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COUNCIL REGULATION (EC) No 2371/2002

of 20 December 2002

on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy

(OJ L 358, 31.12.2002, p. 59)

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**COUNCIL REGULATION (EC) No 2371/2002****of 20 December 2002****on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas:

- (1) Council Regulation (EEC) No 3760/92 ⁽³⁾ established a Community system for fisheries and aquaculture. According to that Regulation, the Council has to decide on any necessary adjustments by 31 December 2002.
- (2) The scope of the Common Fisheries Policy extends to conservation, management and exploitation of living aquatic resources and aquaculture, as well as to the processing and marketing of fishery and aquaculture products, where such activities are practised on the territory of Member States or in Community waters or by Community fishing vessels or nationals of Member States, bearing in mind the provisions of Article 117 of the United Nations Convention on the Law of the Sea, without prejudice to the primary responsibility of the flag State.
- (3) Given that many fish stocks continue to decline, the Common Fisheries Policy should be improved to ensure the long-term viability of the fisheries sector through sustainable exploitation of living aquatic resources based on sound scientific advice and on the precautionary approach, which is based on the same considerations as the precautionary principle referred to in Article 174 of the Treaty.
- (4) The objective of the Common Fisheries Policy should therefore be to provide for sustainable exploitation of living aquatic resources and of aquaculture in the context of sustainable development, taking account of the environmental, economic and social aspects in a balanced manner.
- (5) It is important that the management of the Common Fisheries Policy is guided by the principle of good governance and that the measures taken are mutually compatible and consistent with other Community policies.
- (6) The objective of sustainable exploitation will be more effectively achieved through a multi-annual approach to fisheries management, involving multi-annual management plans for stocks at or within safe biological limits. For stocks outside safe biological limits, the adoption of multi-annual recovery plans is an absolute priority. In line with scientific advice, substantial reductions in fishing effort may be required for these stocks.

⁽¹⁾ OJ C 203 E, 27.8.2002, p. 284.

⁽²⁾ Opinion delivered on 5 December 2002 (not yet published in the Official Journal).

⁽³⁾ OJ L 389, 31.12.1992, p. 1. Regulation as last amended by Regulation (EC) No 1181/98 (OJ L 164, 9.6.1998, p. 1).

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- (7) These multi-annual plans should establish targets for sustainable exploitation of the stocks concerned, contain harvesting rules laying down the manner in which annual catch and/or fishing effort limits are to be calculated and provide for other specific management measures, taking account also of the effect on other species.
- (8) The content of multi-annual plans should be commensurate with the conservation status of the stocks, the urgency of their recovery, and the characteristics of these stocks and the fisheries in which they are caught.
- (9) Sustainable exploitation of stocks for which no multi-annual plan has been established should be ensured by setting catch and/or effort limits.
- (10) Provision should be made for Member States or the Commission to adopt emergency measures in the event of a serious threat to the conservation of resources, or to the marine eco-system resulting from fishing activities, and requiring immediate action.
- (11) In their 12 nautical mile zone, Member States should be allowed to adopt conservation and management measures applicable to all fishing vessels, provided that, where such measures apply to fishing vessels from other Member States, the measures adopted are non-discriminatory and prior consultation has taken place, and that the Community has not adopted measures specifically addressing conservation and management within this area.
- (12) The Community fleet should be reduced to bring it into line with available resources and specific measures should be set up in order to attain that objective, including the fixing of reference levels for fishing capacity which may not be exceeded, a special Community facility to promote scrapping of fishing vessels and national entry/exit schemes.
- (13) Each Member State should maintain a national register of fishing vessels which should be made available to the Commission for the purposes of monitoring the size of the Member States' fleets.
- (14) Rules in place restricting access to resources within the 12 nautical mile zones of Member States have operated satisfactorily benefiting conservation by restricting fishing effort in the most sensitive part of Community waters and preserving traditional fishing activities on which the social and economic development of certain coastal communities is highly dependent. They should therefore continue to apply until 31 December 2012.
- (15) Although other access restrictions contained in Community legislation should be maintained for the time being, they should be reviewed in order to evaluate whether they are necessary to ensure sustainable fisheries.
- (16) In view of the precarious economic state of the fishing industry and the dependence of certain coastal communities on fishing, it is necessary to ensure relative stability of fishing activities by the allocation of fishing opportunities among the Member States, based upon a predictable share of the stocks for each Member State.
- (17) In other respects, that stability, given the temporary biological situation of stocks, should safeguard the particular needs of regions where local populations are especially dependent on fisheries and related activities as decided by the Council in its Resolution of 3 November 1976 ⁽¹⁾, on certain external aspects of the creation of a 200-mile fishing zone in the Community with effect from 1 January 1977, and in particular Annex VII thereto.

⁽¹⁾ OJ C 105, 7.5.1981, p. 1.

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- (18) Therefore, it is in this sense that the notion of relative stability aimed at should be understood.
- (19) In order to ensure effective implementation of the Common Fisheries Policy, the Community control and enforcement system for fisheries should be reinforced and the division of responsibilities between the Member States' authorities and the Commission should be further clarified. To this end it is appropriate to insert in this Regulation the main provisions governing control, inspection and enforcement of the rules of the Common Fisheries Policy, part of which are already contained in Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the Common Fisheries Policy ⁽¹⁾. That Regulation has to remain in force until all the necessary implementing rules have been adopted.
- (20) Provisions on control, inspection and enforcement concern, on the one hand, obligations for the masters of fishing vessels and operators in the marketing chain and, on the other hand, spell out the different responsibilities for the Member States and the Commission.
- (21) The Community should be able to operate deductions of fishing opportunities when a Member State has exceeded the fishing opportunities which have been allocated to it. Where it is established that, as a result of a Member State having exceeded its fishing opportunities, another Member State has suffered damage, part or all of the deduction should be allocated to that Member State.
- (22) Member States should be obliged to adopt immediate measures to prevent the continuation of serious infringements as defined in Council Regulation (EC) No 1447/1999 of 24 June 1999 establishing a list of types of behaviour which seriously infringe the rules of the Common Fisheries Policy ⁽²⁾.
- (23) The Commission should be able to take immediate preventive measures if there is evidence of a risk that fishing activities could lead to a serious threat to conservation of living aquatic resources.
- (24) The Commission should be provided with appropriate powers to carry out its obligation to control and evaluate the implementation of the Common Fisheries Policy by the Member States.
- (25) It is necessary to intensify cooperation and coordination between all relevant authorities in order to achieve compliance with the rules of the Common Fisheries Policy, in particular through the exchange of national inspectors, by requiring Member States to treat inspection reports drawn up by Community inspectors, inspectors of another Member State or Commission inspectors equally to their own inspection reports for the purpose of establishing the facts.
- (26) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission ⁽³⁾.
- (27) To contribute to the achievement of the objectives of the Common Fisheries Policy, Regional Advisory Councils should be established to enable the Common Fisheries Policy to benefit from the knowledge and experience of the fishermen

⁽¹⁾ OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Commission Regulation (EC) No 1965/2001 (OJ L 268, 9.10.2001, p. 23).

⁽²⁾ OJ L 167, 2.7.1999, p. 5.

⁽³⁾ OJ L 184, 17.7.1999, p. 23.

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concerned and of other stakeholders and to take into account the diverse conditions throughout Community waters.

- (28) To ensure that the Common Fisheries Policy benefits from the best scientific, technical and economic advice, the Commission should be assisted by an appropriate committee.
- (29) It is necessary and appropriate for the achievement of the basic objective of the sustainable exploitation of living aquatic resources to lay down rules on the conservation and exploitation of those resources. In accordance with the principle of proportionality as set out in Article 5 of the Treaty, this Regulation does not go beyond what is necessary in order to achieve that objective.
- (30) By reason of the number and importance of the amendments to be made, Regulation (EEC) No 3760/92 should be repealed. Council Regulation (EEC) No 101/76 of 19 January 1976 laying down a common structural policy for the fishing industry ⁽¹⁾ being voided of all substantial provisions should also be repealed,

HAS ADOPTED THIS REGULATION:

CHAPTER I**SCOPE AND OBJECTIVES***Article 1***Scope**

1. The Common Fisheries Policy shall cover conservation, management and exploitation of living aquatic resources, aquaculture, and the processing and marketing of fishery and aquaculture products where such activities are practised on the territory of Member States or in Community waters or by Community fishing vessels or, without prejudice to the primary responsibility of the flag State, nationals of Member States.
2. The Common Fisheries Policy shall provide for coherent measures concerning:
 - (a) conservation, management and exploitation of living aquatic resources,
 - (b) limitation of the environmental impact of fishing,
 - (c) conditions of access to waters and resources,
 - (d) structural policy and the management of the fleet capacity,
 - (e) control and enforcement,
 - (f) aquaculture,
 - (g) common organisation of the markets, and
 - (h) international relations.

*Article 2***Objectives**

1. The Common Fisheries Policy shall ensure exploitation of living aquatic resources that provides sustainable economic, environmental and social conditions.

⁽¹⁾ OJ L 20, 28.1.1976, p. 19.

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For this purpose, the Community shall apply the precautionary approach in taking measures designed to protect and conserve living aquatic resources, to provide for their sustainable exploitation and to minimise the impact of fishing activities on marine eco-systems. It shall aim at a progressive implementation of an eco-system-based approach to fisheries management. It shall aim to contribute to efficient fishing activities within an economically viable and competitive fisheries and aquaculture industry, providing a fair standard of living for those who depend on fishing activities and taking into account the interests of consumers.

2. The Common Fisheries Policy shall be guided by the following principles of good governance:

- (a) clear definition of responsibilities at the Community, national and local levels;
- (b) a decision-making process based on sound scientific advice which delivers timely results;
- (c) broad involvement of stakeholders at all stages of the policy from conception to implementation;
- (d) consistence with other Community policies, in particular with environmental, social, regional, development, health and consumer protection policies.

Article 3

Definitions

For the purpose of this Regulation the following definitions shall apply:

- (a) ‘Community waters’ means the waters under the sovereignty or jurisdiction of the Member States with the exception of waters adjacent to the territories mentioned in Annex II to the Treaty;
- (b) ‘living aquatic resources’ means available and accessible living marine aquatic species, including anadromous and catadromous species during their marine life;
- (c) ‘fishing vessel’ means any vessel equipped for commercial exploitation of living aquatic resources;
- (d) ‘Community fishing vessel’ means a fishing vessel flying the flag of a Member State and registered in the Community;
- (e) ‘sustainable exploitation’ means the exploitation of a stock in such a way that the future exploitation of the stock will not be prejudiced and that it does not have a negative impact on the marine eco-systems;
- (f) ‘fishing mortality rate’ means the catches of a stock over a given period as a proportion of the average stock available to the fishery in that period;
- (g) ‘stock’ means a living aquatic resource that occurs in a given management area;
- (h) ‘fishing effort’ means the product of the capacity and the activity of a fishing vessel; for a group of vessels it is the sum of the fishing effort of all vessels in the group;
- (i) ‘precautionary approach to fisheries management’ means that the absence of adequate scientific information should not be used as a reason for postponing or failing to take management measures to conserve target species, associated or dependent species and non-target species and their environment;
- (j) ‘limit reference points’ means values of fish stock population parameters (such as biomass or fishing mortality rate), which should be

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avoided because they are associated with unknown population dynamics, stock collapse or impaired recruitment;

- (k) 'conservation reference points' means values of fish stock population parameters (such as biomass or fishing mortality rate) used in fisheries management, for example with respect to an acceptable level of biological risk or a desired level of yield;
- (l) 'safe biological limits' means indicators of the state of a stock or of its exploitation inside which there is a low risk of transgressing certain limit reference points;
- (m) 'catch limit' means a quantitative limit on landings of a stock or group of stocks over a given period unless otherwise provided for in Community law;
- (n) 'fishing capacity' means a vessel's tonnage in GT and its power in kW, as defined in Articles 4 and 5 of Council Regulation (EEC) No 2930/86 ⁽¹⁾. For certain types of fishing activity, capacity may be defined by the Council using for example the amount and/or the size of a vessel's fishing gear;
- (o) 'exit from the fleet' means the removal of a fishing vessel from the fishing fleet register of a Member State, provided that Article 15(1) is complied with;
- (p) 'entry into the fleet' means the registration in the fishing fleet register of a Member State of a fishing vessel;
- (q) 'fishing opportunity' means a quantified legal entitlement to fish, expressed in terms of catches and/or fishing effort;
- (r) 'Community fishing opportunity' means the fishing opportunities available to the Community in Community waters, plus the total Community fishing opportunities outside Community waters, less the Community fishing opportunities allocated to third countries.

CHAPTER II

CONSERVATION AND SUSTAINABILITY

*Article 4***Types of measures**

1. To achieve the objectives mentioned in Article 2(1), the Council shall establish Community measures governing access to waters and resources and the sustainable pursuit of fishing activities.
2. The measures referred to in paragraph 1 shall be established taking into account available scientific, technical and economic advice and in particular of the reports drawn up by the Scientific, Technical and Economic Committee for Fisheries (STECF) established under Article 33(1) as well as in the light of any advice received from Regional Advisory Councils established under Article 31. They may, in particular, include measures for each stock or group of stocks to limit fishing mortality and the environmental impact of fishing activities by:
 - (a) adopting recovery plans under Article 5;
 - (b) adopting management plans under Article 6;
 - (c) establishing targets for the sustainable exploitation of stocks;
 - (d) limiting catches;
 - (e) fixing the number and type of fishing vessels authorised to fish;

⁽¹⁾ OJ L 274, 25.9.1986, p. 1. Regulation as amended by Regulation (EC) No 3259/94 (OJ L 339, 29.12.1994, p. 11).

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- (f) limiting fishing effort;
- (g) adopting technical measures, including:
 - (i) measures regarding the structure of fishing gear, the number and size of fishing gear on board, their methods of use and the composition of catches that may be retained on board when fishing with such gear;
 - (ii) zones and/or periods in which fishing activities are prohibited or restricted including for the protection of spawning and nursery areas;
 - (iii) minimum size of individuals that may be retained on board and/or landed;
 - (iv) specific measures to reduce the impact of fishing activities on marine eco-systems and non target species;
- (h) establishing incentives, including those of an economic nature, to promote more selective or low impact fishing;
- (i) conducting pilot projects on alternative types of fishing management techniques.

*Article 5***Recovery plans**

1. The Council shall adopt, as a priority, recovery plans for fisheries exploiting stocks which are outside safe biological limits.
2. The objective of recovery plans shall be to ensure the recovery of stocks to within safe biological limits.

They shall include conservation reference points such as targets against which the recovery of the stocks to within safe biological limits shall be assessed.

Targets shall be expressed in terms of:

- (a) population size and/or
- (b) long-term yields and/or
- (c) fishing mortality rate and/or
- (d) stability of catches.

Recovery plans may include targets relating to other living aquatic resources and the maintenance or improvement of the conservation status of marine eco-systems.

Where more than one target is set, recovery plans shall specify the order of priority of these targets.

3. Recovery plans shall be drawn up on the basis of the precautionary approach to fisheries management and take account of limit reference points recommended by relevant scientific bodies. They shall ensure the sustainable exploitation of stocks and that the impact of fishing activities on marine eco-systems is kept at sustainable levels.

They may cover either fisheries for single stocks or fisheries exploiting a mixture of stocks, and shall take due account of interactions between stocks and fisheries.

The recovery plans shall be multi-annual and indicate the expected time frame for reaching the targets established.

4. Recovery plans may include any measure referred to in points (c) to (h) of Article 4(2) as well as harvesting rules which consist of a predetermined set of biological parameters to govern catch limits.

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Recovery plans shall include limitations on fishing effort unless this is not necessary to achieve the objective of the plan. The measures to be included in the recovery plans shall be proportionate to the objectives, the targets and the expected time frame, and shall be decided by the Council having regard to:

- (a) the conservation status of the stock or stocks;
- (b) the biological characteristics of the stock or stocks;
- (c) the characteristics of the fisheries in which the stocks are caught;
- (d) the economic impact of the measures on the fisheries concerned.

5. The Commission shall report on the effectiveness of the recovery plans in achieving the targets.

*Article 6***Management plans**

1. The Council shall adopt management plans as far as necessary to maintain stocks within safe biological limits for fisheries exploiting stocks at/or within safe biological limits.

2. Management plans shall include conservation reference points such as targets against which the maintenance of stocks within such limits shall be assessed. Points (a) to (d) of Article 5(2) shall apply.

Management plans may include targets relating to other living aquatic resources and the maintenance or improvement of the conservation status of marine eco-systems.

Where more than one target is set, management plans shall specify the order of priority of these targets.

3. Management plans shall be drawn up on the basis of the precautionary approach to fisheries management and take account of limit reference points recommended by relevant scientific bodies. They shall ensure the sustainable exploitation of stocks and that the impact of fishing activities on marine eco-systems is kept at sustainable levels.

They may cover either fisheries for single stocks or fisheries exploiting a mixture of stocks, and shall take due account of interactions between stocks and fisheries.

The management plans shall be multi-annual and indicate the expected time frame for reaching the targets established.

4. The management plans may include any measure referred to in points (d) to (i) of Article 4(2) as well as harvesting rules which consist of a predetermined set of biological parameters to govern catch limits.

The measures to be included in the management plans shall be proportionate to the objectives, the targets and the expected time frame, and shall be decided by the Council having regard to:

- (a) the conservation status of the stock or stocks;
- (b) the biological characteristics of the stock or stocks;
- (c) the characteristics of the fisheries in which the stocks are caught;
- (d) the economic impact of the measures on the fisheries concerned.

5. The Commission shall report on the effectiveness of the management plans in achieving the targets.



Article 7

Commission emergency measures

1. If there is evidence of a serious threat to the conservation of living aquatic resources, or to the marine eco-system resulting from fishing activities and requiring immediate action, the Commission, at the substantiated request of a Member State or on its own initiative, may decide on emergency measures which shall last not more than six months. The Commission may take a new decision to extend the emergency measures for no more than six months.

2. The Member State shall communicate the request simultaneously to the Commission, to the other Member States and to the Regional Advisory Councils concerned. They may submit their written comments to the Commission within five working days of receipt of the request.

The Commission shall take a decision within 15 working days of receipt of the request referred to in paragraph 1.

3. The emergency measures shall have immediate effect. They shall be notified to the Member States concerned, and published in the Official Journal.

4. The Member States concerned may refer the Commission decision to the Council within 10 working days of receipt of the notification.

5. The Council, acting by qualified majority, may take a different decision within one month of the date of receipt of the referral.

Article 8

Member State emergency measures

1. If there is evidence of a serious and unforeseen threat to the conservation of living aquatic resources, or to the marine ecosystem resulting from fishing activities, in waters falling under the sovereignty or jurisdiction of a Member State where any undue delay would result in damage that would be difficult to repair, that Member State may take emergency measures, the duration of which shall not exceed three months.

2. Member States intending to take emergency measures shall notify their intention to the Commission, the other Member States and the Regional Advisory Councils concerned by sending a draft of those measures, together with an explanatory memorandum, before adopting them.

3. The Member States and Regional Advisory Councils concerned may submit their written comments to the Commission within five working days of the date of notification. The Commission shall confirm, cancel or amend the measure within 15 working days of the date of notification.

4. The Commission decision shall be notified to the Member States concerned. It shall be published in the *Official Journal of the European Communities*.

5. The Member States concerned may refer the Commission decision to the Council within 10 working days of notification of the decision.

6. The Council, acting by qualified majority, may take a different decision within one month of the date of receipt of the referral.

▼B*Article 9***Member State measures within the 12 nautical mile zone**

1. A Member State may take non-discriminatory measures for the conservation and management of fisheries resources and to minimise the effect of fishing on the conservation of marine eco-systems within 12 nautical miles of its baselines provided that the Community has not adopted measures addressing conservation and management specifically for this area. The Member State measures shall be compatible with the objectives set out in Article 2 and no less stringent than existing Community legislation.

Where measures to be adopted by a Member State are liable to affect the vessels of another Member State, such measures shall be adopted only after the Commission, the Member State and the Regional Advisory Councils concerned have been consulted on a draft of the measures accompanied by an explanatory memorandum.

2. Measures applying to fishing vessels from other Member States shall be subject to the procedures laid down in Article 8(3) to (6).

*Article 10***Member State measures applicable solely to fishing vessels flying their flag**

Member States may take measures for the conservation and management of stocks in waters under their sovereignty or jurisdiction provided that:

- (a) they apply solely to fishing vessels flying the flag of the Member State concerned and registered in the Community or, in the case of fishing activities which are not conducted by a fishing vessel, to persons established in the Member State concerned and
- (b) they are compatible with the objectives set out in Article 2(1) and no less stringent than existing Community legislation.

CHAPTER III

ADJUSTMENT OF FISHING CAPACITY**▼M1***Article 11***Adjustment of fishing capacity**

1. Member States shall put in place measures to adjust the fishing capacity of their fleets in order to achieve a stable and enduring balance between such fishing capacity and their fishing opportunities.

2. Member States shall ensure that the reference levels expressed in GT and kW for fishing capacity as established in accordance with this Article and with Article 12 are not exceeded.

3. No exit from the fleet supported by public aid shall be permitted unless preceded by the withdrawal of the fishing licence as defined in Commission Regulation (EC) No 1281/2005⁽¹⁾ and, where provided for, the fishing authorisations as defined in the relevant regulations. Without prejudice to the provisions of paragraph 6, the capacity corresponding to the licence, and where necessary to the fishing authorisations for the fisheries concerned, cannot be replaced.

4. Where public aid is granted for the withdrawal of fishing capacity that goes beyond the capacity reduction necessary to comply with the

⁽¹⁾ OJ L 203, 4.8.2005, p. 3.

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reference levels as established in accordance with this Article and with Article 12, the amount of the capacity withdrawn shall be automatically deducted from the reference levels. The reference levels thus obtained shall become the new reference levels.

5. On fishing vessels of five years of age or more, modernisation over the main deck to improve safety on board, working conditions, hygiene and product quality may increase the tonnage of the vessel, provided that such modernisation does not increase the ability of the vessel to catch fish. The reference levels, as established in accordance with this Article and with Article 12, shall be adapted accordingly. The corresponding capacity need not be taken into account for the establishment of the balance of entries and exits by Member States under Article 13.

6. From 1 January 2007, in order to improve safety on board, working conditions, hygiene and product quality, Member States shall be entitled to re-allocate to new or existing vessels the following capacity in terms of tonnage, provided such capacity does not increase the ability of the vessels to catch fish:

— 4 % of the average annual tonnage withdrawn with public aid between 1 January 2003 and 31 December 2006 for the Member States that were part of the Community on 1 January 2003 and 4 % of the annual average tonnage withdrawn with public aid between 1 May 2004 and 31 December 2006 for the Member States that acceded to the Community on 1 May 2004, and

— 4 % of the tonnage withdrawn from the fleet with public aid as from 1 January 2007.

The reference levels, as established in accordance with this Article and Article 12 shall be adapted accordingly. The corresponding capacity need not be taken into account for the establishment of the balance of entries and exits by Member States under Article 13.

Member States shall give priority to small scale coastal fisheries, within the meaning of Article 26 of Council Regulation (EC) No 1198/2006 ⁽¹⁾, when allocating fishing capacity under this paragraph.

7. Implementing rules for the application of this Article may be adopted in accordance with the procedure laid down in Article 30(2).

▼B*Article 12***Reference levels for fishing fleets**

1. The Commission shall establish for each Member State reference levels expressed in GT and kW for the total fishing capacity of the Community fishing vessels flying the flag of that Member State in accordance with the procedure laid down in Article 30(2).

The reference levels shall be the sum of the objectives of the Multi-annual Guidance Programme 1997-2002 for each segment as fixed for 31 December 2002 pursuant to Council Decision 97/413/EC ⁽²⁾.

2. Implementing rules for the application of this Article may be adopted in accordance with the procedure laid down in Article 30(2).

⁽¹⁾ OJ L 223, 15.8.2006, p. 1.

⁽²⁾ OJ L 175, 3.7.1997, p. 27. Decision as amended by Decision 2002/70/EC (OJ L 31, 1.2.2002, p. 77).

▼M1*Article 13***Entry/Exit scheme and overall capacity reduction**

1. Member States shall manage entries into the fleet and exits from the fleet in such a way that, from 1 January 2003:
 - (a) the entry of new capacity into the fleet without public aid is compensated by the previous withdrawal without public aid of at least the same amount of capacity;
 - (b) the entry of new capacity into the fleet with public aid granted after 1 January 2003 is compensated by the previous withdrawal without public aid of:
 - (i) at least the same amount of capacity, for the entry of new vessels equal or less than 100 GT, or
 - (ii) at least 1,35 times that amount of capacity, for the entry of new vessels of more than 100 GT;
 - (c) the replacement of an engine with public aid under the provisions of Article 25(3)(b) and (c) of Regulation (EC) No 1198/2006 is compensated by a reduction of capacity in terms of power equal to 20 % of the power of the engine replaced. The reduction of 20 % in power shall be deducted from the reference levels in accordance with Article 11(4).
2. Implementing rules for the application of this Article may be adopted in accordance with the procedure laid down in Article 30(2).

▼B*Article 14***Exchange of information**

1. Each year the Commission shall present a summary of the results of Member States' efforts to achieve a sustainable balance between fishing capacity and fishing opportunities. This summary shall be based on a yearly report from each Member State to be sent to the Commission not later than 30 April of the following year.

The Commission's summary with the Member States' reports attached, shall be sent before the end of the year to the European Parliament and the Council accompanied by the opinions of the STECF and the Committee for Fisheries and Aquaculture established under Article 30(1).

2. Implementing rules for these exchanges may be adopted in accordance with the procedure laid down in Article 30(2).

*Article 15***Fishing fleet registers**

1. Each Member State shall keep a register of the Community fishing vessels flying its flag which shall include the minimum information on vessel characteristics and activity that is necessary for the management of measures established at Community level.
2. Each Member State shall make available to the Commission the information referred to in paragraph 1.
3. The Commission shall set up a Community fishing fleet register containing the information that it receives under paragraph 2 and shall make it available to Member States. It shall comply with Community provisions regarding the protection of personal data.

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4. The information referred to in paragraph 1 and the procedures for its transmission referred to in paragraphs 2 and 3 may be determined in accordance with the procedure laid down in Article 30(2).

*Article 16***Conditionality of Community financial assistance and reduction of fishing effort**

1. Financial assistance under Council Regulation (EC) No 2792/1999 of 17 December 1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector⁽¹⁾, with the exception of funds for the scrapping of fishing vessels, can be granted only as far as a Member State has complied with Articles 11, 13 and 15 of this Regulation and has provided the information required under Council Regulation (EC) No 2792/99 and Commission Regulation (EC) No 366/2001⁽²⁾.

In this context, the Commission shall, after having afforded the Member State concerned the possibility of being heard and as far as proportionate to the degree of non compliance, suspend financial assistance under Council Regulation (EC) No 2792/1999 for the Member State concerned.

2. If, on the basis of the information available, the Commission deems that the capacity of the fleet of a Member State exceeds the capacity which it is bound to respect under Articles 11, 13 and 15, it shall inform the Member State concerned thereof. This Member State shall immediately reduce its fishing effort to the level which would have existed had Articles 11, 13 and 15 been complied with, without prejudice to the obligations resulting from these Articles. The Member State concerned shall communicate its reduction plan to the Commission for verification, in conformity with the procedure laid down in Article 30(2), whether or not the reduction is equivalent to the exceeded capacity.

CHAPTER IV

RULES ON ACCESS TO WATERS AND RESOURCES*Article 17***General rules**

1. Community fishing vessels shall have equal access to waters and resources in all Community waters other than those referred to in paragraph 2, subject to the measures adopted under Chapter II.

2. In the waters up to 12 nautical miles from baselines under their sovereignty or jurisdiction, Member States shall be authorised from 1 January 2003 to 31 December 2012 to restrict fishing to fishing vessels that traditionally fish in those waters from ports on the adjacent coast, without prejudice to the arrangements for Community fishing vessels flying the flag of other Member States under existing neighbourhood relations between Member States and the arrangements contained in Annex I, fixing for each Member State the geographical zones within the coastal bands of other Member States where fishing activities are pursued and the species concerned.

By 31 December 2011 the Commission shall present to the European Parliament and the Council a report on the arrangements set out in this

⁽¹⁾ OJ L 337, 30.12.1999, p. 10. Regulation as last amended by Regulation (EC) No 179/2002 (OJ L 31, 1.2.2002, p. 25).

⁽²⁾ OJ L 55, 24.2.2001, p. 3.

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paragraph. The Council shall decide before 31 December 2012 on the provisions which will follow the abovementioned arrangements.

*Article 18***Shetland Box**

1. For species of special importance in the region defined in Annex II which are biologically sensitive by reason of their exploitation characteristics, fishing activity by Community fishing vessels of a length between the perpendiculars of not less than 26 metres, for demersal species other than Norway pout and blue whiting, shall be governed by a system of prior authorisation in accordance with the conditions laid down in this Regulation and, in particular, in Annex II.

2. Detailed rules of application and procedures for implementing paragraph 1 may be adopted in accordance with the procedure laid down in Article 30(2).

*Article 19***Review of access rules**

1. By 31 December 2003 the Commission shall present to the European Parliament and the Council a report on the rules concerning access to waters and resources laid down in Community legislation other than those referred to in Article 17(2), assessing the justification for these rules in terms of conservation and sustainable exploitation objectives.

2. On the basis of the report referred to in paragraph 1 and having regard to the principle established in Article 17(1), the Council shall decide by 31 December 2004 on any necessary adjustments to be made to these rules.

*Article 20***Allocation of fishing opportunities**

1. The Council, acting by qualified majority on a proposal from the Commission, shall decide on catch and/or fishing effort limits and on the allocation of fishing opportunities among Member States as well as the conditions associated with those limits. Fishing opportunities shall be distributed among Member States in such a way as to assure each Member State relative stability of fishing activities for each stock or fishery.

2. When the Community establishes new fishing opportunities the Council shall decide on the allocation for those opportunities, taking into account the interests of each Member State.

3. Each Member State shall decide, for vessels flying its flag, on the method of allocating the fishing opportunities assigned to that Member State in accordance with Community law. It shall inform the Commission of the allocation method.

4. The Council shall establish the fishing opportunities available to third countries in Community waters and allocate those opportunities to each third country.

5. Member States may, after notifying the Commission, exchange all or part of the fishing opportunities allocated to them.

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CHAPTER V
COMMUNITY CONTROL AND ENFORCEMENT SYSTEM

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Article 21

Community control and enforcement system

Access to waters and resources and the pursuit of activities as set out in Article 1 shall be controlled and compliance with the rules of the common fisheries policy enforced. For this purpose a Community system for the control, inspection and enforcement of the rules of the common fisheries policy shall be established.

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CHAPTER VI
DECISION-MAKING AND CONSULTATION

Article 29

Decision-making procedure

Except where otherwise provided for in this Regulation, the Council shall act in accordance with the procedure laid down in Article 37 of the Treaty.

Article 30

Committee for fisheries and aquaculture

1. The Commission shall be assisted by a Committee for Fisheries and Aquaculture.
2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.
The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at 20 working days.
3. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.
The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at 60 working days.
4. The Committee shall adopt its rules of procedure.

Article 31

Regional Advisory Councils

1. Regional Advisory Councils shall be established to contribute to the achievement of the objectives of Article 2(1) and in particular to advise the Commission on matters of fisheries management in respect of certain sea areas or fishing zones.
2. Regional Advisory Councils shall be composed principally of fishermen and other representatives of interests affected by the Common Fisheries Policy, such as representatives of the fisheries and aquaculture sectors, environment and consumer interests and scientific experts from all Member States having fisheries interests in the sea area or fishing zone concerned.

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3. Representatives of national and regional administrations having fisheries interests in the sea area or fishing zone concerned shall have the right to participate in the Regional Advisory Councils as members or observers. The Commission may be present at their meetings.

4. Regional Advisory Councils may be consulted by the Commission in respect of proposals for measures, such as multi-annual recovery or management plans, to be adopted on the basis of Article 37 of the Treaty that it intends to present and that relate specifically to fisheries in the area concerned. They may also be consulted by the Commission and by the Member States in respect of other measures. These consultations shall be without prejudice to the consultation of the STECF and of the Committee for Fisheries and Aquaculture.

5. Regional Advisory Councils may:

- (a) submit recommendations and suggestions, of their own accord or at the request of the Commission or a Member State, on matters relating to fisheries management to the Commission or the Member State concerned;
- (b) inform the Commission or the Member State concerned of problems relating to the implementation of Community rules and submit recommendations and suggestions addressing such problems to the Commission or the Member State concerned;
- (c) conduct any other activities necessary to fulfil their functions.

Regional Advisory Councils shall inform the Committee for Fisheries and Aquaculture of their activities.

*Article 32***Procedure for the establishment of Regional Advisory Councils**

The Council shall decide on the establishment of a Regional Advisory Council. A Regional Advisory Council shall cover sea areas falling under the jurisdiction of at least two Member States. A Regional Advisory Council shall adopt its rules of procedure.

*Article 33***Scientific, Technical and Economic Committee for Fisheries**

1. A Scientific, Technical and Economic Committee for Fisheries (STECF) shall be established. The STECF shall be consulted at regular intervals on matters pertaining to the conservation and management of living aquatic resources, including biological, economic, environmental, social and technical considerations.

2. The Commission shall take into account the advice from the STECF when presenting proposals on fisheries management under this Regulation.

CHAPTER VII

FINAL PROVISIONS*Article 34***Repeal**

1. Regulations (EEC) No 3760/92 and (EEC) No 101/76 are hereby repealed.

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2. References to the provisions of the Regulations repealed under paragraph 1 shall be construed as references to the corresponding provisions of this Regulation.

*Article 35***Review**

The Commission shall report to the European Parliament and the Council on the operation of the Common Fisheries Policy with respect to Chapters II and III before the end of 2012.

*Article 36***Entry into force**

This Regulation shall enter into force on 1 January 2003.

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



ANNEX I

ACCESS TO COASTAL WATERS WITHIN THE MEANING OF ARTICLE 17(2)

1. COASTAL WATERS OF THE UNITED KINGDOM

A. ACCESS FOR FRANCE

Geographical area	Species	Importance or particular characteristics
United Kingdom coast (6 to 12 nautical miles)		
1. Berwick-upon-Tweed east Coquet Island east	Herring	Unlimited
2. Flamborough Head east Spurn Head east	Herring	Unlimited
3. Lowestoft east Lyme Regis south	All species	Unlimited
4. Lyme Regis south Eddystone south	Demersal	Unlimited
5. Eddystone south Longships south-west	Demersal	Unlimited
	Scallops	Unlimited
	Lobster	Unlimited
	Crawfish	Unlimited
6. Longships south-west Hartland Point north-west	Demersal	Unlimited
	Crawfish	Unlimited
	Lobster	Unlimited
7. Hartland Point to a line from the north of Lundy Island	Demersal	Unlimited
8. From a line due west Lundy Island to Cardigan Harbour	All species	Unlimited
9. Point Lynas North Morecambe Light Vessel east	All species	Unlimited
10. County Down	Demersal	Unlimited
11. New Island north-east Sanda Island south-west	All species	Unlimited
12. Port Stewart north Barra Head west	All species	Unlimited
13. Latitude 57°40'N Butt of Lewis west	All species Except shellfish	Unlimited
14. St Kilda, Flannan Islands	All species	Unlimited
15. West of the line joining Butt of Lewis lighthouse to the point 59°30'N-5°45'W	All species	Unlimited

B. ACCESS FOR IRELAND

Geographical area	Species	Importance or particular characteristics
United Kingdom coast (6 to 12 nautical miles)		
1. Point Lynas north Mull of Galloway south	Demersal	Unlimited
	Nephrops	Unlimited
2. Mull of Oa west Barra Head west	Demersal	Unlimited

▼B

Geographical area	Species	Importance or particular characteristics
	Nephrops	Unlimited

C. ACCESS FOR GERMANY

Geographical area	Species	Importance or particular characteristics
United Kingdom coast (6 to 12 nautical miles)		
1. East of Shetlands and Fair Isle between lines drawn due south-east from Sumburgh Head lighthouse due north-east from Skroo lighthouse and due south-west from Skadan lighthouse	Herring	Unlimited
2. Berwick-upon-Tweed east, Whitby High lighthouse east	Herring	Unlimited
3. North Foreland lighthouse east, Dungeness new lighthouse south	Herring	Unlimited
4. Zone around St Kilda	Herring Mackerel	Unlimited Unlimited
5. Butt of Lewis lighthouse west to the line joining Butt of Lewis lighthouse and the point 59°30'N-5°45'W	Herring	Unlimited
6. Zone around North Rona and Sulisker (Sulasgeir)	Herring	Unlimited

D. ACCESS FOR THE NETHERLANDS

Geographical area	Species	Importance or particular characteristics
United Kingdom coast (6 to nautical 12 miles)		
1. East of Shetlands and Fair Isle between lines drawn due south-east from Sumburgh Head lighthouse due north-east from Skroo lighthouse and due south-west from Skadan lighthouse	Herring	Unlimited
2. Berwick upon Tweed east, Flamborough Head east	Herring	Unlimited
3. North Foreland east, Dungeness new lighthouse south	Herring	Unlimited

E. ACCESS FOR BELGIUM

Geographical area	Species	Importance or particular characteristics
United Kingdom coast (6 to nautical 12 miles)		
1. Berwick upon Tweed east Coquer Island east	Herring	Unlimited
2. Cromer north North Foreland east	Demersal	Unlimited

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Geographical area	Species	Importance or particular characteristics
3. North Foreland east Dungeness new lighthouse south	Demersal	Unlimited
	Herring	Unlimited
4. Dungeness new lighthouse south, Selsey Bill south	Demersal	Unlimited
5. Straight Point south-east, South Bishop north-west	Demersal	Unlimited

2. COASTAL WATERS OF IRELAND**A. ACCESS FOR FRANCE**

Geographical area	Species	Importance or particular characteristics
Irish coast (6 to 12 nautical miles)		
1. Erris Head north-west Sybil Point west	Demersal	Unlimited
	Nephrops	Unlimited
2. Mizen Head south Stags south	Demersal	Unlimited
	Nephrops	Unlimited
	Mackerel	Unlimited
3. Stags south Cork south	Demersal	Unlimited
	Nephrops	Unlimited
	Mackerel	Unlimited
	Herring	Unlimited
4. Cork south, Carnsore Point south	All species	Unlimited
5. Carnsore Point south, Haulbowline south-east	All species, except shellfish	Unlimited

B. ACCESS FOR THE UNITED KINGDOM

Geographical area	Species	Importance or particular characteristics
Irish coast (6 to 12 miles)		
1. Mine Head south Hook Point	Demersal	Unlimited
	Herring	Unlimited
	Mackerel	Unlimited
2. Hook Point Carlingford Lough	Demersal	Unlimited
	Herring	Unlimited
	Mackerel	Unlimited
	Nephrops	Unlimited
	Scallops	Unlimited

▼B

C. ACCESS FOR THE NETHERLANDS

Geographical area	Species	Importance or particular characteristics
Irish coast (6 to 12 miles)	Herring	Unlimited
	Mackerel	Unlimited

D. ACCESS FOR GERMANY

Geographical area	Species	Importance or particular characteristics
Irish coast (6 to 12 nautical miles)	Herring	Unlimited
	Mackerel	Unlimited

E. ACCESS FOR BELGIUM

Geographical area	Species	Importance or particular characteristics
Irish coast (6 to 12 nautical miles)	Demersal	Unlimited
	Demersal	Unlimited

3. COASTAL WATERS OF BELGIUM

Geographical area	Member State	Species	Importance or particular characteristics
3 to 12 nautical miles	Netherlands	All species	Unlimited
	France	Herring	Unlimited

4. COASTAL WATERS OF DENMARK

Geographical areas	Member State	Species	Importance or particular characteristics
North Sea coast (Danish/German frontier to Hanstholm) (6 to 12 nautical miles)	Germany	Flatfish	Unlimited
		Shrimps and prawns	Unlimited
Danish/German frontier to Blåvands Huk	Netherlands	Flatfish	Unlimited
		Roundfish	Unlimited
Blåvands Huk to Bovbjerg	Belgium	Cod	Unlimited only during June and July
		Haddock	Unlimited only during June and July
	Germany	Flatfish	Unlimited

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Geographical areas	Member State	Species	Importance or particular characteristics
Thyborøn to Hanstholm	Netherlands	Plaice	Unlimited
		Sole	Unlimited
	Belgium	Whiting	Unlimited only during June and July
		Plaice	Unlimited only during June and July
	Germany	Flatfish	Unlimited
		Sprat	Unlimited
		Cod	Unlimited
		Saithe	Unlimited
		Haddock	Unlimited
		Mackerel	Unlimited
		Herring	Unlimited
		Whiting	Unlimited
Netherlands	Cod	Unlimited	
	Plaice	Unlimited	
	Sole	Unlimited	
Skagerrak (Hanstholm to Skagen) (4 to 12 nautical miles)	Belgium	Plaice	Unlimited only during June and July
		Germany	Flatfish
	Germany	Sprat	Unlimited
		Cod	Unlimited
		Saithe	Unlimited
		Haddock	Unlimited
		Mackerel	Unlimited
		Herring	Unlimited
		Whiting	Unlimited
		Netherlands	Cod
Plaice	Unlimited		
Sole	Unlimited		
► <u>C1</u> Kattegat (3 to 12 miles) ◀	Germany	Cod	Unlimited
		Flatfish	Unlimited
	Germany	Nephrops	Unlimited
		Herring	Unlimited
North of Zealand to the parallel of the latitude passing through Forsnæs lighthouse	Germany	Sprat	Unlimited
	Baltic Sea (including Belts, Sound, Bornholm) 3 to 12 nautical miles	Germany	Flatfish
Cod			Unlimited
Herring			Unlimited
Sprat			Unlimited
Eel			Unlimited

▼B

Geographical areas	Member State	Species	Importance or particular characteristics
Skagerrak (4 to 12 miles)	Sweden	Salmon	Unlimited
		Whiting	Unlimited
		Mackerel	Unlimited
Kattegat (3 ⁽¹⁾ to 12 miles)	Sweden	All species	Unlimited
Baltic Sea (3 to 12 miles)	Sweden	All species	Unlimited

⁽¹⁾ Measured from the coast line.

5. COASTAL WATERS OF GERMANY

Geographical area	Member State	Species	Importance or particular characteristics
North Sea coast (3 to 12 nautical miles) all coasts	Denmark	Demersal	Unlimited
		Sprat	Unlimited
		Sand-eel	Unlimited
Danish/German frontier to the northern tip of Amrum at 54°43'N	Netherlands	Demersal	Unlimited
		Shrimps and prawns	Unlimited
Zone around Helgoland	Denmark	Shrimps and prawns	Unlimited
		United Kingdom	Cod
Baltic coast (3 to 12 miles)	Denmark	Plaice	Unlimited
		Cod	Unlimited
		Plaice	Unlimited
		Herring	Unlimited
		Sprat	Unlimited
		Eel	Unlimited
		Whiting	Unlimited
Mackerel	Unlimited		

6. COASTAL WATERS OF FRANCE AND THE OVERSEAS DEPARTMENTS

Geographical area	Member State	Species	Importance or particular characteristics
North-east Atlantic coast (6 to 12 nautical miles) Belgian/French frontier to east of Departement Manche (Vire-Grandcamp les Bains estuary 49° 23' 30" N-1° 2 'WNNE)	Belgium	Demersal	Unlimited
		Scallops	Unlimited
	Netherlands	All species	Unlimited
Dunkerque (2° 20' E) to Cap d'Antifer (0° 10' E)	Germany	Herring	Unlimited only during October to December
	United Kingdom	Herring	Unlimited

▼B

Geographical area	Member State	Species	Importance or particular characteristics
Belgian/French frontier to Cap d'Alprech west (50° 42' 30" N — 1° 33' 30" E)	Spain	Anchovies	Directed fishing, unlimited only from 1 March to 30 June
Atlantic Coast (6 to 12 nautical miles)			
Spanish/French frontier to 46° 08' N			
Mediterranean coast (6 to 12 nautical miles)	Spain	Sardines	Unlimited only from 1 January to 28 February and from 1 July to 31 December,
Spanish frontier Cap Leucate		All species	In addition, activities relating to the abovementioned species must be pursued in accordance with and within the limits of the activities pursued during 1984

7. COASTAL WATERS OF SPAIN

Geographical area	Member State	Species	Importance or particular characteristics
Atlantic coast (6 to 12 nautical miles)	France	Pelagic	Unlimited in accordance with and within the limits of the activities pursued during 1984
French/Spanish frontier to Cap Mayor lighthouse (3° 47' W)			
Mediterranean coast (6 to 12 nautical miles)	France	All species	Unlimited
French frontier/Cap Creus			



8. COASTAL WATERS OF THE NETHERLANDS

Geographical area	Member State	Species	Importance or particular characteristics
(3 to 12 nautical miles) whole coast	Belgium	All species	Unlimited
	Denmark	Demersal	Unlimited
		Sprat	Unlimited
		Sand-eel	Unlimited
		Horse-mackerel	Unlimited
	Germany	Cod	Unlimited
Shrimps and Prawns		Unlimited	
(6 to 12 nautical miles) whole coast	France	All species	Unlimited
Texel south point, west to the Netherlands/German frontier	United Kingdom	Demersal	Unlimited

9. COASTAL WATERS OF FINLAND

Geographical area	Member State	Species	Importance or particular characteristics
Baltic Sea (4 to 12 miles) (*)	Sweden	All species	Unlimited

(*) 3 to 12 miles around Bogskär Isles.

10. COASTAL WATERS OF SWEDEN

Geographical area	Member State	Species	Importance or particular characteristics
Skagerrak (4 to 12 nautical miles)	Denmark	All species	Unlimited
Kattegat (3 (*) to 12 miles)	Denmark	All species	Unlimited
Baltic Sea (4 to 12 miles)	Denmark	All species	Unlimited
	Finland	All species	Unlimited

(*) Measured from the coastline.



ANNEX II

SHETLAND BOX

A. Geographical limits

From the point on the west coast of Scotland in latitude 58°30' N to 59°30' N — 6°15' W

From 58°30' N — 6°15' W to 59°30' N — 5°45' W

From 59°30' N — 5°45' W to 59°30' N — 3°45' W

along the 12 nautical miles line north of the Orkneys

From 59°30' N — 3°00' W to 61°00' N — 3°00' W

From 61°00' N — 3°00' W to 61°00' N — 0°00' W

along the 12 nautical miles line north of the Shetlands

From 61°00' N — 0°00' W to 59°30' N — 0°00' W

From 59°30' N — 0°00' W to 59°30' N — 1°00' W

From 59°30' N — 1°00' W to 59°00' N — 1°00' W

From 59°00' N — 1°00' W to 59°00' N — 2°00' W

From 59°00' N — 2°00' W to 58°30' N — 2°00' W

From 58°30' N — 2°00' W to 58°30' N — 3°00' W

From 58°30' N — 3°00' W to the east coast of Scotland in latitude 58°30' N.

B. Fishing effort authorised

Maximum number of vessels with a length between perpendiculars of not less than 26 metres authorised to fish for demersal species, other than Norway pout and blue whiting:

Member State	Number of fishing vessels authorised
France	52
United Kingdom	62
Germany	12
Belgium	2