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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1954/2003

of 4 November 2003

on the management of the fishing effort relating to certain Community fishing areas and resources and modifying Regulation (EC) No 2847/93 and repealing Regulations (EC) No 685/95 and (EC) No 2027/95

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Articles 37 and 299(2) thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas:

(1) Article 4 of Council Regulation (EEC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy ⁽³⁾ provides that the Council shall establish Community measures governing access to waters and resources and the sustainable pursuit of fishing activities.

(2) The regime of access to certain areas and resources defined in the Articles 156 to 166 and Articles 347 to 353 of the Act of Accession of Spain and Portugal has expired on 31 December 2002. Consequently, certain provisions of Council Regulation (EC) No 685/95 of 27 March 1995, on the management of the fishing effort relating to certain Community fishing areas and resources ⁽⁴⁾, and Council Regulation (EC) No 2027/95 of 15 June 1995, establishing a system for the management of fishing effort relating to certain Community fishing areas and resources ⁽⁵⁾ need to be adapted to the new legal situation.

(3) Other provisions laid down in Regulations (EC) No 685/95 and (EC) No 2027/95 are designed to establish a general system for the management of fishing effort in order to prevent an increase in fishing effort and are not related to the Act of Accession of Spain and Portugal. Those provisions are important for fisheries management and should be maintained.

(4) In order to ensure that there is no increase in the overall levels of existing fishing effort, it is necessary to establish a new fishing effort management regime in ICES areas V, VI, VII, VIII, IX and X and CECAF divisions 34.1.1, 34.1.2 and 34.2.0. This regime shall limit fishing effort on the basis of the fishing effort deployed in these fisheries during the period 1998 to 2002.

(5) In order to ensure consistency between different fishing effort management rules, the general fishing effort limitation provided for in this Regulation should be reviewed whenever the Council adopts fishing effort management rules for fisheries in the same area or part of it, as part of a recovery plan. A review of the implementation of the present scheme by December 2006 would also allow the Council to reassess the situation.

(6) It is necessary for the protection of the sensitive biological situation of the waters around the Azores, Madeira and the Canary Islands and the preservation of the local economy of these islands, having regard to their structural, social and economic situation, to limit certain fishing activities in those waters to vessels registered in the ports of these islands. A review of these measures by December 2006 would allow the Council to reassess the situation.

(7) An area to the South and West of Ireland has been identified as an area of high concentration of juvenile hake. This area has been made subject to special restrictions on the use of demersal gear. For the same conservation purpose it should also be subject to specific effort limitation requirements within the general system described above. A review of these requirements by December 2008 would allow the Council to reassess the situation.

⁽¹⁾ Proposal of 17 December 2002 (not yet published in the Official Journal).

⁽²⁾ Opinion of 4 June 2002 (not yet published in the Official Journal).

⁽³⁾ OJ L 358, 31.12.2002, p. 59.

⁽⁴⁾ OJ L 71, 31.3.1995, p. 5.

⁽⁵⁾ OJ L 199, 24.8.1995, p. 1. Regulation as amended by Regulation (EC) No 149/1999 (OJ L 18, 23.1.1999, p. 3).

(8) It is the responsibility of flag Member States to adopt measures to regulate fishing effort; as a result, it is necessary to ensure transparency and equity of management and monitoring procedures.

- (9) Taking account of the special conservation requirements of species having a geographic distribution that extends into the waters under the sovereignty or jurisdiction of more than one Member State, Member States should be authorised to limit fishing activities by vessels flying their flag to specific gear, seasons and areas.
- (10) It should be possible for the Commission to adjust the maximum fishing effort limits, based on a justified request from a Member State, to allow it to fully utilise its fishing possibilities.
- (11) As a consequence of the change in the fishing effort management regime it is necessary to make corresponding changes in Titles IIA and III of the Council Regulation (EEC) No 2847/93 of 12 October 1993, establishing a control system applicable to the common fisheries policy ⁽¹⁾.
- (12) In order to ensure legal certainty, to avoid alterations in the current balance in the areas and resources involved and to guarantee that the fishing effort deployed is in balance with available resources, Regulations (EC) No 685/95 and (EC) No 2027/95 should be repealed.
- (13) 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 ⁽²⁾,

HAS ADOPTED THIS REGULATION:

CHAPTER I

SCOPE AND DEFINITIONS

Article 1

Scope

This Regulation establishes the criteria and procedures for a system relating to the management of fishing effort in ICES areas V, VI, VII, VIII, IX and X and CECAF divisions 34.1.1, 34.1.2 and 34.2.0.

⁽¹⁾ OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

Article 2

Definitions

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

- (a) ICES and CECAF zones are as defined in Council Regulation (EEC) No 3880/91 of 17 December 1991 on the submission of nominal catch statistics by Member States fishing in the Northeast Atlantic ⁽³⁾;
- (b) 'fishing effort' means the product of the capacity and the activity of a fishing vessel; for a group of vessels it means the sum of fishing effort exerted by each vessel of the group.

CHAPTER II

FISHING EFFORT MANAGEMENT REGIME

Title I

Provisions concerning certain fisheries

Article 3

Measures concerning the catching of demersal species and certain molluscs and crustaceans

1. Except for the area defined in Article 6(1), Member States shall:
 - (a) assess the levels of fishing effort exerted by vessels equal to or more than 15 metres in length overall, as an annual average of the period 1998 to 2002, in each of the ICES areas and CECAF divisions referred to in Article 1 for demersal fisheries, excluding demersal fisheries, those covered by Council Regulation (EC) No 2347/2002 of 16 December 2002 establishing specific access requirements and associated conditions applicable to fishing for deep-sea stocks ⁽⁴⁾ and fisheries for scallops, edible crab and spider crab, as laid down in the Annex to this Regulation. For the calculation of fishing effort the fishing capacity of a vessel shall be measured as the installed power expressed in kilowatts (kW);
 - (b) allocate the level of fishing effort assessed conforming to subparagraph (a) in each ICES area or CECAF division, with regard to each of the fisheries mentioned in subparagraph (a).
2. The effort regime laid down in paragraph 1 shall be without prejudice to the regimes laid down in the recovery plans which may be adopted by the Council.
3. When a recovery plan which involves management of fishing effort in all or part of the areas or divisions referred to in Article 1 is adopted by the Council, this plan shall at the same time make any necessary adjustment to this Regulation.

⁽³⁾ OJ L 365, 31.12.1991, p. 1. Regulation as amended by Commission Regulation (EC) No 1637/2001 (OJ L 222, 17.8.2001, p. 20).

⁽⁴⁾ OJ L 351, 28.12.2002, p. 6.

4. By 31 December 2006 the Commission shall present to the European Parliament and the Council a report assessing the implementation of the effort regime laid down in paragraph 1. On the basis of this report the Council shall decide on any necessary adjustment to be made to the regime.

Article 4

Fishing vessels equal to or less than 15 metres

1. The fishing effort of fishing vessels equal to or less than 15 metres in length overall shall be assessed globally for each fishery and area or division referred to in Article 3(1) during the period 1998 to 2002.

2. The fishing effort of fishing vessels equal to or less than 10 metres in length overall shall be assessed globally for each fishery and area or division referred to in Article 6(1) during the period 1998 to 2002.

3. Member States shall ensure that the fishing effort of these vessels is limited to the level of fishing effort assessed conforming to paragraphs 1 and 2.

Article 5

Conditions for certain fishing activities

1. In the waters up to 100 nautical miles from the baselines of the Azores, Madeira and the Canary Islands, the Member States concerned may restrict fishing to vessels registered in the ports of these islands, except for Community vessels that traditionally fish in those waters in so far as these do not exceed the fishing effort traditionally exerted.

Implementing rules for the provisions of this paragraph shall be adopted by the Commission in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.

2. By 31 December 2006 the Commission shall present to the European Parliament and the Council a report on the application of the provisions laid down in paragraph 1 and, if necessary, shall submit to the Council proposals to adapt these provisions.

Title II

Article 6

Conditions in the biologically sensitive area

1. A specific effort regime shall apply to the area enclosed by the coast of Ireland to the south of 53° 30' N and to the west of 07° 00' W and straight lines sequentially joining the following geographical coordinates:

— a point on the coast of Ireland at latitude 53° 30' N

— latitude 53° 30' N, longitude 12° 00' W

— latitude 53° 00' N, longitude 12° 00' W

— latitude 51° 00' N, longitude 11° 00' W

— latitude 49° 30' N, longitude 11° 00' W

— latitude 49° 30' N, longitude 07° 00' W

— a point on the coast of Ireland at longitude 07° 00' W.

2. In the area defined in paragraph 1, Member States shall assess the levels of fishing effort exerted by vessels equal to or more than 10 metres in length overall, as an annual average of the period 1998 to 2002, for demersal fisheries, excluding those covered by Regulation (EC) No 2347/2002, and fisheries for scallops, edible crab and spider crab, and allocate the level of fishing effort thus assessed for each of those fisheries.

3. By 31 December 2008 the Commission shall present to the European Parliament and the Council a report assessing the effort regime laid down in paragraphs 1 and 2 in conjunction with other management measures in the area concerned. On the basis of this report the Council shall decide on any necessary adjustment to be made.

Title III

General provisions

Article 7

Lists of vessels

1. The Member States shall establish a list of fishing vessels flying their flag and registered in the Community which are authorised to carry out their fishing activities in the fisheries defined in Articles 3 and 6.

2. Member States may subsequently replace vessels entered on their list provided that the total fishing effort of vessels in any area and fishery defined in Articles 3 and 6 does not increase.

Article 8

Regulation of fishing effort

1. The Member States shall take the necessary measures to regulate the fishing effort where the fishing effort corresponding to free access for fishing vessels entered on the lists of vessels referred to in Article 7 exceeds the allocated effort.

2. Member States shall regulate fishing effort by monitoring the activity of their fleet and by taking appropriate action if the level of the fishing effort authorised under Article 11 is about to be reached, to ensure that effort does not exceed the set limits.

3. Each Member State shall issue special fishing permits for vessels flying its flag which engage in fishing activities in the fisheries referred to in Articles 3 and 6 in accordance with Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing permits ⁽¹⁾.

Article 9

The Member States may limit fishing activities by vessels flying their flag to specific gear, seasons or parts of an ICES area or CECAF division.

Article 10

Notification

1. Before 30 November 2003, Member States shall notify the Commission of:

- (a) the list of vessels referred to in Article 7;
- (b) the assessment of the fishing effort as described in Articles 3 and 6;
- (c) the fishing effort regulation measures, as referred to in Article 8.

2. Member States shall periodically communicate to the Commission each amendment made to the information referred to in paragraph 1.

3. The Commission shall forward the information referred to in paragraphs 1 and 2 to all other Member States.

4. Member States, when submitting the list of vessels referred to in Article 7, shall highlight those changes that have been made from the last list notified under Article 1 of Commission Regulation (EC) No 2092/98 of 30 September 1998, concerning the declaration of fishing effort relating to certain Community fishing areas and resources ⁽²⁾.

Article 11

Decision-making

1. On the basis of the information referred to in Article 10 and after close consultation with the Member States concerned the Commission shall submit to the Council, by 29 February 2004, a proposal for a Regulation fixing the maximum annual fishing effort for each Member State and for each area and fishery defined in Articles 3 and 6.

2. The Council, acting by qualified majority on the proposal from the Commission, shall, by 31 May 2004, decide on the maximum annual fishing effort referred to in paragraph 1.

The Regulation, which will be adopted by the Council, may provide for the adoption of implementing rules, in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.

⁽¹⁾ OJ L 171, 6.7.1994, p. 7.

⁽²⁾ OJ L 226, 1.10.1998, p. 47.

3. Should the Council fail to reach a decision by 31 May 2004, the Commission shall adopt, by 31 July 2004, a Regulation fixing the maximum annual fishing effort for each Member State and for each area and fishery defined in Articles 3 and 6, on the basis of the proposal referred to in paragraph 1, in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.

Article 12

Adaptations

1. Upon request of a Member State, the maximum annual fishing effort fixed in the Regulation under Article 11(2) or (3) may be adjusted by the Commission, either by an increase of the maximum fishing effort in a particular area or division, or by a shift of fishing effort between areas or divisions, allowing the Member State to take up fully its fishing possibilities, in the case of species subject to TACs, or to pursue fisheries not subject to such limitations. The request shall be accompanied by information on the lack of full utilisation of quotas and, for stocks not subject to TACs, scientific information on the stock situation. Decisions shall be taken by the Commission within one month of receipt of the request, in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.

2. The maximum fishing effort referred to in Article 11 shall be adapted by the Member States concerned in view of exchanges of quotas carried out pursuant to Article 20(5) of Regulation (EC) No 2371/2002 and reallocations and/or deductions made pursuant to Article 23(4) of Regulation (EC) No 2371/2002 and Article 21(4), Article 23(1) and Article 32(2) of Regulation (EEC) No 2847/93, in conformity with paragraph 3 of this Article.

3. Where Member States decide to exchange all or part of the fishing opportunities allocated to them, they shall notify the Commission not only of that exchange expressed in fishing quotas but also expressed in fishing effort relating thereto, as agreed between them.

In the event of reallocations and/or deductions of quotas, the Member States shall notify the Commission of the fishing effort corresponding to such reallocations and/or deductions.

CHAPTER III

CONTROL REGIME

Article 13

Special control provisions

For the purpose of this Regulation, Title IIA of Regulation (EEC) No 2847/93 shall apply:

- (a) in the area defined in Article 6(1) of this Regulation;

(b) in all areas, except the area defined in Article 6(1), with exemption of Articles 19a(3), 19b, 19c, 19d and 19e(3) of Regulation (EEC) No 2847/93.

Article 14

Amendments

Regulation (EEC) No 2847/93 is hereby amended as follows:

1. Article 19a shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

'1. For the purpose of this Title "fishing areas concerned" means the ICES areas or CECAF divisions to which fishing effort limitation schemes apply pursuant to Community regulations.'

(b) paragraph 2 shall be replaced by the following:

'2. Community fishing vessels are prohibited to carry out fishing activities in the fishing areas concerned if the vessel has not been duly authorised to that end by the Flag Member State.'

2. Article 19g shall be replaced by the following:

'Article 19g

Each Member State shall record the fishing efforts deployed by vessels flying its flag in each fishing area concerned on the basis of available information contained in vessels' logbooks and information collected in accordance with Article 19e(4).'

3. Article 19h shall be replaced by the following:

'Article 19h

Each Member State shall assess in overall terms the fishing efforts deployed by vessels flying its flag, which have a length of less than 15 metres in length overall, in each fishing area concerned and by vessels, which have a length of less than 10 metres in length overall, in the area referred to in Article 6 of Council Regulation (EC) No 1954/2003 of 4 November 2003 on the management of the fishing effort relating to certain Community fishing areas and resources (*).

(*) OJ L 289, 7.11.2003, p. 1.'

4. in Article 19i, the first indent shall be replaced by the following:

'— in the previous month for each fishing area concerned for demersal species, before the 15th of each month'

5. the following Article shall be inserted after Article 19i:

'Article 19j

Each Member State shall notify, without delay, to the other Member States, the identification details of the vessels flying its flag for which the authorisation to carry out fishing activities in one or more of the fisheries referred to in Articles 3 and 6 of Regulation (EC) No 1954/2003 is suspended or withdrawn.'

6. the current Article 19j becomes Article 19k;

7. in Article 20a, (1) and (2) shall be replaced by the following:

'1. Where fishing vessels to which Title IIA applies carry out fishing activities in the fishing areas concerned they may carry with them and use only the corresponding fishing gear or gears.

2. However, fishing vessels also fishing in fishing areas other than those referred to in paragraph 1 during the same trip may carry gear corresponding to their activities in the areas concerned, provided that gear kept on board and not authorised for use in the fishing areas referred to in paragraph 1 is stowed so that it may not be readily used, in accordance with the second subparagraph of Article 20(1).'

8. Article 21a shall be replaced by the following:

'Article 21a

Each Member State shall determine the date on which the vessels flying its flag or registered in the Community shall be deemed to have reached the maximum fishing effort level in a fishing area as laid down in the Regulation referred to in Article 11(2) or (3) of Regulation (EC) No 1954/2003. As from that date, it shall provisionally prohibit the fishing activities of the said vessels in that area. The Commission shall be notified forthwith of this measure and shall then inform the other Member States.'

CHAPTER IV

FINAL PROVISIONS

Article 15

Repeal

1. Regulations (EC) No 685/95 and (EC) No 2027/95 shall be repealed with effect from:

(a) the date of entry into force of the Regulation referred to in Article 11(2) or (3);

or

(b) 1 August 2004,

whichever is the earlier.

2. References made to the repealed Regulations shall be construed as being made to this Regulation.

Article 16

Entry into force

This Regulation shall enter into force on the seventh 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, 4 November 2003.

For the Council

The President

G. TREMONTI

ANNEX

A

Fishery	
Target species	ICES area or CECAF division
Demersal species excluding those covered by Regulation (EC) No 2347/2002	ICES V, VI
	ICES VII
	ICES VIII
	ICES IX
	ICES X
	CECAF 34.1.1
	CECAF 34.1.2
	CECAF 34.2.0

B

Fishery	
Target species	ICES area or CECAF division
Scallops	ICES V, VI
	ICES VII
	ICES VIII
	ICES IX
	ICES X
	CECAF 34.1.1
	CECAF 34.1.2
	CECAF 34.2.0

C

Fishery	
Target species	ICES area or CECAF division
Edible crab and spider crab	ICES V, VI
	ICES VII
	ICES VIII
	ICES IX
	ICES X
	CECAF 34.1.1
	CECAF 34.1.2
	CECAF 34.2.0