



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 03.04.2003
COM(2003) 165 final

Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 2341/2002 fixing for 2003 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where limitations in catch are required

(presented by the Commission)

EXPLANATORY MEMORANDUM

Council Regulation (EC) No 2341/2002 included, as Annex XVII, a temporary scheme of effort management applicable to all fisheries likely to catch cod in the North sea and the West of Scotland.

The Commission has consulted with the concerned Member States on the implementation of the scheme of Annex XVII. These consultations have shown that a series of provisions needed further clarification as to the exact way to apply them in practice. In some other cases, the provisions of Annex XVII have shown to be too rigid to allow an effective, fair and non-discriminatory application.

In these respects, the questions identified were the following:

- prevention of new entrants into fisheries where they do not have a track record;
- correcting the definition of the area to be covered (i.e. to include the entire closed area of 2001);
- the need for a more flexible definition of the ‘days out of port’;
- clarification of how to calculate days out of port for vessels that fish inside and outside the areas concerned by Annex XVII in the same trip;
- clarification of how to calculate days out of port for vessels changing gear (and thus category in Annex XVII) during the same month;
- allowing the transfer of fishing days from smaller to larger vessels without increase in total fishing effort;
- clarification that innocent passage through the area concerned to fish elsewhere is not subject to limitation of days.
- special provisions (more fair treatment) for a fleet segment fishing with very large mesh sizes and very low impact on cod.
- extension of the possibility to add additional days through scrapping programmes to all fleet segments
- provisions for cases of *force majeure*.

The present proposal intends to introduce the necessary amendments to Annex XVII of Regulation 2341/2002.

The Council is requested to adopt this proposal as soon as possible in order to allow Member States and fishermen a more effective implementation of the effort management scheme

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2371/2002¹ of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy, and in particular Article 20(1) thereof,

Having regard to the proposal from the Commission²,

Whereas:

- (1) Annex XVII of Regulation (EC) No 2341/2002³ lays down a temporary scheme of effort management applicable to all fisheries likely to catch cod in the North Sea and the West of Scotland.
- (2) The implementation of that Annex XVII has shown that certain of its provisions need to be either clarified or made more flexible, in order to improve its applicability and effectiveness.
- (3) It is necessary to ensure that any change to the scheme does not result in a lesser conservation value for the measures in question.
- (4) Regulation (EC) No 2341/2002 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex XVII to Regulation (EC) No 2341/2002 is replaced by the text in the Annex to this Regulation.

¹ OJ L 358, 31.12.2002, p. 59.

² OJ C [...], [...], p. [...].

³ OJ L 356, 31.12.2002, p. 12.

Article 2

This Regulation shall enter into force on the first day following that of its publication in the *Official Journal of the European Union*.

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

Done at Brussels, [...]

For the Council
The President

ANNEX

“ANNEX XVII”

FISHING EFFORT AND ADDITIONAL CONDITIONS FOR MONITORING, INSPECTION AND SURVEILLANCE IN THE CONTEXT OF RECOVERY OF CERTAIN COD STOCKS

FISHING EFFORT

1. From 1 February 2003 to 31 December 2003, the conditions laid down in this Annex shall apply to Community fishing vessels of length overall equal to or greater than 10 metres.
2. For the purposes of this Annex, the following definitions of geographical areas shall apply:
 - (a) That part of ICES Division IIIa bounded on the north by a line drawn from the Skagen lighthouse to the Tistlarna lighthouse and from this point to the nearest point on the Swedish coast and on the south by a line drawn from Hasenøre to Gnibens Spids, from Korshage to Spodsbjerg and from Gilbjerg Hoved to Kullen.
 - (b) That part of Division IIIa not covered by the area specified in subparagraph (a) and ICES Sub-area IV excluding the following ICES statistical rectangles:

52E6, 52E7, 52E8, 52E9, 52F0, 52F1, 52F2, 52F3, 52F4

51E6, 51E7, 51E8, 51E9, 51F0, 51F1, 51F2, 51F3, 51F4

50E6, 50E7¹, 50E8¹, 50F2², 50F3, 50F4

49E6¹, 49E7¹, 49F3, 49F4

48F3, 48F4

47F3³, 47F4, 47F5

46F3³, 46F4, 46F5

45F3⁴, 45F4⁵, 45F5, 45F6

44F4⁵, 44F5⁵, 44F6

¹ North of a straight line drawn between 60°00'N, 04°03'W and 61°00'N, 01°43'W.

² North of a straight line drawn between 61°00'N, 02°00'E and 60°30'N 03°00'E.

³ East of a straight line drawn between 59°30'N, 03°00'E and 59°00'N, 03°30'E.

⁴ East of 03°30'E.

⁵ North of a straight line drawn between 58°30'N, 03°30'E and 57°30'N, 05°30'E.

- (c) ICES Division VIa excluding that part which lies to the west of a line drawn by sequentially joining with straight lines the following geographical coordinates:

60°00'N, 04°00'W

59°45'N, 05°00'W

59°30'N, 06°00'W

59°00'N, 07°00'W

58°30'N, 08°00'W

58°00'N, 08°00'W

58°00'N, 08°30'W

56°00'N, 08°30'W

56°00'N, 09°00'W

55°00'N, 09°00'W

55°00'N, 10°00'W

54°30'N, 10°00'W.

3. For the purposes of this Annex a day absent from port shall be:

- (a) the 24-hour period between 00:00 Hrs of a calendar day and 24:00 Hrs of the same calendar day or any part of such a time period;

or

- (b) any continuous period of 24 hours from the time of departure from port or any part of any such time period.

A Member State which wishes to employ the definition of a day absent from port laid down under (b) shall notify the Commission of the means of monitoring the activities of a vessel to ensure compliance with these conditions.

4. For the purpose of this Annex, the following definitions of fishing gears shall apply:

- (a) demersal trawls, seines or similar towed gears of mesh size equal to or greater than 100 mm except beam trawls;
- (b) beam trawls of mesh size equal to or greater than 80 mm;
- (c) static demersal nets including gill nets, trammel nets and tangle nets;
- (d) demersal longlines;

- (e) demersal trawls, seines or similar towed gears of mesh size between 70 mm and 99 mm except beam trawls;
 - (f) demersal trawls, seines or similar towed gears of mesh size between 16 mm and 31 mm except beam trawls.
5. (a) Each Member State shall ensure that, when carrying on board any of the fishing gears defined in paragraph 4, fishing vessels flying its flag and registered in the Community shall be absent from port and present within the areas specified in paragraph 2 for no more than the number of days specified in paragraph 6 or paragraph 9.
- (b) Days absent from port and spent in areas other than those specified in paragraph 2 shall not be counted against the number of days specified in paragraph 6 or paragraph 9.
- (c) The conditions of paragraph (a) shall not apply to vessels which operate under the conditions laid down in paragraph 7(b).
6. (a) The number of days in each calendar month on which a vessel may be absent from port while carrying on board any of the fishing gears defined in paragraph 4 are :

Gear defined in paragraph:						
	4a	4b	4c	4d	4e	4f
<u>Area defined in paragraph:</u>						
2a	9	0	16	19	25	23
2b	9	15	16	19	25	23
2c	9	15	16	19	25	23

- (b) Additional days to compensate for adjustment to the newly installed effort management scheme may be allocated to the Member States by the Commission.
- (c) An additional number of days on which a vessel may be absent from port while carrying on board any of the gears defined in paragraph 4 may be provisionally allocated to Member States by the Commission on the basis of the achieved results or the expected results of decommissioning programmes in 2002 and 2003 for vessels affected by the provisions of this Annex.
- (d) Member States benefiting from the allocation under paragraph (c) shall report to the Commission before the end of March, May, July, September, and November respectively on the progress made in implementing their decommissioning programmes. On the basis of these reports, the Commission may amend the number of days defined in paragraph (c).
- (e) Notwithstanding the conditions laid down in paragraph (a), a Member State may permit any of its vessels fishing with demersal trawls, seines or similar towed

gears of mesh size equal to or greater than 120mm to spend no more than 16 days absent from port provided that:

(i) the Member State has previously notified the Commission of its intention to do so and

(ii) the Member State has verified from the track record of that vessel that less than 5% of the landings in live weight by that vessel during 2002 was comprised of cod and

(iii) The Member State verifies that the track record for that vessel for the month terminating two months prior to the start of the current month confirms that its landings in that previous month comprised no more than 5% of cod.

Vessels benefiting from the provisions laid down in this paragraph shall not be eligible for additional days allocated under paragraph (b).

7. (a) A vessel which is present within any of the areas defined in paragraph 2 and carrying on board any of the fishing gears defined in paragraph 4 may not simultaneously carry on board any of the other gears defined in paragraph 4.

(b) Notwithstanding the conditions of paragraph (a), a vessel present within any of the areas defined in paragraph 2 may carry simultaneously on board more than one of the fishing gears defined in paragraph 4 but may not deploy within any of the areas defined in paragraph 2 any of these fishing gears. While that vessel is within any of the areas defined in paragraph 2, any such fishing gears must be lashed and stowed in accordance with conditions laid down in Article 20(1) of Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the Common Fisheries Policy⁴.
8. A vessel which has deployed any one of the defined gears within any one of the specified areas may not deploy the same gear in a different area on more days than those specified in paragraph 6 for a month or for an alternative period determined under the conditions of paragraph 11 minus the total number of the days on which this gear has already been deployed in any of the other specified areas in that month or alternative time period.
9. During a month or during a two-month period determined under the conditions laid down in paragraph 11 a vessel may deploy only two of the gears defined in paragraph 4. These gears may be deployed only on different days. The total number of days available to such vessels shall be no more than half the sum of the days allocated to each gear according to paragraph 6. Within this total number, it shall not be permitted to deploy any one of the gears concerned for more days than two-thirds of those laid down with respect to that gear in paragraph 6.
10. (a) A Member State may permit any of its fishing vessels to transfer a maximum of 20% of the days to which it is eligible from a month to the next month or from an alternative time period determined under the conditions of paragraph 11 to the next month or alternative time period.

⁴ OJ L 274, 25.09.1986, p.1.

(b) A Member State may permit any of its fishing vessels to transfer days to which it is eligible for a given month or an alternative time period determined under the conditions of paragraph 11 to another of its vessels:

(i) when the vessel receiving days has an installed engine power equal to or less than that of the vessel contributing days

or

(ii) when the installed engine power of the vessel receiving days is greater than that of the vessel contributing days, provided that the product of the days received by a vessel multiplied by the installed engine power in kilowatts of that vessel is equal to or less than the product of the days transferred by the smaller vessel multiplied by the installed engine power in kilowatts of that vessel. The kilowatts of the larger vessel and the smaller vessel shall be those recorded for each vessel in the register of Community fishing vessels.

(c) The transfer of days defined in paragraph 6 and referred to in paragraph (b) shall not be permitted between the fishing gears defined in paragraph 4 or between the geographical areas defined in paragraph 2.

11. A Member State may permit any of its vessels to aggregate days absence from port
 - (a) within any period of no more than two consecutive months and;
 - (b) within any period of no more than four consecutive months when it has been decided that the vessels of that Member State will remain in port during any part of that period to avoid the capture of spawning fish.
12. A Member State shall not permit fishing with any of the gears defined in paragraph 4 in any area defined in paragraph 2 by any of its vessels which have no record of such fishing activity in 2001 or 2002.
13. A Member State shall not count against the days allocated to any of its vessels under paragraph 6 or paragraph 9 any days when the vessel has been absent from port but has been unable to fish due to exceptional circumstances including mechanical breakdown or adverse weather conditions. The Member State concerned shall provide justification to the Commission of any decisions taken on this basis.

MONITORING, INSPECTION AND SURVEILLANCE

14. The provisions of Title IIA of Regulation (EEC) No 2847/93 shall apply insofar as they concern reporting obligations to flag states to vessels of length overall equal to or greater than 10 metres deploying the fishing gears defined in paragraph 4 and operating in the areas defined in paragraph 2.
15. The master of a fishing vessel, or his representative, prior to any entry to port of a Member State with more than 1 tonne of cod on board his vessel shall inform, at least four hours in advance of such entry, the competent authorities of that Member State of:
 - the port,
 - the estimated time of arrival at that port,
 - the quantities in kilograms live weight of cod retained on board,
 - the quantities in kilograms live weight of cod to be landed.

The competent authorities of a Member State in which a landing of more than 1 tonne of cod is to be made, may require that the discharge does not commence until authorised by those authorities.

16. Whenever more than 2 tonnes of cod are to be landed from a fishing vessel, the master of the vessel shall ensure that such landings are made only at designated ports.
17. Each Member State shall designate ports into which any landing of cod in excess of 2 tonnes shall take place.
18. Each Member State shall transmit to the Commission within 15 days of the date of entry into force of this Regulation the list of designated ports and, within 30 days thereafter, associated inspection and surveillance procedures including the terms and conditions for recording and reporting the quantities of cod within each landing. The Commission shall transmit this information to all Member States.
19. It shall be prohibited to retain on board a fishing vessel in any individual box or other container any quantity of cod mixed with any other species of marine organism.
20. The masters of the fishing vessels shall provide the necessary assistance to inspectors of Member States to enable the quantities declared in the logbook and the catches of cod retained on board to be cross-checked for verification purposes.
21. The competent authorities of a Member State may require that any quantity of cod caught in any of the areas specified in paragraph 2 and first landed in that Member State is weighed before being transported from the port of first landing.
22. By way of derogation from the conditions laid down in Article 13 of Council Regulation (EEC) No 2847/93, all quantities of cod caught in any of the areas specified in paragraph 2 which are transported to a place other than that of landing or import shall be accompanied by a copy of one of the declarations provided for in Article 8(1) of Council Regulation (EEC) No 2847/93 pertaining to the quantities of these species transported. The exemption provided for in Article 13(4)(b) of Council Regulation (EEC) No 2847/93 shall not apply.

ELIGIBILITY FOR DECOMMISSIONING AID

23. The measures described in this Annex shall be considered as part of a recovery plan under Council Regulation (EC) No 2370/2002 establishing an emergency Community measure for scrapping fishing vessels⁵.

⁵ OJ L 358, 31.12.02, p. 57.