

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(92) 394 final

Brussels, 14 September 1992

Proposal for a

COUNCIL REGULATION (EEC)

setting up licensing arrangements for fishing within the regulatory area defined by the NAFO Convention by vessels flying the flag of a Member State or registered at a Community port

(presented by the Commission)

EXPLANATORY MEMORANDUM

Since 1 January 1979, when the Community became a contracting party to the NAFO Convention, catches of certain stocks or groups of stocks in the NAFO regulatory area by vessels flying the flag of a Member State are restricted by TAC and quota arrangements.

In parallel, to protect the NAFO area's fishery resources technical conservation measures were proposed by the NAFO Fisheries Commission and adopted by the Community. These included radio notification of entry and exit from the zones of the NAFO area.

The restriction on catch possibilities for certain NAFO stocks has not however reduced fishing mortality, since the fishing effort of Community vessels has not been reduced in line with catch possibilities.

This finding is not restricted to the NAFO area. The Commission's report on the CFP showed that the resource management and conservation measures introduced by Regulation (EEC) No 170/83 had failed to prevent excessive fishing mortality throughout the Community's fisheries.

It is accordingly necessary in overhauling the CFP to regulate access to resources so that fishing effort is managed and controlled.

This new facet of the CFP, embodied in Council Regulation (EEC) No/. of ... establishing a Community system for fisheries and aquaculture, is fully consonant with the recommendations of the international scientific organizations, in particular those of the NAFO Scientific Council.

The attached proposal applies to the NAFO area the new resource management mechanisms designed to restrict the fishing effort of Community vessels through introduction of a licensing system.

This will not only restrict the number of vessels but also allow fleet capacity for the various stocks to be regulated in line with fishing possibilities for each of them.

Fishing for species subject to TACs and quotas will thus be conditional on the obtaining of a special licence. The catch authorized for each Member State from each stock or group of stocks will be determined under management mechanisms adopted by the Council.

The number of vessels that may hold a licence and possibly the maximum number of days at sea authorized per fishing type and by virtue of these licences will be set in line with the provisions adopted by the Council under Articles 2 and 7 of Council Regulation (EEC) No/. establishing a Community system for fisheries and aquaculture.

Vessels without special licences will be allowed to fish only beyond a minimum depth of 800 metres and will be prohibited from taking by-catches of TAC and quota species that would be detrimental to sound management of these species.

Fishing directed to species not at present exploited by Community vessels will also be subject to Community authorization so that due care can be taken to prevent subsequent over-exploitation.

The proposal provides for a framework regulation laying down in particular the basic principles at Community level, whereas the details of application, and particularly the choice of criteria for the selection of vessels to be included in the draft lists, will be a matter for the Member States.

Licences will be issued by the Commission acting on behalf of the Community. It will use draft lists drawn up by the Member States.

The licensing system will enable the Member States to manage their quotas and other legitimate fishing opportunities in a highly effective way.

Introduction as part of the licence system of automatic notification by satellite of vessel position and movement will improve monitoring.

The whole scheme will show the Community giving itself the resources to operate a strict policy in an area of great diplomatic importance.

Whereas within the general framework of its international obligations the Community participates in the effort to conserve fish stocks in international waters;

Whereas conservation effort must be assessed using relevant scientific data, so that measures can be implemented that are appropriate to the biological situation of the stocks and their foreseeable evolution according to various exploitation possibilities;

Whereas the level of fishing of these stocks by the fleets of the Member States should be judged in relation to total fishing activity in the area concerned and account taken of the contribution made up to the present by the Community as a contracting party to NAFO to safeguarding them;

Whereas the fishing effort directed to certain stocks in the NAFO area should be restricted so that they can be conserved and an adequate degree of profitability ensured for the activities of the fishermen concerned;

Whereas to this end it is essential that fishing by Community vessels be regulated by licensing and that the system be run by the Commission on behalf of the Community as a contracting party to the NAFO Convention;

Whereas for certain species that are biologically sensitive because of the way in which they are exploited stricter regulation of the fishing effort of Community vessels is required; whereas it is essential therefore that Community vessels fishing for these species hold a licence regulating access to and exercise of fishing effort in line with the direct catch restrictions already applicable to these species;

Whereas it is accordingly necessary to determine operating procedures for the system, covering transmission of the particulars of vessels wishing to fish

in the NAFO area and notification of vessel movements within the area, and also the list of species for which licences will be required;

Whereas fishing for species not at present exploited by Community vessels will have to be subject to authorization from the Community so that subsequent over exploitation is avoided;

Whereas in order to ensure that the rules of access to waters and resources laid down by this Regulation are respected provisions must be adopted, additional to those of Council Regulation (EEC) No/. establishing a Community control system⁵ and of Council Regulation (EEC) No 1956/88 of 9 June 1988 adopting provisions for the application of the scheme of joint international inspection adopted by the Northwest Atlantic Fisheries Organization⁶, as last amended by Regulation (EEC) No 436/92⁷ whereby the Commission prohibits fishing for a certain period by those who have infringed the rules,

HAS ADOPTED THIS REGULATION:

Article 1

Fishing in the regulatory area defined in Article I(2) of the NAFO Convention by vessels flying the flag of a Member State or registered in a Community port, hereafter referred to as "Community vessels", shall be conditional on the holding of a licence issued by the Commission acting on behalf of the Community and in compliance with the requirements set out in this Regulation.

Article 2

The licence referred to in Article 1 may be granted for:

1. directed fishing of a target species or group of target species from a stock or group of stocks covered by TACs or quotas,
2. fishing for a species or group of species other than those referred to in paragraph 1 beyond a minimum depth of 800 metres.

5 OJ No L

6 OJ No L 175, 6.7.1988, p.1.

7 OJ No L 54, 28.2.1992, p.1.

Article 3

1. For the purposes of this Regulation, "directed fishing" means any type of fishing where the minimum percentage of the target species or group of target species is higher than set in Annex I, and of which the composition of by-catches of species subject to a TAC or quota complies with the rules prescribed at Annex I.
2. Catches of the target species or group of target species and by-catches of species listed in Annex I taken by Community vessels which hold licences as referred to in Article 2(1) must be sorted immediately after the net has been hauled and stored separately.
3. The percentage referred to in paragraph 1 shall be the proportion by weight of all the species subject to TAC or quota sorting or on landing, including any quantity transhipped.

Article 4

1. The by-catches accessible by stock or group of stocks of target species shall be allocated to each Member State in accordance with the procedure laid down in Article 6 of Council Regulation (EEC) No .../.. establishing a Community system for fisheries and aquaculture.
2. The maximum number of vessels and if necessary the maximum number of days at sea authorized shall be determined by fishing type and sub-area for each Member State in accordance with the provisions adopted by the Council under Articles 2 and 7 of [the abovementioned] Regulation (EEC) No .../.. .

Article 5

Community vessels holding a licence under the terms of Article 2(2) may not retain on board, tranship or land fish of any species or group of species other than that for which the licence was granted.

Article 6

1. Commercial fishing operations for species new to the Community must be authorized by the Commission.
2. Vessels authorized to fish under the terms of paragraph 1 shall be allowed, by derogation from the normal rules, to use nets suitable for taking these new species.

Article 7

1. Member States shall forward to the Commission every year, not later than one month before the beginning of the fishing authorization period, proposed lists of vessels for which a licence is required to fish under the terms of this Regulation.
2. The following information shall be given for each vessel:
 - a. number on the Community fishing vessel register
 - b. name
 - c. registration number
 - d. name and address of owner or charterer
 - e. call signal and radio frequency
 - f. fishing method proposed
 - g. proposed target species or group of species
 - h. number of days allotted, subdivided by target species and sub-area
 - i. period for which licence requested
 - j. the vessel characteristics must be as shown in the Community fishing vessel register; any change must be immediately notified by the Member State to the Commission.

Article 8

1. The Commission shall examine the proposed lists and adopt final lists of vessels to which the terms of this Regulation apply, and shall transmit these lists to the authorities of the Member States concerned at the latest [five working days] before the beginning of the list's period of validity. Vessels shown on the lists adopted by the Commission shall be deemed to hold a licence authorizing them to fish under the terms set out in this Regulation.
2. If the final list drawn up by the Commission comprises fewer vessels than the maximum number authorized to fish simultaneously in the area referred to in Article 1, Member States may during the period of validity of the list address one or more applications for additional licenses to the Commission, within the limit of the maximum number of vessels.

The Commission shall examine each application immediately and notify any modification of the list to the Member State concerned following acceptance of the licence applications.

No additional vessel may be considered to hold a fishing licence before the Member State concerned has been informed by the Commission that the list has been modified.

3. Licences shall be valid for a single vessel. If a number of vessels take part in the same fishing operation each must hold a license. A vessel may not hold both a licence issued under Article 2(1) and a licence issued under Article 2(2).

Article 9

1. A licence granted for a species listed in Annex I to a Community vessel shall cease to be valid on the date on which the quota assigned to that Member State or the TAC for the stock or group of stocks in question is considered to have been exhausted, even if the number of days allotted to that Member State for fishing for that species has not been used up.

2. If the number of days allotted to a Member State under Article 4 has been used up for reasons of force majeure, and there is a risk of prejudice to the Member State through non-exhaustion of its quota, the matter shall be referred to the Management Committee for Fisheries and Aquaculture in accordance with Article 14 of Council Regulation (EEC) No/. establishing a Community system for fisheries and aquaculture. Measures shall be adopted to prevent prejudice occurring. These may include allocation to the Member State of additional days to enable it to exhaust its quota.

Article 10

The authorities of a Member State may request the Commission for replacement of a vessel on the final list that by reason of force majeure is prevented from fishing during all or part of the scheduled period. The Commission shall deal with such applications without delay.

Article 11

1. The master of each vessel holding a licence under this Regulation must comply with the communications procedure laid down by Council Regulation (EEC) No 189/92 of 27 January 1992 adopting provisions for the application of certain control measures adopted by the Northwest Atlantic Fisheries Organization⁸.

2. Without prejudice to paragraph 1, Community vessels that hold a licence under Article 2(2) must make daily notification of their planned target species to the relevant national authority and simultaneously to the Commission of the European Communities.

Article 12

1. Without prejudice to Article 11, Community vessels that are fishing in the area referred to in Article 1 must have equipment enabling them to notify by satellite their geographical position determined to the nearest 100 metres, their speed and course to the control centre designated by the Member State whose flag they fly or in which they are registered.
2. The Member State whose flag the vessel flies or in which the vessel is registered shall take the necessary action to record, in computer-readable form, the information transmitted by its fishing vessels in whatever waters or in whatever port they may be located.
3. Member State shall transmit the information referred to in paragraph 1 to the Commission in real time.
4. Information collected pursuant to this Article may be used only for the purpose for which it is required. The Commission, the Member States' competent authorities and officials and other agents shall be under an obligation not to divulge information they have gathered pursuant to this Article that by its nature is covered by the rule of professional secrecy.
5. Each Member State must store, or have stored, in computer-readable form, the information recorded pursuant to paragraph 2, so that it can be checked during the three-year period from the beginning of the year following that in which it was recorded.

Article 13

In addition to complying with the requirements of Articles 6, 7, 10 and 11 of Regulation (EEC) No/. establishing the control system applicable to the common fisheries policy⁹, masters of vessels must enter in the logbook the information specified in Annex II.

Member States must, when making notification pursuant to Article 14 of that Regulation, inform the Commission of catches of species not subject to quotas.

Article 14

The granting of licences to Member States' vessels shall confer an obligation on the owner of the vessel to allow an observer on board at the Commission's request.

Article 15

1. The authorities of the Member States shall take suitable action, including regular inspection of vessels, to ensure that the obligations set out in this Regulation are met.
2. If an infringement is detected by an inspection service authorized under the NAFO Convention the authorities of the Member States shall inform the Commission without delay, and at the latest within 30 days of the date on which the infringement was detected, of the name of the vessel and of the action they have taken.

Article 16

1. If the obligations laid down by this Regulation are not met the licence of the vessel in question shall be withdrawn.

If an infringement as referred to in Article 15(2) is detected the Commission, shall for a period that it shall determine in line with the seriousness of the offence, not enter the vessel on any final list.

2. If fishing is carried out in the area referred to in Article 1 by a vessel without a valid licence belonging to an owner or under the management of a natural or legal person possessing or managing one or other vessels for which licences have been granted for that area one of these licences may be withdrawn.
3. A licence may be refused during the period indicated in paragraph 1 for one or more vessels belonging to the owner of a vessel the licence for which has been withdrawn pursuant to this Article or that has fished without a licence in the area referred to in Article 1.

Article 17

If over an eight-day period the Commission receives no notification as referred to in Article 11 in regard to a vessel holding a licence, the licence shall be withdrawn.

Article 18

Detailed rules for the application of this Regulation shall be adopted in accordance with the procedure laid down in Article 14 of Regulation (EEC) No .../..¹⁰.

Article 19

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

It shall apply from [].

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

Done at ...,

For the Council

ANNEX I

1. LICENCES REFERRED TO IN ARTICLE 2(1)

VESSELS FLYING THE FLAG OF	S T O C K			MINIMUM PERCENTAGE OF TARGET SPECIES ⁽¹⁾	BY-CATCHES AUTHORIZED (2)(3)	ADDITIONAL CONDITIONS	GEAR USED
	GEOGRAPHICAL REGION	SUB-AREA	TARGET SPECIES				
Belgium Denmark Germany Greece Spain France Ireland Italy Luxembourg Netherlands Portugal United Kingdom	Northwest Atlantic	NAFO 2J+3KL NAFO 3 M NAFO 3 NO	Cod	70	30 % of which	Examples : - trawl authorized - engine power limited to 400 HP	
Belgium Denmark Germany Greece Spain France Ireland Italy Luxembourg Netherlands Portugal United Kingdom	Northwest Atlantic	NAFO 3 M NAFO 3 LN NAFO 3 N	Redfish	70	30 %		

- (1) The minimum percentage of target species may be adjusted in accordance with the procedure laid down in Article 16 of Regulation (EEC) No .
 (2) The percentage of by-catches authorized may be adjusted in accordance with the procedure laid down in Article 16 of Regulation (EEC) No .
 (3) Only by-catches of species subject to TAC and quotas shall be limited.

VESSELS FLYING THE FLAG OF	S T O C K			MINIMUM PERCENTAGE OF TARGET SPECIES ⁽¹⁾	BY-CATCHES AUTHORIZED (2)(3)	ADDITIONAL CONDITIONS	GEAR USED
	GEOGRAPHICAL REGION	SUB-AREA	TARGET SPECIES				
Belgium Denmark Germany Greece Spain France Ireland Italy Luxembourg Netherlands Portugal United Kingdom	Northwest Atlantic	NAFO 3 M NAFO 3 NLO	American plaice Yellowtail flounder Witch flounder	70	30 X		

(1) The minimum percentage of target species may be adjusted in accordance with the procedure laid down in Article 16 of Regulation (EEC) No .

(2) The percentage of by-catches authorized may be adjusted in accordance with the procedure laid down in Article 16 of Regulation (EEC) No .

(3) Only by-catches of species subject to TAC and quotas shall be limited.

VESSELS FLYING THE FLAG OF	S T O C K			MINIMUM PERCENTAGE OF TARGET SPECIES ⁽¹⁾	BY-CATCHES AUTHORIZED (2)(3)	ADDITIONAL CONDITIONS	GEAR USED
	GEOGRAPHICAL REGION	SUB-AREA	TARGET SPECIES				
Belgium Denmark Germany Greece Spain France Ireland Italy Luxembourg Netherlands Portugal United Kingdom	Northwest Atlantic	NAFO 3 NO	Capelin	[?]	[?]		
Belgium Denmark Germany Greece Spain France Ireland Italy Luxembourg Netherlands Portugal United Kingdom	Northwest Atlantic	NAFO sub- areas 3 + 4	Squid	[?]	[?]		

(1) The minimum percentage of target species may be adjusted in accordance with the procedure laid down in Article 16 of Regulation (EEC) No .
 (2) The percentage of by-catches authorized may be adjusted in accordance with the procedure laid down in Article 16 of Regulation (EEC) No .
 (3) Only by-catches of species subject to TAC and quotas shall be limited.

ANNEX II

Particulars to be contained in the logbook

P A R T I C U L A R S	C O D E
Name of vessel	01
Nationality of vessel	02
Registration number of vessel	03
Port of registration	04
Type of fishing gear used (daily)	10
Type of fishing gear	2 ⁽¹⁾
Date :	
- day	20
- month	21
- year	22
Position :	
- latitude	31
- longitude	32
- statistical zone	33
Number of fishing operations per period of 24 hours ⁽²⁾	40
Number of hours fishing with gear per period of 24 hours ⁽²⁾	41
Name of species	2 (1)
Daily catches by species (in tonnes live weight)	50
Daily catches, per species, for human consumption	61
Quantities discarded daily per species	63
Place of transshipment	70
Date(s) of transshipment	71
Master's signature	80

(1) To be indicated together with one of the abbreviations listed in the second part of this Annex.
 (2) Where two or more types of fishing gear are used in a given 24-hour period, separate records must be supplied for each type of gear.

Standard abbreviations for the principal species in the NAFO area

ABBREVIATION	NAMES OF SPECIES OF FISH	
	ENGLISH	LATIN
ALE	Alewife	<i>Alosa pseudoharengus</i>
ARG	Atlantic argentine	<i>Argentina silus</i>
BUT	American butterfish	<i>Peprilus triacanthus</i>
CAP	Capelin	<i>Mallotus villosus</i>
COD	Cod	<i>Gadus morhua</i>
GHL	Greenland halibut	<i>Reinhardtius hippoglossoides</i>
HAD	Haddock	<i>Melanogrammus aeglefinus</i>
HER	Herring	<i>Clupea harengus</i>
HKR	Red hake	<i>Urophycis chuss</i>
HKS	Silver hake	<i>Merluccius bilinearis</i>
MAC	Mackerel	<i>Scomber scombrus</i>
PLA	American plaice	<i>Hippoglossoides platessoides</i>
POK	Saithe	<i>Pollachius virens</i>
RED	Redfish	<i>Sebastes marinus</i>
RNG	Roundnose grenadier	<i>Macrourus rupestris</i>
SHR	Shrimps and prawns	<i>Pandalus sp.</i>
SQU	Squid	<i>Loligo pealei - Illex illecebrosus</i>
WIT	Witch flounder	<i>Glyptocephalus cynoglossus</i>
YEL	Yellowtail flounder	<i>Limanda ferruginea</i>

Standard abbreviations for fishing gear

ABBREVIATIONS	F I S H I N G G E A R
OTB	Bottom otter trawl (side or stern, not specified)
OTB 1	Bottom otter trawl (side)
OTB 2	Bottom otter trawl (stern)
OTM	Midwater otter trawl (side or stern, not specified)
OTM 1	Midwater otter trawl (side)
OTM 2	Midwater otter trawl (stern)
PTB	Bottom pair trawl (2 vessels)
PTM	Midwater pair trawl (2 vessels)
GN	Gillnets (not specified)
GNS	Set gillnets
LL	Longlines (set or drifting, not specified)
LLS	Longlines (set)
LLD	Longlines (drifting)
MIS	Miscellaneous fishing gear
NK	Fishing gear not known

IMPACT ASSESSMENT FORM

THE IMPACT OF THE PROPOSAL ON BUSINESS with special reference to small and medium-sized enterprises (SMEs)

Title of proposal:

Draft Council Regulation setting up licensing arrangements for fishing within the regulatory area defined by the NAFO Convention by vessels flying the flag of a Member State or registered at a Community port

Reference number of document:

The proposal

1. Having regard to the principle of subsidiarity, why is Community legislation necessary in this field and what are the main objectives?

The Community has been one of the 11 Contracting Parties to NAFO since 1978. NAFO regulates certain fishing activities in the regulatory area with a view to optimum utilization, rational management and conservation of the fishery resources concerned.

The main objectives of the proposed Regulation are to limit the fishing effort developed by enterprises in the Member States concerned - primarily Germany, Spain, the United Kingdom and Portugal - in proportion to the available fishing opportunities in the area. To that end, the Commission's proposal aims to regulate both the maximum quantities of catches authorized (output) and the number and capacity of vessels and the time to be spent fishing for those quantities (input).

The impact on business

2. Who will be affected by the proposal?

- Which sectors?

The fishing sector, and more particularly vessel owners.

- What size businesses (proportion of small and medium-sized enterprises)?

Those concerned will be mainly medium-sized enterprises with large vessels and crews of corresponding size (35 to 40 per vessel).

- Are these businesses based in particular geographical areas in the Community?
Yes, coastal areas and the major fishing ports in the Member States concerned.

3. What measures will the businesses have to take to comply with the proposal?
Adjustment of fishing capacity to actual and permitted fishing opportunities in the area concerned.

4. What economic effects is the proposal likely to have?

- On employment?
There will inevitably be repercussions on employment as a reduction in fishing capacity of at least 30% will be essential for the above-mentioned adjustment and it will be difficult to find alternatives given the precarious state of resources in the traditional fishing areas of the fleet concerned.

- On investment and business start-ups?
The constraints implied in the proposed measures will certainly not encourage investment or the setting-up of new businesses.

- On the competitive position of businesses?
The adjustment required will probably involve a substantial cut in income and thus impair the competitive position of the businesses concerned in the short term. On the other hand, the reduction in overcapacity and overfishing of stocks in the zone should enable these stocks to regenerate, thus ensuring stability of fishing activities in the medium and long term.

5. Does the proposal contain measures that take account of the particular situation of small and medium-sized enterprises (reduced or different requirements, etc.)?
No. However, parallel multi-annual structural and socio-economic programmes are planned with the general aim of minimizing the impact of the proposed measures.

Consultation

6. List of organizations which have been consulted on the proposal and the main points of their positions.
The proposal will be discussed with the Member States in the Working Party on the External Fisheries Policy after formal adoption by the Commission. A discussion in the Economic and Social Committee is also scheduled.

ISSN 0254-1475

COM(92) 394 final

DOCUMENTS

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Catalogue number : CB-CO-92-414-EN-C

ISBN 92-77-47618-4

**Office for Official Publications of the European Communities
L-2985 Luxembourg**