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EUROPEAN COMMISSION

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2010/0167 (NLE)

Proposal for a

COUNCIL REGULATION (EU) No [...]/2010

of

amending Regulation (EU) No 53/2010 as regards certain fishing opportunities for cod, redfish and bluefin tuna and excluding certain groups of vessels from the fishing effort regime laid down in Chapter III of Regulation (EC) 1342/2008

EXPLANATORY MEMORANDUM

Regulation (EU) No 53/200¹ fixes for 2010 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in EU waters and, for EU vessels, in waters where catch limitations are required.

At its Annual Meeting in 2009, NAFO decided to reopen the fishery for cod in NAFO 3M and redfish in NAFO 3LN after more than 10 years of moratorium, and strict by-catch rules were put in place. It should be clarified that the general rule for by-catches applicable in the NAFO Regulatory Area implies that by-catches can only be taken by Member States that have an allocation for a certain species in a certain area.

Annex ID of that Regulation establishes the TACs and quotas for highly migratory species on the basis of decisions taken by the International Commission for the Conservation of Atlantic Tunas (ICCAT) at its annual meeting in 2009. At the ICCAT Compliance Committee, at its special meeting held in Madrid on 24-26 February 2010, the quota allocation for bluefin tuna was revised and the European Union quota reduced. Therefore, the quota for bluefin tuna should be amended accordingly.

In addition, Article 15 and Annex IV of that Regulation establish the maximum number of vessels allowed to fish for bluefin tuna in certain regions and under certain circumstances. Having regard to Articles 5 and 6 of Regulation (EC) No 302/2009 concerning a multiannual recovery plan for bluefin tuna in the eastern Atlantic and Mediterranean² it is necessary to decide on further limitations of fishing opportunities for this fishery, and in particular to determine the number of traps, the number and total capacity in gross tonnage of fishing vessels and the tuna farming and fattening capacity for each Member State with regard to the bluefin tuna fishery in the eastern Atlantic and Mediterranean.

According to Article 11(2) of Regulation (EC) No 1342/2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks and repealing Regulation (EC) No 423/2004 on the basis of the information provided by Member States and the advice of STECF the Council may exclude certain groups of vessels from the application of the effort regime provided that appropriate data is available on the cod catches and discards of the vessels concerned, that the percentage of cod catches does not exceed 1,5% of the total catches of the group of vessels and that the inclusion of the group in the effort regime would constitute an administrative burden disproportionate to its overall impact on cod stocks.

Based on the advice from STECF, information provided by Germany, Ireland and France on certain groups of vessels fishing in the North Sea, to the West of Scotland and in the Irish Sea, sufficiently shows that the cod catches, including discards, of the groups of vessels comply with the conditions of Article 11(2) of Regulation (EC) No 1342/2008 and may thus be excluded from the effort regime. Having regard to the advice from the STECF, it is appropriate to exclude these groups of vessels from the application of the effort regime under Regulation (EC) No 1342/2008 by way of amending Regulation (EC) No 754/2009 and to adjust the maximum allowable effort allocated to those Member States in Appendix I to Annex IIa to Regulation (EC) No 53/2010.

¹ OJ L 21, 26.1.2010, p. 1.

² OJ L 96, 15.4.2009, p.1.

Finally, in accordance with Article 16(3) of Regulation (EC) No 1342/2008, in 2009, Member States could modify their effort allocations by transferring the fishing effort and capacity between the geographical areas provided that certain conditions are met. The Netherlands have provided information regarding transfers carried out in 2009 of certain amount of effort and capacity from the North Sea to the Irish Sea which can be considered compatible with the conditions of Article 16(3). The maximum allowable effort allocated to Netherlands in Appendix I to Annex IIa to Regulation (EC) No 53/2010 needs therefore to be amended accordingly.

The Council is requested to adopt this proposal as soon as possible in order to allow fishermen to plan their activities for the remainder of this fishing season.

Proposal for a

COUNCIL REGULATION (EU) No [...]/2010

of

amending Regulation (EU) No 53/2010 as regards certain fishing opportunities for cod, redfish and bluefin tuna and excluding certain groups of vessels from the fishing effort regime laid down in Chapter III of Regulation (EC) 1342/2008

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 Council Regulation (EC) No 1342/2008 of 18 December 2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks³, and in particular Article 11 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Council Regulation (EU) No 53/2010⁴ fixes for 2010 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in EU waters and, for EU vessels, in waters where catch limitations are required.
- (2) The North Atlantic Fisheries Organisation (NAFO) at its Annual Meeting in 2009 decided to reopen the fishery for cod in zone NAFO 3M and for redfish in zone NAFO 3LN after more than ten years of moratorium. The by-catch rules established in Regulation (EU) No 53/2010 for the two reopened fisheries should be amended to ensure consistency with the general by-catch rules applicable in the NAFO Regulatory Area under Article 4(1) of Council Regulation (EC) No 1386/2007 of 22 October 2007 laying down conservation and enforcement measures applicable in the Regulatory Area of the North West Atlantic Fisheries Organisation⁵.
- (3) The Compliance Committee of International Commission for the Conservation of Atlantic Tunas (ICCAT), at its special meeting held in Madrid on 24-26 February 2010, reduced the quota for bluefin tuna allocated to the European Union. Therefore, it is necessary to implement those new provisions into EU law.

³ OJ L 348, 24.12.2008, p. 20.

⁴ OJ L 21, 26.1.2010, p. 1.

⁵ OJ L 318, 5.12.2007, p. 1.

- (4) Having regard to Articles 5(5) and (8) and 6(4) of Regulation (EC) No 302/2009 concerning a multiannual recovery plan for bluefin tuna in the eastern Atlantic and Mediterranean⁶ it is necessary to establish the maximum number and total capacity in gross tonnage of fishing vessels of each Member State that may be authorised to fish for, retain on board, tranship, transport, or land bluefin tuna, the maximum number of tuna traps that may be authorised by each Member State, the maximum tuna farming and fattening capacity for each Member State and the maximum input of wild caught bluefin tuna that each Member State may allocate to its farms.
- (5) Within the context of establishing fishing opportunities and in accordance with Article 11 of Regulation (EC) No 1342/2008, the Council may, on the basis of information provided by Member States and assessed by the STECF, exclude certain groups of vessels from the effort regime established in that Regulation, provided that appropriate data is available on cod catches and discards of the vessels concerned, that the percentage of cod catches does not exceed 1,5 % of the total catches of the group of vessels and that the inclusion of the group in the effort regime would constitute an administrative burden disproportionate to its overall impact on cod stocks. Germany provided information on the cod catches by a group of vessels targeting saithe in the North Sea and in the area to the West of Scotland with bottom trawls of mesh size equal to or larger than 120 mm. Ireland provided information on the cod catches by a group of vessels targeting Nephrops in the Irish Sea with a selective sorting grid similar to that defined in Appendix 2 to Annex III to Regulation (EC) No 43/2009. France provided information on the cod catches by a group of vessels targeting deep sea species in the West of Scotland with bottom trawls of mesh size larger than 110 mm. On the basis of that information as assessed by STECF, it can be established that the cod catches, including discards, of those groups of vessels do not exceed 1,5 % of their total catches. Having moreover regard to control and monitoring measures in place ensuring the monitoring and control of the fishing activities of those groups of vessels and considering that the inclusion of these groups would constitute an administrative burden disproportionate to the overall impact of that inclusion on cod stocks, it is appropriate to exclude those groups of vessels from the application of Chapter III of Regulation (EC) No 1342/2008, thus allowing to establish the effort limits for the concerned Member States accordingly.
- (6) Article 16(3) of Regulation (EC) No 1342/2008 allowed Member States to modify their effort allocations in 2009 by transferring the fishing effort and capacity between the geographical areas provided that certain conditions are met. On the basis of the information provided by Netherlands regarding transfers carried out in 2009 of certain amount of effort and capacity from the North Sea to the Irish Sea, it is appropriate to adjust the maximum allowable effort allocated to Netherlands in Appendix I to Annex IIa to Regulation (EC) No 53/2010.
- (7) Regulations (EU) No 53/2010 and (EC) No 754/2009 excluding certain groups of vessels from the fishing effort regime laid down in Chapter III of Regulation (EC) 1342/2008⁷ should therefore be amended accordingly.

⁶ OJ L 96, 15.4.2009, p.1

⁷ OJ L 214, 19.8.2009, p. 16.

- (8) In order to avoid the interruption of fishing activities and for the purpose reporting of catches per calendar year or of effort per year calculated from 1 February 2010 to 31 January 2011, this Regulation should enter into force immediately after its publication and apply from 1 January 2010 and 1 February 2010 respectively,

HAS ADOPTED THIS REGULATION:

Article 1
Amendment of Regulation (EU) No 53/2010

Regulation (EU) No 53/2010 is amended as follows:

- (1) Article 15 is replaced by the following:

"Article 15
Fishing and farming and fattening capacity limitations for bluefin tuna

1. The number of EU bait boats and trolling boats authorised to fish actively for bluefin tuna between 8 kg/75 cm and 30 kg/115 cm in the Eastern Atlantic shall be limited as set out in point 1 of Annex IV.
2. The number of EU coastal artisanal fishing vessels authorised to fish actively for bluefin tuna between 8 kg/75 cm and 30 kg/115 cm in the Mediterranean shall be limited as set out in point 2 of Annex IV.
3. The number of EU vessels fishing for bluefin tuna in the Adriatic Sea for farming purposes authorised to fish actively for bluefin tuna between 8 kg/75 cm and 30 kg/115 cm shall be limited as set out in point 3 of Annex IV.
4. The number and total capacity in gross tonnage of fishing vessels authorised to fish for, retain on board, tranship, transport, or land bluefin tuna in the eastern Atlantic and Mediterranean shall be limited as set out in point 4 of Annex IV.
5. The number of traps engaged in the eastern Atlantic and Mediterranean bluefin tuna fishery shall be limited as set out in point 5 of Annex IV.
6. The bluefin tuna farming capacity, the fattening capacity and the maximum input of wild caught bluefin tuna allocated to the farms in the eastern Atlantic and Mediterranean shall be limited as set out in point 6 of Annex IV."

- (2) Annex IC is amended as follows:

- (i) the entry for the species cod in zone NAFO 3M is replaced by the following:

Species:	Cod	Zone:	NAFO 3M
	<i>Gadus morhua</i>		(COD/N3M.)
Estonia	61	(1) (2)	
Germany	247	(1)	

Latvia	61	(1) (2)
Lithuania	61	(1) (2)
Poland	209	(1) (2)
Spain	796	(1)
France	110	(1)
Portugal	1070	(1)
United	521	(1)
EU	3 136	(1) (2)

TAC 5 500 (1) (2)

- (1) Directed fishery for cod in NAFO 3M shall be permitted until the moment when the estimated catches, including by-catches, to be taken in the remainder of the year equal 100% of the allocated quota. After that date, only by-catches shall be permitted within a maximum of 1 250 kg or 5%, which ever is greater, within the quota allocated to the Flag Member State.
- (2) Including the fishing entitlements of Estonia, Latvia and Lithuania of 61 tonnes respectively and the allocation for Poland of 209 tonnes in accordance with sharing arrangements for the former USSR adopted by the NAFO Fisheries Commission in 2003, following the accession of Estonia, Latvia, Lithuania and Poland to the European Union.

(ii) the entry for the species redfish in 3LN is replaced by the following:

Species:	Redfish	Zone:	NAFO 3LN
	<i>Sebastes spp.</i>		(RED/N3LN.)
Estonia	173	(1) (2)	
Germany	119	(1)	
Latvia	173	(1) (2)	
Lithuania	173	(1) (2)	
EU	638	(1) (2)	

TAC 3 500 (1) (2)

- (1) Directed fishery for redfish in NAFO 3LN shall be permitted until the moment when the estimated catches, including by-catches, to be taken in the remainder of the year equal 100% of the allocated quota. After that date, only by-catches shall be permitted within a maximum of 1 250 kg or 5%, which ever is greater, within the quota allocated to the Flag Member State.
- (2) Including the fishing entitlements of Estonia, Latvia and Lithuania of 173 tonnes respectively in accordance with sharing arrangements for the former USSR adopted by the NAFO Fisheries Commission in 2003, following the accession of Estonia, Latvia, Lithuania and Poland to the European Union.

(3) In Annex ID, the entry concerning the species bluefin tuna in the Atlantic Ocean, east of 45° W, and Mediterranean is replaced by the following:

"Species:	Bluefin tuna <i>Thunnus thynnus</i>	Zone:	Atlantic Ocean, east of 45° W, and Mediterranean (BFT/AE045W)
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Cyprus	70,18	(4)
Greece	130,30	
Spain	2 526,06	(2)(4)
France	2 021,93	(2)(3)(4)
Italy	1 937,50	(4)(5)
Malta	161,34	(4)
Portugal	237,66	
All Member States	2,41	(1)
EU	7 087,38	(2)(3)(4)(5)

TAC 13 500

(1) Except Cyprus, Greece, Spain, France, Italy, Malta and Portugal, and only as by-catch.

(2) Within this TAC, the following catch limits and allocation between Member States shall apply to catches of bluefin tuna between 8 kg/75 cm and 30 kg/115 cm by the vessels referred to in point 1 of Annex IV (BFT/*8301):

Spain	367,23
France	165,69
EU	532,92

(3) Within this TAC, the following catch limits and allocation between Member States shall apply to catches of bluefin tuna weighing no less than 6,4 kg or measuring no less than 70 cm by the vessels referred to in point 1 of Annex IV (BFT/*641):

France	45 (*)
EU	45

(*) This quantity may be revised by the Commission upon request of France, up to an amount of 100 tonnes as indicated by ICCAT Recommendation 08-05.

(4) Within this TAC, the following the catch limit and allocation between Member States shall apply to catches of bluefin tuna between and 8 kg and 30 kg by the vessels referred to in point 2 of Annex IV (BFT/*8302):

Spain	50,52
France	49,84
Italy	39,34
Cyprus	1,40

Malta 3,23

EU 144,34

- (5) Within this TAC, the following the catch limit and allocation between Member States shall apply to catches of bluefin tuna between and 8 kg and 30 kg by the vessels referred to in point 3 of Annex IV (BFT/*643):

Italy 39,34

EU 39,34 "

- (4) Annex IV is amended as follows:

- (i) the table under point 2 is replaced by the following:

"Spain	139
France	86
Italy	35
Cyprus	25
Malta	83
EU	374"

- (ii) the following points 4, 5 and 6 are added:

- "4. Maximum number and total capacity in gross tonnage of fishing vessels of each Member State that may be authorised to fish for, retain on board, tranship, transport, or land bluefin tuna in the eastern Atlantic and Mediterranean

Table A

Number of fishing vessels						
	Cyprus	Greece	Italy	France	Spain	Malta
Purse Seiners	1	1	24	19	6	0
Longliners	12	0	30	0	81	83
Baitboat	0	0	0	8	61	0
Handline	0	0	0	29	2	0
Trawler	0	0	0	78	0	0
Other artisanal	0	256	0	87	33	0

Table B

Total capacity in gross tonnage						
	Cyprus	Greece	Italy	France	Spain	Malta
Purse Seiners	51	260	*	4044	1608	0
Longliners	409	-	1196	0	4416,73	1365,64
Baitboat	-	-	-	248	10335,58	0
Handline	-	-	-	<i>pm</i>	20,96	0
Trawler	-	-	-	<i>pm</i>	0	0

Other artisanal	-	3343,21**	-	<i>pm</i>	489,83	0
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* Temporary cessation of activities in 2010

** Polyvalent vessels, using multi-gear equipment (longline, handline, trolling line)

5. Maximum number of traps engaged in the eastern Atlantic and Mediterranean bluefin tuna fishery authorised by each Member State

	Number of traps
Spain	6
Italy	6
Portugal	1

6. Maximum bluefin tuna farming capacity and fattening capacity for each Member State and maximum input of wild caught bluefin tuna that each Member State may allocate to its farms in the eastern Atlantic and Mediterranean

Table A

	Maximum tuna farming capacity and fattening capacity
Spain	14
Italy	15
Greece	2
Cyprus	3
Malta	8

Table B

	Maximum input of wild caught bluefin tuna (in tonnes)
Spain	5 855
Italy	3 764
Greece	785
Cyprus	2 195
Malta	8 768"

- (5) Appendix 1 to Annex IIA is amended as follows:

- (i) In table (b), the columns concerning Germany and the Netherlands are replaced by the following:

Regulated gear	DE	NL
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TR 1	1 269 111	371 757
TR 2	516 154	1 080 920
TR 3	3 501	48 508
BT 1	29 271	999 808
BT 2	1 691 253	34 743 212
GN	224 484	438 664
GT	467	0
LL	0	0

- (ii) In table (c), the columns concerning Ireland and the Netherlands are replaced by the following:

Regulated gear	IE	NL
TR 1	59 625	0
TR 2	778 729	0
TR 3	8 433	0
BT 1	0	0
BT 2	514 584	200 000
GN	18 255	0
GT	0	0
LL	0	0

- (iii) In table (d), the columns concerning Germany and France are replaced by the following:

Regulated gear	DE	FR
TR 1	11 151	2 317 946
TR 2	0	7 415
TR 3	0	0
BT 1	0	7 161
BT 2	0	13 211
GN	35 442	400 503
GT	0	0
LL	0	54 917

Article 2

Amendment of Regulation (EC) No 754/2009

In Article 1 of Regulation (EC) No 754/2009, the following points are added:

- "(f) the group of high sea vessels flying the flag of Germany, participating in the fishery indicated in the request from Germany dated 26 March 2010 as completed by correspondence dated of 9 April and 20 May 2010, targeting saithe in the North Sea, the EU waters of ICES Zone IIa and in the area to the West of Scotland with bottom trawls of mesh size equal to or larger than 120 mm
- (g) the group of vessels flying the flag of Ireland, participating in the fishery indicated in the request from Ireland dated 26 March 2010, fishing in the Irish Sea during the period in which these vessels are fishing solely with a selective sorting grid similar to

that defined in Appendix 2 to Annex III to Regulation (EC) No 43/2009 and targeting Norway lobster;

- (h) the group of vessels flying the flag of France, participating in the fishery indicated in the request from France dated 24 March 2010 as completed by correspondence dated 25 March, 29 March, 8 April and 20 May 2010 targeting deep sea species in area to the West of Scotland with bottom trawls of mesh size larger than 110 mm."

Article 3

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

It shall apply from 1 January 2010, with the exception of Articles 1(5) and 2, which shall apply from 1 February 2010.

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

Done at Brussels,

*For the Council
The President*