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EUROPEAN COMMISSION

Brussels, 23.9.2010
COM(2010) 488 final

2010/0255 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

**amending Council Regulation (EC) No 1288/2009 establishing transitional technical
measures from 1 January 2010 to 30 June 2011**

EXPLANATORY MEMORANDUM

On 4 June 2008, the Commission made a proposal for a Council Regulation concerning the conservation of fisheries resources through technical measures¹. Such proposal was intended to replace Council Regulation (EC) No 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms² and certain transitional technical measures as laid down in Annex III to Council Regulation (EC) No 43/2009³ establishing for 2009 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks.

The proposed Council Regulation was not adopted before the date on which the measures provided for in Annex III to Regulation (EC) No 43/2009 ceased to apply. For reasons of legal certainty and to maintain the proper conservation and management of marine resources, Council Regulation (EC) No 1288/2009 establishing transitional technical measures from 1 January 2010 to 30 June 2011⁴ was adopted, providing for the continuation of temporary technical measures catered for in Annex III to Regulation (EC) No 43/2009 for a transitional period of 18 months.

In view of the new requirements of the Lisbon Treaty, the Commission withdrew in 2010 the proposal for a Council Regulation concerning the conservation of fisheries resources through technical measures. Basic principles on technical measures would be considered by the new basic regulation for the ongoing reform of the common fisheries policy, for which the proposal is foreseen to be presented during the third quarter of 2011.

Regulation (EC) No 1288/2009 will expire on 30 June 2011. Given the fact that there is no current legal act that could provide for permanent technical measures, and as to ensure legal certainty and the conservation of marine resources, it is appropriate to extend the validity of the aforementioned regulation for another 18 months, until 1 January 2013.

The proposal has no financial implications for the budget of the European Union.

¹ COM(2008) 324 final
² OJ L 125, 27.4.1998, p. 1.
³ OJ L 22, 26.1.2009, p. 1.
⁴ OJ L 347, 24.12.2009, p 6.

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amending Council Regulation (EC) No 1288/2009 establishing transitional technical measures from 1 January 2010 to 30 June 2011

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission⁵,

Having regard to the opinion of the European Economic and Social Committee⁶

After transmission of the draft legislative act to the national Parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Council Regulation (EC) No 1288/2009 of 27 November 2009 establishing transitional technical measures from 1 January 2010 to 30 June 2011⁷ provides for the continuation of temporary technical measures previously catered for in Annex III to Regulation (EC) No 43/2009, thereby allowing those measures to continue to apply until the time of adoption of permanent measures on the basis of the Commission proposal of 4 June 2008 for a new Regulation concerning the conservation of fisheries resources through technical measures⁸.
- (2) In view of the upcoming reform of the Common Fisheries Policy (CFP) and the relevance of this reform for the content and scope of new permanent technical measures, it is appropriate to delay the adoption of those measures until a decision has been taken by the European Parliament and the Council on a new Regulation on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy, replacing Regulation (EC) No 2371/2002 as from 1 January 2013.
- (3) In order to maintain the proper conservation and management of marine resources, the technical measures currently in force should continue to apply until that date.

⁵ , , p. .

⁶ , , p. .

⁷ OJ L 347, 24.12.2009, p 6.

⁸ COM(2008) 324 final

- (4) As a consequence, considering that the temporary technical measures laid down in Regulation (EC) No 1288/2009 cease to apply as from 1 July 2011, this Regulation should be amended to extend the validity until 1 January 2013,

HAVE ADOPTED THIS REGULATION:

Sole Article

Regulation (EC) 1288/2009 is amended as follows:

1. Article 1 is amended as follows:

(a) In paragraph 1, the words "30 June 2011" are replaced by "1 January 2013".

(b) Paragraph 2 is amended as follows:

(i) subparagraph (a) is amended as follows:

- in point (i), the words "point 6.8 second paragraph" are deleted;
- in point (ii), the words "from 1 January 2010 to 30 June 2011" are replaced by "from 1 January 2010 to 1 January 2013";
- in point (iv), the words "30 June 2011" are replaced by "1 January 2013";
- in point (v), the second subparagraph is replaced by the following:

"Member States concerned shall submit to the Commission a preliminary report on the total amount of catches and discards of vessels subject to the observer programme no later than 30 June of the year in which the programme is carried out. The final report for the concerned calendar year shall be submitted no later than 1 February of the year following that calendar year.";

- the following point (vi) is added:

"(vi) point 6.8 second paragraph, is replaced by the following:
"Member States concerned shall submit the results of the trials and experiments no later than 30 September of the year in which these are carried out.";

(ii) In subparagraph (e), the words "both in the year 2010 as well as that of 2011" are deleted;

(iii) in subparagraph (h), the year "2010" is deleted.

2. In Article 2, the words "30 June 2011" are replaced by "1 January 2013".

This Regulation shall enter into force on the seventh day following 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 European Parliament
The President
[...]

For the Council
The President
[...]