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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 29.9.2008
COM(2008) 585 final

Proposal for a

COUNCIL REGULATION

**amending Regulation (EC) No 40/2008, as regards management measures adopted in the
Indian Ocean Tuna Commission and in the South Pacific Regional Fisheries
Management Organisation**

(presented by the Commission)

EXPLANATORY MEMORANDUM

Council Regulation (EC) No 40/2008 fixes for 2008 the fishing opportunities and associated conditions for certain fish stocks and groups of stocks applicable in Community waters and for Community vessels, in waters where limitations in catch are required¹.

At its Annual Meetings in 2006 and 2007, the Indian Ocean Tuna Commission (IOTC) adopted a number of management and control measures, concerning the limitation of fishing capacity of vessels fishing for tropical tunas and for swordfish and albacore, which have been implemented in Community law by Regulation (EC) No 40/2008.

To ensure a sustainable exploitation of the highly migratory species in the Indian Ocean and taking into account the historical fishing patterns and the active presence of EC fleet fishing for highly migratory species in the IOTC zone during the reference years 2006 and 2007, the number of Community vessels fishing for tropical tuna and swordfish and albacore, and the corresponding capacity in Gross Tonnage and its allocation among the concerned Member States, should be established.

During the Third International Meeting for the creation of a new South Pacific Regional Fisheries Management Organisation (SPFO) in 2007, the participants adopted interim measures in order to regulate pelagic and bottom fishing activities in the South Pacific, which were implemented in Community law by Regulation (EC) No 40/2008.

In accordance with the interim measures adopted in the SPFO in 2007, the Community presence in the SPFO area in 2008, in terms of active vessels and the corresponding capacity in GT, should be limited to the presence recorded in 2007 and the maximum number of Community vessels should be allocated among the concerned Member States.

The present proposal intends to introduce the necessary amendments to Regulation (EC) No 40/2008.

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

¹ OJ L 19, 23.1.2008, p. 1

Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 40/2008, as regards management measures adopted in the Indian Ocean Tuna Commission and in the South Pacific Regional Fisheries Management Organisation

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 Policy², and in particular Article 20 thereof,

Having regard to the proposal from the Commission³,

Whereas:

- (1) Council Regulation (EC) No 40/2008⁴ fixes for 2008 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required.
- (2) At its Annual Meetings in 2006 and 2007, the Indian Ocean Tuna Commission (IOTC) adopted a number of management and control measures, concerning the limitation of fishing capacity of vessels fishing for tropical tunas and for swordfish and albacore, which have been implemented in Community law by Regulation (EC) No 40/2008.
- (3) To ensure a sustainable exploitation of the highly migratory species in the Indian Ocean and taking into account the historical fishing patterns and the active presence of the EC fleet fishing for highly migratory species in the IOTC Area during the reference years 2006 and 2007, the number of Community vessels fishing for tropical tuna and swordfish and albacore and the corresponding capacity in Gross Tonnage and its allocation among the concerned Member States should be established.
- (4) During the Third International Meeting for the creation of a new South Pacific Regional Fisheries Management Organisation (SPFO) in 2007, the participants adopted interim measures in order to regulate pelagic and bottom fishing activities in

² OJ L 358, 31.12.2002, p. 59. Regulation as amended by Regulation (EC) No 865/2007 (OJ L 192, 24.7.2007, p. 1).

³ OJ C, p.

⁴ OJ L 19, 23.1.2008, p.1.

the South Pacific, which were implemented in Community law by Regulation (EC) No 40/2008.

- (5) In accordance with the interim measures adopted in the SPFO in 2007, the Community presence in the SPFO area in 2008, in terms of active vessels and the corresponding capacity in GT, should be limited to the presence recorded in 2007 and the maximum number of Community vessels should be allocated among the concerned Member States.
- (6) Regulation (EC) No 40/2008 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EC) No 40/2008

Regulation (EC) No 40/2008 is amended as follows:

- (1) Article 72 is replaced by the following:

"Article 72

Limitation of fishing capacity of vessels fishing for tropical tunas

1. The maximum number of Community vessels fishing for tropical tunas in the IOTC Area, and the corresponding capacity in GT, shall be as follows:

Member State	Maximum number of vessels	Capacity (GT)
Spain	22	61 400
France	18	33 300
Italy	1	2137

2. Notwithstanding paragraph 1, Member States may change the number of vessels, by gear type, provided that they can demonstrate to the Commission that the change in the number of vessels, by gear type, does not lead to an increase of fishing effort on the fish stocks involved.
3. Member States shall ensure that, where there is a proposed transfer of capacity to their fleet, vessels to be transferred are on the IOTC Record of Vessels or on the Record of vessels of other Tuna Regional Fisheries Organisations. No vessels on an IUU vessels list of any Regional Fisheries Management Organisation may be transferred."

- (2) Article 73 is replaced by the following:

"Article 73

Limitation of fishing capacity of vessels fishing for swordfish or albacore

1. The maximum number of Community vessels fishing for swordfish and albacore in the IOTC Area, and the corresponding capacity in GT, shall be as follows:

Member State	Maximum number of vessels	Capacity (GT)
Spain	27	11 600
France	25	1940
Portugal	26	10 100
United Kingdom	4	1 400

2. Notwithstanding paragraph 1, Member States may change the number of their vessels, by gear type, provided that they can demonstrate to the Commission that the change in the number of vessels, by gear type, does not lead to an increase of fishing effort on the fish stocks involved.
3. Member States shall ensure that, where there is a proposed transfer of capacity to their fleet, vessels to be transferred are on the IOTC Record of Vessels or on the Record of vessels of other Tuna Regional Fisheries Organisations. No vessels on an IUU vessels list of any Regional Fisheries Management Organisation may be transferred."

- (3) Article 74 is replaced by the following:

"Article 74

Pelagic fisheries – Capacity limitations

1. The maximum number of Community vessels fishing for pelagic stocks in 2008 shall not exceed 8 vessels and the corresponding capacity shall not exceed 63 000 GT of the total level of GT.

The maximum number of Community vessels is allocated among Member States as follows:

Member State	Maximum number of vessels
Germany	1
Latvia	1
Lithuania	2
The Netherlands	2
Poland	2

2. Member States shall submit for review to the Interim Science Working Group of the SPFO any stock assessments and research in respect of pelagic stocks in the SPFO area and shall promote the active participation of their scientific experts in Organisation's scientific works on pelagic species.
3. Member States shall ensure as much as possible an appropriate level of observer coverage on fishing vessels flying their flag in order to observe the pelagic fisheries in the South Pacific and collect relevant scientific information."

Article 2

Entry into force

This Regulation shall enter into force on the third 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