COUNCIL REGULATION (EC) No 1139/2008

of 10 November 2008

fixing the fishing opportunities and the conditions relating thereto for certain fish stocks applicable in the Black Sea for 2009

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 [1], and in particular Article 20 thereof,

Having regard to Council Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of TACs and quotas [2], 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 in 2009.

(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 establishing a control system applicable to the common fisheries policy [3] 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 [4].

(9) Bearing in mind that in one Member State, before the entry into force of this Regulation, nets with a mesh size inferior to 400 mm were traditionally used to catch turbot, and in order to allow adequate adaptation to the technical measures introduced in this Regulation, vessels flying the flag of that Member State shall be permitted to fish for turbot using nets with a minimum mesh size of no less than 360 mm.

(10) 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 [5].

(11) 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 2009 for certain fish stocks in the Black Sea and the specific conditions under which such fishing opportunities may be used.

[1] OJ L 358, 31.12.2002, p. 59.
[2] OJ L 115, 9.5.1996, p. 3.
[3] OJ L 261, 20.10.1993, p. 1.
[4] OJ L 125, 27.4.1998, p. 1.
[5] OJ L 151, 11.6.2008, p. 5.

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:

(a) 'GFCM' means General Fisheries Commission for the Mediterranean;

(b) 'Black Sea' means 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' means 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 that 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

Transitional technical measures

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

CHAPTER III

FINAL PROVISIONS

Article 8

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 9

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 2009.

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

Done at Brussels, 10 November 2008.

For the Council
The President
B. KOUCHNER

ANNEX I

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 by species and by area

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	50	Precautionary TAC Article 3 of Regulation (EC) No 847/96 applies. Article 4 of Regulation (EC) No 847/96 does not apply. Article 5 of Regulation (EC) No 847/96 applies.	
Romania	50		
EC	100 (1)		
TAC	Not relevant		

(1) Preliminary TAC. The final TAC shall be set, in the light of new scientific advice, in a timely manner during the course of the first half of 2009.

Species:	Sprat *Sprattus sprattus*	**Zone:**	Black Sea
EC	12 750 (1)	Precautionary TAC Article 3 of Regulation (EC) No 847/96 applies. Article 4 of Regulation (EC) No 847/96 does not apply. Article 5 of Regulation (EC) No 847/96 applies.	
TAC	Not relevant		

(1) May be fished only 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 European Community waters of the Black Sea.

2. The minimum legal mesh size for bottom-set nets used to catch turbot shall be 400 mm.

   In one Member State where the minimum legal mesh size for bottom-set nets used to catch turbot was less than 400 mm before the entry into force of this Regulation, nets with a minimum mesh size of no less than 360 mm may be used to catch turbot. However, the Member State concerned shall ensure that by the end of 2009 no more than 40 % by number of the whole fishing vessels authorised to fish turbot with bottom-set nets still use a mesh size smaller than 400 mm.

3. The mesh size shall be measured in accordance with Commission Regulation (EC) No 517/2008 of 10 June 2008 laying down, *inter alia*, detailed rules of relevance for the determination of the mesh size.

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