



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 16.8.2004
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Proposal for a

COUNCIL REGULATION

amending Regulation (EC) No 2287/2003 as concerns the number of days at sea for vessels fishing for haddock in the North Sea and the use of bottom trawls in waters around the Azores, the Canary Islands and Madeira

(presented by the Commission)

EXPLANATORY MEMORANDUM

Council Regulation (EC) No 2287/2003 fixes the fishing opportunities and associated conditions for certain fish stocks and groups of stocks applicable in Community waters and for Community vessels, in waters where limitations in catch are required for 2004. Amendments of the Regulation are required as a consequence of new scientific information.

1) The process of integration of environmental protection requirements into the Common Fisheries Policy calls for the adoption of measures to minimise the impact of fishing activities on marine ecosystems. This requirement is expressly mentioned in Article 2 of Regulation (EC) No 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy¹.

Recent scientific reports have shown that certain deep-water habitats are in need of protection against mechanical erosion by fishing gear. These include the habitats formed by deep-water coral (*Lophelia pertusa*) aggregations, thermal vents and carbonate mounds. According to recent scientific reports, and in particular the reports of the International Council of the Exploration of the Sea (ICES), several of these habitats have been found and mapped in the Atlantic. *Lophelia pertusa* has been recorded off the Canary Islands and in several sites at depths mostly greater than 1000m around the Atlantic islands of Madeira and the Azores.

These deep-water habitats are defined as habitats of Community interest in Directive 92/43/EC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora². Furthermore, they are increasingly the subject of attention in international fora concerned with environmental protection. For example, the Convention for the Protection of the Marine Environment of the North-East Atlantic ("OSPAR Convention") has recently included deep-water coral reefs in a list of endangered habitats. Deep-water habitats are also being dealt with within the United Nations informal consultative process on oceans and the law of the sea (UNICPOLOS) as vulnerable habitats requiring special protection. Several coastal States around the world have already taken the required protection measures. On 20 August 2003 the Commission, at the request of the UK, approved emergency measures pursuant to Article 7 of Regulation 2371/2002, banning the use of bottom trawl gear in the Darwin Mounds, and subsequently, on the basis of a proposal by the Commission, the Council has made this measure permanent by Regulation (EC) No 602/2004 of 22 March 2004 amending Regulation (EC) No 850/98 as regards the protection of deepwater coral reefs from the effects of trawling in an area north west of Scotland³.

Moreover, the Community fishing zone around the Azores, Madeira and Canary Islands contains several known or potential deep water habitats that have so far been preserved from trawling due to the special access regime defined in Council Regulation (EC) No 2027/95. As this regime has ceased to apply on 15 November 2003, it is now important guarantee a continuity of the protection of these areas as part of Community legislation. To that end, the Commission adopted a proposal to ban the use of trawls around the above-mentioned archipelagos (COM(2004)56)) by way of an amendment of Regulation (EC) No 850/98 for

¹ OJ L 358, 20.12.2002, p. 59

² OJ L 206, 22.7.1992, p. 7

³ OJ L 097, 01.04.2004, p. 30

the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms⁴.

In preparing this proposal for protection to these important marine habitats, the Commission has considered the most recent reports of ICES. In particular, ICES has called the attention to the sensitivity of these habitats to the effects of trawling.

However, due to the renewing of the European Parliament in 2004, the adoption of this proposal will likely be delayed for some months and this means that there is a risk that, in absence of a protective measure, trawling activities around the Azores will produce damages of very difficult restoration in the deep-water habitats.

In view of the above mentioned considerations it is appropriate to address the prohibition of the use of trawls in the areas concerned, by way of an amendment to the 2004 TAC Regulation, whose Annex IV deals specifically with measures on technical conditions of fishing that should be implemented in 2004. This will allow temporary protection to the deep-water habitats concerned until the European Parliament gives its advice and a decision is taken by the Council on the Commission proposal amending Regulation (EC) No 850/98.

While the long-term environmental benefits of the measure will be significant, the fishing industry will not suffer major consequences, since the prohibition to trawl has existed until recently. In addition, fleets can continue to fish within the protected area using towed gear not in contact with the bottom, such as pelagic trawls and longlines, purse seines and other fixed gear.

2) New, detailed information has been made available from the scientific services of the United Kingdom showing that the proportion of cod in the catches of fleets operating outside the "cod protection area" has historically been low. An increase in the fishing effort, as permissible days-at-sea, for vessels that do not fish in the cod protection area is therefore expected to pose little additional risk to cod recovery. However, it is necessary to ensure that such additional fishing opportunities may not be transferred to other vessels fishing under different conditions.

The Council is requested to adopt this proposal as soon as possible in order to allow fishermen to plan their activities for this fishing season.

⁴ 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). [Regulation as last amended by Regulation (EC) No [.../...] (OJ L ...).].

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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 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy⁵, and in particular Article 20 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) According to recent scientific reports, and in particular the reports of the International Council for the Exploration of the Sea (ICES), highly sensitive deep-water habitats have been found and mapped in the Atlantic. Those habitats host important and highly diverse biological communities and are considered to require priority protection. In particular, they are defined as habitats of Community interest in Directive 92/43/EC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora⁶. Furthermore, deep-water coral reefs have recently been included in a list of endangered habitats in the framework of the Convention for the Protection of the Marine Environment of the North-East Atlantic ("OSPAR Convention").
- (2) According to scientific evidence, recovery from damage to these habitats produced by trawl gear towed through the bottom is either impossible or very difficult and slow. The waters around the Azores, the Canary Islands and Madeira contains several known or potential deep water habitats that have until recently been preserved from trawling due to the special access regime defined in Council Regulation (EEC) No 2027/95 of 15 June 1995 establishing a system for the management of fishing effort relating to certain Community fishing areas and resources⁷. It is therefore appropriate to prohibit the use of bottom trawls and similar gear in waters around the Azores, the Canary Islands and Madeira where these habitats are still in a favourable conservation status.
- (3) New scientific information indicates that the catches of cod taken in fisheries prosecuted under the conditions specified in point 17 of Annex IV are likely to be low, and consequently these fisheries pose little additional risk to cod recovery. An increase in the number days fishing for haddock is therefore justified.

⁵ OJ L 358, 31.12.2002, p. 59.

⁶ OJ L 206, 22.7.1992, p. 7

⁷ OJ L 199, 24.8.1995, p. 1. Regulation as amended by Regulation (EC) No 1954/2003 (OJ L 289, 7.11.2003, p. 1).

- (4) Council Regulation (EC) No 2287/2003 of 19 December 2003 fixing for 2004 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 required⁸ should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes IV and V to Regulation (EC) No 2287/2003 are amended in accordance with the Annex to this Regulation.

Article 2

This Regulation shall enter into force on the third 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

⁸ OJ L 344, 31.12.2003, p. 1

ANNEX

The Annexes to Regulation (EC) No 2287/2003 are amended as follows:

1. In Annex IV:

The following point is added:

‘19. Trawling ban in waters around the Azores, the Canary Islands and Madeira

Vessels shall be prohibited from using any bottom trawl or similar towed nets operating in contact with the bottom of the sea in the areas bounded by a line joining the following coordinates:

a) Azores

Latitude 36° 00' N longitude 23° 00' W

Latitude 42° 00' N longitude 23° 00' W

Latitude 42° 00' N longitude 34° 00' W

Latitude 36° 00' N longitude 34° 00' W

b) *Canary Islands and Madeira*

Latitude 27° 00' N longitude 19° 00' W

Latitude 26° 00' N longitude 15° 00' W

Latitude 29° 00' N longitude 13° 00' W

Latitude 36° 00' N longitude 13° 00' W

Latitude 36° 00' N longitude 19° 00' W

2. In Annex V:

The following section is added in point 6:

‘(g) By way of derogation from the number of days referred to in subpoint (a) “Grouping of fishing gears referred to in point 4a”, Member States may increase the maximum days present within the area and absent from port to 12 for vessels fitted with VMS and holding special fishing permits, referred to in point 17 (b) of Annex IV, that are valid a calendar month or more.

Such vessels

- shall notify national authorities of the place and time at which any landings of fish will be made at least four hours before such a landing occurs,

- may only aggregate days as laid down in subpoint (b) for the period that a special fishing permit, referred to in point 17 (b) of Annex IV, is held without interruption,
- may only transfer days as referred to in point 10 to vessels that benefit from an increase of the fishing days in accordance with this subpoint.’