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*(Acts whose publication is obligatory)*

**COUNCIL REGULATION (EC) No 811/2004**  
**of 21.4.2004**  
**establishing measures for the recovery of the Northern hake stock**

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,

Having regard to the Opinion of the European Parliament <sup>1</sup>,

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<sup>1</sup> Opinion delivered on 11 February 2004 (not yet published in the Official Journal).

Whereas:

- (1) Recent scientific advice from the International Council for the Exploration of the Sea (ICES) has indicated that the Northern hake stock in Community waters has suffered from levels of mortality by fishing which have eroded the quantities of mature fish in the sea to the point at which this stock may not be able to replenish itself by reproduction and that the stocks are therefore threatened with collapse.
- (2) The stock in question inhabits the Kattegat, the Skagerrak, the North Sea, the Channel, waters to the west of Scotland and all around Ireland and the Bay of Biscay.
- (3) Measures need to be taken to establish a multi-annual plan for the recovery of this stock.
- (4) It is expected that recovery of this stock under the conditions of this Regulation will take between five and ten years.
- (5) The objective of the plan should be considered to be achieved for this stock when, for two consecutive years, the quantity of mature Northern hake has been greater than the level set by managers as being within safe biological limits.
- (6) In order to achieve that objective, the fishing mortality rate need to be controlled so that it is highly likely that the quantities of mature fish in the sea will increase from year to year.

- (7) Such control of the fishing mortality rate can be achieved by establishing an appropriate method for the establishment of the level of Total Allowable Catches (TACs) of the stock concerned.
- (8) Once recovery has been achieved the Council should decide upon follow-up measures in accordance with Article 6 of Council Regulation 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy <sup>1</sup>.
- (9) Control measures in addition to those laid down in Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy <sup>2</sup> need to be included in order to ensure compliance with the measures laid down in this Regulation,

HAS ADOPTED THIS REGULATION:

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<sup>1</sup> OJ L 358, 31.12.2002, p. 59.

<sup>2</sup> OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 1954/2003, (OJ L 289, 7.11.2003, p. 1).

### Article 1

#### Subject-matter

This Regulation establishes a recovery plan for the Northern hake stock which inhabits the ICES Division IIIa, ICES Sub-area IV, ICES Divisions V(b) (Community waters ), VIa (Community waters), ICES Sub-area VII and ICES Divisions VIIIa,b,d,e ("the Northern hake stock").

### Article 2

#### Purpose of the recovery plan

The recovery plan referred to in Article 1 shall aim to increase the quantities of mature fish of the Northern hake stock concerned to values equal to or greater than 140 000 tonnes.

### Article 3

#### Reaching of target levels

Where the Commission finds, on the basis of advice from ICES and following agreement on that advice by the Scientific Technical and Economic Committee for Fisheries (STECF), that for two consecutive years the target level for the Northern hake stock concerned has been reached, the Council shall decide by qualified majority on a proposal from the Commission to replace the recovery plan by a management plan for the stock in accordance with Article 6 of Regulation (EC) No 2371/2002.

#### Article 4

##### Setting of TACs

A TAC shall be set in accordance with Article 5 where, for the Northern hake stock concerned the quantities of mature Northern hake have been estimated by the STECF, in the light of the most recent report of ICES, to be equal to or above 100 000 tonnes.

#### Article 5

##### Procedure of setting TACs

1. Each year, the Council shall decide by qualified majority on a proposal from the Commission on a TAC for the following year for the Northern hake stock concerned.
2. For 2004, the TAC shall be set at a level corresponding to a fishing mortality of 0,25, 4% less than status quo fishing mortality. For the subsequent years of the recovery plan, the TAC shall not exceed a level of catches which scientific evaluations carried out by the STECF, in the light of the most recent reports of ICES, indicate will correspond to a fishing mortality rate of 0,25.
3. The Council shall not adopt a TAC whose capture is predicted by the STECF, in the light of the most recent report of the ICES, to lead to a decrease in spawning stock biomass in its year of application.

4. Where it is expected that the setting of the TAC for a given year in accordance with paragraph 2 will result in a quantity of mature fish at the end of that year in excess of the target level indicated in Article 2, the Commission will carry out a review of the recovery plan and propose any adjustments necessary on the basis of the latest scientific evaluations. Such a review shall in any event be carried out not later than 3 years following the adoption of this Regulation with the aim of ensuring that the objectives of the recovery plan are achieved.
5. Except for the first year of application of this Regulation, the following rules shall apply:
  - (a) where the rules provided for in paragraphs 2 or 4 would lead to a TAC for a given year which exceeds the TAC of the preceding year by more than 15%, the Council shall adopt a TAC which shall not be more than 15% greater than the TAC of that year or;
  - (b) where the rule provided for in paragraphs 2 or 4 would lead to a TAC for a given year which is more than 15% less than the TAC of the preceding year, the Council shall adopt a TAC which is not more than 15% less than the TAC of that year.

#### Article 6

##### Setting of TACs in exceptional circumstances

Where the quantities of mature fish of the Northern hake stock concerned have been estimated by the STECF, in the light of the most recent report of the ICES, to be less than 100 000 tonnes, the following rules shall apply:

- (a) Article 5 shall apply where its application is expected to result in an increase in the quantities of mature fish of the Northern hake stock concerned, at the end of the year of application of the TAC to a quantity equal to or greater than 100 000 tonnes;
- (b) where the application of Article 5 is not expected to result in an increase in the quantities of mature fish of the Northern hake stock concerned, at the end of the year of application of the TAC, to a quantity equal to or greater than 100 000 tonnes, the Council shall decide by a qualified majority, on a proposal from the Commission, on a TAC for the following year that is lower than the TAC resulting from the application of the method described on Article 5.

#### Article 7

##### Recording and accounting of time spent in the areas

Notwithstanding Article 19a of Regulation (EEC) No 2847/93, Articles 19e and 19k of that Regulation shall apply to vessels operating in the geographical area referred to in Article 1.

#### Article 8

##### Prior notification

1. The master of a Community fishing vessel, or his representative, prior to any entry in to port or any landing location of a Member State with more than two tonnes of Northern hake on board shall inform the competent authorities of that Member State, at least four hours in advance of such entry, of:

- (a) the name of the port or landing location;
- (b) the estimated time of arrival at that port or landing location;
- (c) the quantities in kilograms live weight of regulated species of which more than 50 Kg is retained on board;

2. The competent authorities of a Member State in which a landing of more than two tonnes of Northern hake is to be made, may require that the discharge of catch retained on board shall not commence until authorised by those authorities.

3. The master of a Community fishing vessel, or his representative, wishing to tranship or discharge at sea any quantity retained on board or to land in a port or landing location of a third country shall transmit to the competent authorities of the flag Member State at least 24 hours prior to transhipment or discharge at sea or to landing in a third country the information referred to in paragraph 1.

#### Article 9

##### Designated ports

1. Where more than two tonnes of Northern hake are to be landed in the Community from a Community fishing vessel, the master of the vessel shall ensure that such landings are made only at designated ports.



2. Each Member State shall designate ports at which any landing of Northern hake in excess of two tonnes shall take place.

3. Each Member State shall transmit to the Commission by ..... \* the list of designated ports and, within 30 days thereafter, associated inspection and surveillance procedures for those ports, including the terms and conditions for recording and reporting the quantities of Northern hake within each landing. The Commission shall transmit the information to all Member States.

#### Article 10

##### Margin of tolerance

By way of derogation from Article 5(2) <sup>1</sup> of Commission Regulation (EEC) No 2807/83 of 22 September 1983 laying down detailed rules for recording information on Member States' catches of fish, the permitted margin of tolerance in the estimation of quantities of northern hake, in Kg retained on board, shall be 8% of the logbook figure. In the event that no conversion factor is laid down in Community legislation, the conversion factor adopted by the Member State whose flag the vessel is flying shall apply.

#### Article 11

##### Separate stowage

It shall be prohibited to retain on board a Community fishing vessel in any container any quantity of Northern hake mixed with any other species of marine organisms. Containers with Northern hake shall be properly marked for identification purposes or stowed in the hold in such a way that they are kept separate from other containers.

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\* 15 days from the date of entry into force of this Regulation

<sup>1</sup> OJ L 276, 10.10.1983, p. 1. Regulation as last amended by Regulation (EC) No 1965/2001 (OJ L 268, 9.10.2001, p. 23).

## Article 12

### Transport

1. The competent authorities of a Member State may require that any quantity of Northern hake caught in the geographical area defined in Article 1 and first landed in that Member State is weighed in the presence of controllers before being transported elsewhere from the port of first landing. For Northern hake first landed in a port designated under Article 9, representative samples, amounting to at least 20% of the landings in number, shall be weighed in the presence of controllers authorised by the Member States before they are offered for first sale and sold. To this end, the Member States shall submit to the Commission, by .....<sup>\*</sup>, details of the sampling regime to be employed.

2. By way of derogation from the conditions laid down in Article 13 of Regulation (EEC) No 2847/93, all quantities of Northern hake greater than 50 Kg which are transported to a place other than that of first landing or import shall be accompanied by a copy of the declaration provided for in Article 8(1) of that Regulation pertaining to the quantities of Northern hake transported.

## Article 13

### Specific monitoring programme

By way of derogation from Article 34c(1) of Regulation (EEC) No 2847/93, the specific monitoring programme for the Northern hake stock concerned may last more than two years from its date of entry into force.

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<sup>\*</sup> one month from the date of entry into force of this Regulation.

Article 14

Entry into force

This Regulation shall enter into force on the 20th 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 Luxembourg, 21.4.2004.

For the Council  
The President  
J. WALSH

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