



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 23.12.2003
COM(2003) 818 final

2003/0318 (CNS)

Proposal for a

COUNCIL REGULATION

**establishing measures for the recovery of the Southern hake and Norway lobster stocks
in the Cantabrian Sea and Western Iberian peninsula and amending
Regulation (EC) No 850/98**

(presented by the Commission)

EXPLANATORY MEMORANDUM

This proposal establishes measures for the recovery of the southern hake stock and the Norway lobster stocks in the Cantabrian Sea and Western Iberian peninsular following the statement by the Commission and the Council on multi-annual plans at the December Council 2002. (SN 107/02, p. 6) The proposal also originates from Article 5 of Council Regulation (EC) No 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy, relating to recovery plans for fisheries exploiting stocks outside safe biological limits.

The southern hake stock and the Norway lobster stocks covered by this proposal overlap to such an extent that it is logical to include them in the same text. The objective of this recovery plan will be to ensure the recovery of the stocks to within safe biological limits within a time frame of five to ten years.

This proposal is written in six chapters:

Chapter I sets out which stocks are covered by this proposal and lays down the criteria for reaching the objectives of the plan, such that when, based on advice from the Scientific Technical and Economic Committee for Fisheries the stocks may be considered within safe biological limits the Council will decide to cancel the plan, on a proposal from the Commission.

Chapter II sets out for the southern hake stock what the maximum fishing mortality rate should be to ensure its recovery within the chosen time frame. The total allowable catch will then be calculated based on this. For Norway lobster the total allowable catch will be set such that the resulting reduction in fishing is equivalent in relative terms to that of southern hake.

Scientists have indicated that while the estimated relative development in the size of the southern hake stock is very accurate the estimates of the absolute sizes of this stock are very uncertain. No estimates for absolute stock sizes are available for the Norway lobster stocks. The scientists have therefore advised that biomass reference points should not be used as targets for recovery and instead suggested to express the recovery targets in terms of fishing mortality rates.

The fishing mortality reference point $F_{0.1}$, which is based on yield per recruit criteria and therefore robust to changes in absolute estimates of stock size, has been chosen as recovery limit. $F_{0.1}$ is sufficiently low to give, if achieved, a high probability of recovery. The target mortality rates are planned to be achieved by reducing the fishing effort gradually over time and setting the TACs consistent herewith such that recovery is likely to be achieved within the same time scale as that proposed for the cod recovery plans, namely around five to ten years. In any case, $F_{0.1}$ is a limit, not a target. This means that recovery can be achieved, and the recovery plan finalised, when the concerned stocks are considered to be within safe biological limits, regardless of whether the limit of $F_{0.1}$ has been reached.

The long term yield per recruit when fishing at $F_{0.1}$ is close to the maximum yield, and although the reduction in the fishing mortality towards $F_{0.1}$ will result in a short term decline in yield, the yield is expected to increase in the medium to long term.

The chapter also sets out the details of the principle that the largest annual change, upwards or downwards, in any TAC from one year to the next should not be greater than 15% after the first year of implementation of a recovery plan. On the first year, these limits are increased to 25% to allow for a possible higher first recovery step.

Chapter III contains the Commission's proposals for the management of a fishing effort limitation scheme - i.e. restricting the time that the fishing vessels concerned may spend fishing to correspond with the TAC's. The system is the same as proposed in the cod recovery plan giving flexibility to Member States in management and allocation of fishing effort to individual fishing vessels.

In simple terms the system works as follows:

- first the overall historical fishing effort of all vessels catching southern hake and/or Norway lobster is calculated;
- then the reduction in fishing effort, relative to the effort in the reference period, required to match the selected TAC is calculated and allocated to Member States in proportion to each Member States share of the total landings of Southern hake and taking into account differences in catchability.

These effort limits, expressed in kilowatt-days, will be distributed among their vessels by Member States. They will be fully transferable and usable at any time throughout the year.

Chapter IV provides for measures in relation to improved monitoring, inspection and control for the vessels covered by the effort management system. These measures include details of prior notification, the requirement to land sole in designated ports and stowage and transport conditions.

Chapter V outlines the technical measures that will be implemented to supplement those above such as closed areas and the enhancement of gear selectivity in the main fisheries. The conservation merit of existing national measures has been considered.

Chapter VI final provisions

The measures implemented by this Regulation for the recovery of southern hake and Norway lobster stocks directly effect those fishing for associated species in relation to the proposed effort limitation scheme. It should be noted that, although no direct reference is made in the Regulation, there will also be consequences in relation to the Total Allowable Catches for other species and stocks associated with these stocks.

Proposal for a

COUNCIL REGULATION

establishing measures for the recovery of the Southern hake and Norway lobster stocks in the Cantabrian Sea and Western Iberian peninsula and amending Regulation (EC) No 850/98

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 Commission¹,

Having regard to the opinion of the European Parliament²,

Whereas:

- (1) Recent scientific advice from the International Council for the Exploration of the Sea (ICES) has indicated that the Southern hake and Norway lobster stocks in ICES Divisions VIIIc and IXa have been subjected to levels of mortality by fishing which have eroded the quantities of mature individuals in the sea to the point at which the stocks may not be able to replenish themselves by reproduction and that the stocks are therefore threatened with collapse.
- (2) Measures need to be taken to establish multi-annual plans for the recovery of these stocks in conformity with Article 5 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy³.
- (3) The objectives of the plans should be to rebuild these stocks to safe biological limits within five to ten years.
- (4) The objective should be considered to be achieved when the stocks concerned are assessed by the Scientific Technical and Economic Committee for Fisheries (STECF), in the light of the most recent advice from ICES, to be within safe biological limits.
- (5) The absolute sizes of the stocks concerned as estimated by STECF and ICES are too uncertain to be used as targets for recovery and the targets should be expressed in terms of fishing mortality rates.

¹ OJ C ..., ..., p. ...

² OJ C ..., ..., p. ...

³ OJ L 358, 31.12.2002, p. 59.

- (6) In order to achieve that objective, the levels of the fishing mortality rates need to be controlled so that it is highly likely that those rates are reduced from year to year.
- (7) Such control of the fishing mortality rates can be achieved by establishing an appropriate method for the establishment of the level of Total Allowable Catches (TACs) of the stocks concerned, and a system including closed areas and limitations on kilowatt-days whereby fishing efforts on those stocks are restricted to levels at which the TACs are unlikely to be exceeded.
- (8) Once recovery has been achieved the Council should decide on a proposal from the Commission on follow-up measures in accordance with Article 6 of Regulation (EC) No 2371/2002.
- (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 policy⁴ need to be included in order to ensure compliance with the measures laid down in this Regulation.
- (10) The recovery of Norway lobster stocks requires certain areas of reproduction of the species to be protected from fishing. Therefore Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical conservation measures for the protection of juveniles of marine organisms⁵ should be amended accordingly,

HAS ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT- MATTER AND OBJECTIVE

Article 1

Subject-matter

This Regulation establishes a recovery plan for the following stocks (hereinafter referred to as ‘the stocks concerned’):

- (a) the Southern hake stock which inhabits Divisions VIIIc and IXa, as delineated by the International Council for the Exploration of the Sea (ICES);
- (b) the Norway lobster stock which inhabits ICES Division VIIIc;
- (c) the Norway lobster stock which inhabits ICES Division IXa .

⁴ 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).

⁵ OJ L 125, 27.4.1998, p. 1. Regulation as last amended by Regulation (EC) No 973/2001 (OJ L 137, 19.5.2001, p. 1).

Article 2

Objective of the recovery plan

The recovery plan shall aim to rebuild the stocks concerned to within safe biological limits.

Article 3

Evaluation of recovery measures

1. The Commission shall, on the basis of advice from ICES and the Scientific Technical and Economic Committee for Fisheries (STECF), evaluate the impact of the recovery measures on the stocks concerned and the fisheries on those stocks, in the second year of application of this Regulation and in each of the following years.
2. Where the Commission finds, on the basis of the annual evaluation, that any of the stocks concerned have reached the objective set out in Article 2, the Council shall decide by qualified majority on a proposal from the Commission to replace, for that stock, the recovery plan provided for in this Regulation by a management plan in accordance with Article 6 of Regulation (EC) No 2371/2002.
3. Where the Commission finds, on the basis of the annual evaluation, that any of the stocks concerned do not show proper sign of recovery, the Council shall decide by qualified majority on a proposal from the Commission on additional and/or alternative measures in order to ensure recovery of the stock concerned.

CHAPTER II

Total Allowable Catches

Article 4

Setting of Total Allowable Catches (TACs)

1. Each year, the Council shall decide, by qualified majority on the basis of a proposal from the Commission, on a TAC for the following year for each of the stocks concerned.
2. The TAC for the Southern hake stock shall be set in accordance with Article 5.
3. The TAC for the Norway lobster stocks shall be set in accordance with Article 6.

Article 5

Procedure for setting the TAC for the Southern hake stock

1. Where the fishing mortality rate for the Southern hake stock has been estimated by the STECF in the light of the most recent report of ICES to be above 0.17 per year, the TAC shall not exceed a level of catches which, according to a scientific evaluation carried out by the STECF in the light of the most recent report of ICES, will result in a reduction of 10% in the fishing mortality rate in the year of its

application as compared with the fishing mortality rate estimated for the preceding year.

2. Where the fishing mortality rate for the Southern hake stock has been estimated by the STECF in the light of the most recent report of ICES to be equal to or below 0.17 per year, the TAC shall be set at a level of catches which, according to a scientific evaluation carried out by the STECF in the light of the most recent report of ICES, will result in a fishing mortality rate of 0.15 per year in the year of its application.

Article 6

Procedure for setting the TACs for the Norway lobster stocks

Based on the latest scientific evaluation of the STECF, the TACs for the Norway lobster stocks shall be set at a level that will result in the same relative change in its fishing mortality rate as the change in fishing mortality rate achieved for Southern hake when applying Article 5.

Article 7

Constraints on variation in TACs

1. In the first year of application of this Regulation, the following rules shall apply:
 - (a) where application of Article 5 or Article 6 would result in a TAC which exceeds the TAC of the preceding year by more than 25%, the Council shall adopt a TAC which shall not be more than 25% greater than the TAC of that year;
 - (b) where application of Article 5 or Article 6 would result in a TAC which is more than 25% less than the TAC of the preceding year, the Council shall adopt a TAC which is not more than 25% less than the TAC of that year.
2. Starting with the second year of application of this Regulation, the following rules shall apply:
 - (a) where application of Article 5 or Article 6 would result in a TAC 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;
 - (b) where application of Article 5 or Article 6 would result in a TAC 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.

CHAPTER III

Fishing effort limitation

Article 8

Setting of maximum permissible kilowatt-days

The Council shall decide by qualified majority on a proposal from the Commission on the maximum permissible level of kilowatt-days not in excess of a quantity calculated in accordance with the conditions laid down in the Annex for groups of fishing vessels from each Member State, fishing for the stocks concerned in the forthcoming year.

Article 9

Establishment and composition of a database

1. Each Member State shall establish a database containing for each of the geographical areas referred to in Article 1, for each year of the reference period referred to in paragraph 2 and for each vessel flying its flag and registered within the Community which has landed any quantity of Norway lobster and/or Southern hake in that period, the following information :
 - (a) the name and internal registration number of the vessel;
 - (b) the installed engine power of the vessel in kilowatts measured in accordance with Council Regulation (EEC) No 2930/86⁶;
 - (c) the number of days absent from port as defined in Article 13;
 - (d) the quantity of Southern hake landed in tonnes;
 - (e) the quantity of Norway lobster landed in tonnes;
 - (f) the kilowatt-days as the product of the number of days absent from port and the installed engine power in kilowatts.
2. The database shall be established by no later than the following dates:
 - (a) 31 October 2004, in respect of the three-year reference period 2001, 2002 and 2003;
 - (b) 15 July of each year subsequent to 2004 in respect of the preceding three-year reference period.
3. The database shall be communicated to the Commission in written form and in computer-accessible form by 15 November 2004 at the latest in respect of the

⁶ OJ L 274, 25.9.1986, p. 1.

reference period provided for in paragraph 2(a) and by 31 July of the year concerned in respect of the period provided for in paragraph 2(b).

Article 10

Calculations to be carried out by Member States

1. The following quantities shall be calculated by each Member State:
 - (a) the average number of kilowatt- days for the reference period for each vessel included in the database referred to in Article 9;
 - (b) the total of the average number of kilowatt-days for vessels included in the database referred to in Article 9 as the sum of the average number of kilowatt-days calculated in point (a).
2. Member States shall ensure that the calculation under paragraph 1(a) is adjusted where necessary to take into account any limits on fishing effort provided for under Council Decision 97/413/EC⁷.
3. The results of the calculations shall be communicated to the Commission within the same deadlines as those indicated in Article 9(3).

Article 11

Allocation of kilowatt-days

Each Member State shall decide each year on the distribution of the maximum permissible number of kilowatt-days among vessels flying its flag and registered in the Community.

Article 12

List of vessels

1. Within two months of the Council decision referred to in Article 8, each Member State shall communicate to the Commission, for each of the geographical areas referred to in Article 1, a list with the name and internal registration number of vessels to which kilowatt-days have been allocated.
2. Until a Member State communicates lists to the Commission under paragraph 1, the list most recently communicated to the Commission shall continue to apply.

Where no such lists have previously been communicated to the Commission, the list shall be deemed to include the vessels whose names and internal registration number are included in the database referred to in Article 9 for the most recent reference period.

⁷ OJ L 175, 3.7.1997, p. 27.

Article 13

Days absent from port

1. The kilowatt-days allocated to an individual vessel shall be converted into an equivalent number of days absent from port by dividing the kilowatt-days by the vessel's installed engine power in kilowatts, adding 0.5 to the result of this calculation and ignoring any decimal or other fraction in the resultant value.
2. A day absent from port shall be any continuous period of 24 hours from the time of entry into one of the geographical areas referred to in Article 1 or any part of such a period.

Article 14

Obligation of Member States

Member States shall ensure that each vessel included in the list referred to in Article 12 is not absent from port and is present within the geographical areas referred to in Article 1 for more than the number of days calculated under Article 13 (1).

Article 15

Prohibitions on landing and transshipping

1. A vessel which has not been included in the list referred to in Article 12 shall be prohibited from landing or transshipping Southern hake or Norway lobster caught in the geographical areas referred to in Article 1.
2. Until a Member State establishes a database and communicates it to the Commission in accordance with Article 9, all vessels of that Member State shall be prohibited from landing Southern hake or Norway lobster caught in any of the geographical areas referred to in Article 1.

CHAPTER IV Monitoring, inspection and surveillance

Article 16

Effort messages

Notwithstanding Article 19a of Regulation (EEC) No 2847/93, Articles 19b, 19c, 19d and 19e and 19j of that Regulation shall apply to vessels included in the database provided for in Article 9 operating in the geographical areas referred to in Article 1.

Article 17

Margin of tolerance

By way of derogation from Article 5(2) of Commission Regulation (EEC) No 2807/83 of 22 September 1983 laying down detailed rules for recording information on Member States' catches of fish⁸, the permitted margin of tolerance, in estimation of quantities, in kilograms retained on board of vessels shall be 5% of the logbook figure.

Article 18

Weighing of landings

The competent authorities of a Member State shall ensure that any quantity of southern hake exceeding 50 Kg and/or 50 Kg of Norway lobster caught in any of the areas referred to in Article 1 shall be weighed using auction room scales before sale.

Article 19

Separate stowage of Southern hake and Norway lobster

1. It shall be prohibited to retain on board a Community fishing vessel in any individual container any quantity of Southern hake or Norway lobster mixed with any other species of marine organisms.
2. The masters of Community fishing vessels shall give inspectors of Member States such assistance as will enable the quantities declared in the logbook and the catches of Southern hake and Norway lobster retained on board to be cross-checked.

Article 20

Transport of Southern hake and Norway lobster

1. The competent authorities of a Member State may require that any quantity of Southern hake exceeding 50 Kg or Norway lobster exceeding 50 Kg caught in any of the geographical areas referred to in Article 1 and first landed in that Member State is weighed before being transported elsewhere from the port of first landing.
2. By way of derogation from Article 13 of Regulation (EEC) No 2847/93, quantities bigger than 50 Kg southern hake or Norway lobster 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 Regulation (EEC) No 2847/93 pertaining to the quantities of these species transported. The exemption provided for in Article 13(4)(b) of Regulation (EEC) No 2847/93 shall not apply.

⁸ OJ L 276, 10.10.1983, p.1.

Article 21

Specific monitoring programme

By way of derogation from Article 34c(1) of Regulation (EEC) No 2847/93, the specific monitoring programme for the stocks concerned may last for more than two years.

CHAPTER V
amendments to regulation (EC) No 850/98

Article 22

Restrictions on fishing for Norway lobster

Regulation (EC) No 850/98 is amended as follows:

The following article shall be inserted after Article 29a:

“Article 29b”

Restrictions on fishing for Norway lobster.

Fishing with bottom trawls and creels shall be prohibited in the geographical areas bounded by a line joining the following co-ordinates:

Box 1

Latitude 43°35N, longitude 004°45W

Latitude 43°45N, longitude 004°45W

Latitude 43°37N, longitude 005°20W

Latitude 43°55N, longitude 005°20W

Box 2:

Latitude 43°37N, longitude 006°15W

Latitude 43°50N, longitude 006°15W

Latitude 44°00N, longitude 006°45W

Latitude 43°34N, longitude 006°45W

Box 3:

Latitude 42°00N, longitude 009°00W

Latitude 42°27N, longitude 009°00W

Latitude 42°27N, longitude 009°30W

Latitude 42°00N, longitude 009°30W

Box 4:

Latitude 37°45N, longitude 009°00W

Latitude 38°10N, longitude 009°00W

Latitude 38°10N, longitude 009°15W

Latitude 37°45N, longitude 009°20W

Box 5:

Latitude 36°05N, longitude 007°00W

Latitude 36°35N, longitude 007°00W

Latitude 36°45N, longitude 007°18W

Latitude 36°50N, longitude 007°50W

Latitude 36°25N, longitude 007°50W”

CHAPTER VI

Final provisions

Article 23

Entry into force

This Regulation shall enter into force on the twentieth 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

The Commission will be responsible for carrying out the calculations described in this Annex.

Calculation of maximum permissible kilowatt-days for each Member State in each geographical area

Part 1: Expected fishing mortality rate associated with a TAC

The expected fishing mortality rate associated with a TAC for the forthcoming year shall be the value of fishing mortality rate which is consistent with the uptake of that TAC as stated in or derived from the most recent report of ICES. This value will be referred to hereinafter as “ F_{tac} ”.

Part 2: Calculation of the average fishing mortality rate during the reference period

The values of the total international fishing mortality rate provided in the most recent report of ICES in each of the three years of the reference period shall be added together and the result of this calculation divided by three. This value will be referred to hereinafter as “ F_{ref} ”.

Part 3: Calculation of the maximum permissible kilowatt-days for each Member State⁹

(a) The proportion of the landings of Southern hake generated by each Member State during the reference period shall be calculated as follows:

(i) For each of the three years of the reference period and using the data on landings provided in the most recent report of ICES or, if the latter quantities are not available, data provided by the database of the Member State under Article 9, the total quantity of Southern hake landed by each Member State shall be divided by the total quantity of Southern hake landed by all Member States.

(ii) For each Member State, the quantities calculated in point (i) shall be added together and the resultant quantity is divided by three.

(b) The squared values of each of the values calculated in paragraph (a)(ii) shall be calculated

(c) Each of the values calculated in paragraph (b) shall be multiplied by F_{ref} as calculated in Part 2.

(d) The values calculated for each Member State in paragraph (c) shall be divided by the kilowatt-days for that Member State as calculated under Article 10(1)(b).

⁹ The computations defined in Part 3 of this Annex result in values of maximum permissible kilowatt-days for each Member State in relation to the proportion of hake landed by each Member State during the reference period.

The first move in these calculations is to evaluate the total adjustment to kilowatt-days across all Member State during the reference period which is required to ensure that the kilowatt-days associated with the uptake of the TAC and hence the fishing mortality rate associated with the TAC are not exceeded.

This total adjustment (K) is calculated from the following equation:

$$K = (F_{tac} - F_{ref}) / \sum_{ms} (F_{ref} \times P_{ref,ms}^2 / D_{ref,ms})$$

Where:

F_{tac} is the fishing mortality rate required to take the TAC as obtained in Part 1

F_{ref} is the fishing mortality rate during the reference period as calculated in Part 2

$P_{ref,ms}$ is the proportion of the landings of hake by all Member States taken by an individual Member State during the reference period.

$D_{ref,ms}$ is the average number of kilowatt-days expended per year by a Member State during the reference period as calculated by Member States in Article 10(1)(b)

K is the total reduction in kilowatt-days across all Member States

Paragraph (a) calculates for each Member State the value of $P_{ref,ms}^i$

Paragraph (b) calculates for each Member State the value of $P_{ref,ms}^2$

Paragraph (c) calculates for each Member State the value of $F_{ref} \times P_{ref,ms}^2$

Paragraph (d) calculates for each Member State the value of $F_{ref} \times P_{ref,ms}^2 / D_{ref,ms}$

Paragraph (e) adds together the values for each Member State obtained in paragraph (d) as indicated by the summation operator (\sum_{ms}) in the equation above

Paragraph (f) divides the difference between F_{tac} and F_{ref} by the result obtained in paragraph (e). The resultant value is K in the equation above which is the total adjustment of kilowatt-days compared to those of the reference period required to ensure that F_{tac} will not be exceeded.

The next move is to distribute the total adjustment among Member States according to the proportion of the total landings of hake by all Member States which was taken by each Member State during the reference period.

Paragraph (g) distributes this total adjustment among Member States by the proportion of the total hake landings taken by each Member State during the reference period (these proportions were calculated in paragraph (a))

Paragraph (h) adjusts the kilowatt-days of each Member State by the appropriate quantity calculated in paragraph (g) to give the maximum permissible kilowatt-days for each Member State and ensure that F_{tac} and hence the TAC itself is not exceeded.

(e) The values calculated in paragraph (d) shall be added together.

(f) The value of F_{tac} , as obtained in Part 1, minus F_{ref} , as calculated in Part 2, shall be divided by the value calculated in paragraph (e)

(g) The value calculated in paragraph (f) shall be multiplied by the value for each Member State calculated in paragraph (a)(ii).

(h) Each of the values calculated in paragraph (g) shall be added to the kilowatt-days calculated by each Member State under Article 10(1)(b).

Part 4: Comparison of effort allocation with previous effort limits set out under the Multi -Annual Guidance Programmes (MAGPs)

For Member States managing certain fleet segments with effort limits under the MAGPs, these limits and the vessels covered by them will be compared to the new limitations and vessels covered by this Regulation. These new limitations must be less than or equal to those previously set.