjustment of the capacity of that part of the fleet for which cod is a substantial part of the catch.
2. Each year, the Commission shall evaluate the implementation of the National Action Plans referred to in paragraph 1. If actions are not delivered as planned, the Council may on the basis of a proposal by the Commission modify the method for deductions referred to in Article 2(a) and (b).

Article 4

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

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

Done at Brussels,

*For the Council
The President*