

Proposal for a Council Regulation on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy

(2002/C 203 E/38)

(Text with EEA relevance)

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(Submitted by the Commission on 29 May 2002)

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,

Whereas:

(1) Council Regulation (EEC) No 3760/92 of 20 December 1992 established a Community system for fisheries and aquaculture ⁽¹⁾. According to that Regulation, the Council has to decide on any necessary adjustments by 31 December 2002.

(2) Given that many fish stocks continue to decline, the common fisheries policy must be improved to ensure the long-term viability of the fisheries sector through sustainable exploitation of living aquatic resources based on sound scientific advice and on the precautionary principle.

(3) The objective of the common fisheries policy should therefore be to provide for sustainable exploitation of living aquatic resources and of aquaculture in the context of sustainable development, taking account of the environmental, economic and social aspects in a balanced manner.

(4) It is important that the management of the common fisheries policy is guided by the principle of good governance and that the measures taken are mutually compatible and consistent with other Community policies.

(5) The objective of sustainable exploitation will be more effectively achieved through a multi-annual approach to fisheries management, involving multi-annual management plans for stocks; for stocks considered to

be outside safe biological limits, the adoption of a multi-annual management plan is an absolute priority. In line with scientific advice, substantial reductions in fishing efforts may be required for these stocks.

(6) These multi-annual management plans should establish targets for sustainable exploitation of the stocks concerned, contain harvesting rules laying down the manner in which annual catch and fishing effort limits are to be calculated and provide for other specific management measures, taking account also of the effect on other species.

(7) Sustainable exploitation of stocks for which no multi-annual management plan has been established should be ensured by setting catch and/or effort limits.

(8) Provision should be made for the adoption of emergency measures by the Member States or by the Commission in the event of a serious threat to the conservation of resources, or to the ecosystem resulting from fishing activities, and requiring immediate action.

(9) In their 12 nautical mile zone, Member States should be allowed to adopt conservation and management measures applicable to all fishing vessels, provided that, where such measures apply to fishing vessels from other Member States, the measures adopted are non-discriminatory and prior consultation has taken place, and that the Community has not adopted measures specifically addressing conservation and management within this area.

(10) The Community fleet should be reduced to bring it into line with available resources and specific measures should be set up in order to attain that objective, including the fixing of reference levels for fishing capacity which may not be exceeded, a special Community facility to promote scrapping of fishing vessels and national entry/exit schemes.

(11) Each Member State should maintain a national register of fishing vessels which should be made available to the Commission for the purposes of monitoring the size of the Member States' fleets.

(12) Rules in place since 1983 restricting access to resources within the 12 nautical mile zones of Member States have operated satisfactorily and should continue to apply on a permanent basis.

⁽¹⁾ OJ L 389, 31.12.1992, p. 1.

- (13) Although other access restrictions contained in Community legislation should be maintained for the time being they should be reviewed in order to evaluate whether they are necessary to ensure sustainable fisheries.
- (14) In view of the precarious economic state of the fishing industry and the dependence of certain coastal communities on fishing, it is necessary to ensure relative stability of fishing activities by the allocation of fishing opportunities between the Member States, based upon a predictable share of the stocks for each Member State.
- (15) In order to ensure effective implementation of the common fisheries policy, the Community control and enforcement system for fisheries should be reinforced and the division of responsibilities between the Member States' authorities and the Commission should be further clarified. To this end it is appropriate to insert in this Regulation the main provisions governing control, inspection and enforcement of the rules of the common fisheries policy, part of which are already contained in Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy. That Regulation has to remain in force until all the necessary implementing rules have been adopted.
- (16) Provisions on control, inspection and enforcement concern, on the one hand, obligations for the masters of fishing vessels and operators in the marketing chain and, on the other hand, spell out the different responsibilities for the Member States and the Commission.
- (17) The Community should be able to seek reparation in the form of quota deductions from Member States when the rules of the common fisheries policy have been violated resulting in losses to the common resource. Where such a quota deduction is not possible, the compensation may take the form of a quota equivalent value. Where it is established that another Member State has suffered prejudice as a result of the violation of the rules, part or all of the reparation or compensation should be allocated to that Member State.
- (18) Member States should be obliged to adopt immediate measures to prevent the continuation of serious infringements as defined in Council Regulation (EC) 1447/1999 of 24 June 1999 establishing a list of types of behaviour which seriously infringe the rules of the common fisheries policy⁽¹⁾ detected in *flagrante delicto*.
- Moreover there is a need to ensure that such serious infringements are sanctioned with the same effectiveness by all Member States.
- (19) The Commission should be able to take immediate measures to prevent any failure to comply with the rules of the common fisheries policy from resulting in damage to living aquatic resources.
- (20) The Commission should be provided with appropriate powers to carry out its obligation to control and evaluate the implementation of the common fisheries policy by the Member States.
- (21) It is necessary to intensify cooperation and coordination between all relevant authorities in order to achieve compliance with the rules of the common fisheries policy, in particular through the exchange of national inspectors, by requiring Member States to give the same value to inspection reports drawn up by Community inspectors, inspectors of another Member State or Commission inspectors as to their own inspection reports for the purpose of establishing the facts.
- (22) A simplified procedure should be introduced for the implementation of measures adopted in the context of international agreements which become binding on the Community if it does not object.
- (23) Since the measures necessary for the implementation of this Regulation are management measures or measures of general scope within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽²⁾ they should be adopted by use of the management procedure provided for in Article 4 or the regulatory procedure provided for in Article 5 of that Decision.
- (24) To contribute to the achievement of the objectives of the common fisheries policy, regional advisory councils should be established to enable the common fisheries policy to benefit from the knowledge and experience of stakeholders and to take into account the diverse conditions throughout Community waters.
- (25) To ensure that the common fisheries policy benefits from the best scientific, technical and economic advice, the Commission should be assisted by an appropriate committee.

⁽¹⁾ OJ L 167, 2.7.1999, p. 5.

⁽²⁾ OJ L 184, 17.7.1999, p. 23.

(26) In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objective of the sustainable exploitation of living aquatic resources to lay down rules on the conservation and exploitation of those resources. This Regulation does not go beyond what is necessary in order to achieve the objectives pursued in accordance with the third paragraph of Article 5 of the Treaty.

(27) By reason of the number and importance of the amendments to be made Council Regulation (EEC) No 3760/92 should be repealed. Council Regulation (EEC) No 101/76 of 19 January 1976 laying down a common structural policy for the fishing industry⁽¹⁾ being voided from all substantial provisions should also be repealed,

HAS ADOPTED THIS REGULATION:

CHAPTER I

SCOPE AND OBJECTIVES

Article 1

Scope

The common fisheries policy shall cover conservation and exploitation activities involving living aquatic resources, and aquaculture, and the processing and marketing of fishery and aquaculture products where such activities are practised on the territory of Member States or in Community waters or by Community fishing vessels or nationals of Member States.

Within this scope, the common fisheries policy shall provide for coherent measures concerning the conservation and management of living aquatic resources and limitation of the environmental impact of fishing, conditions of access to waters and resources, structural policy and the management of the capacity of the fleet, control and enforcement, aquaculture, common organisation of the markets, and international relations.

Article 2

Objectives

1. The common fisheries policy shall ensure exploitation of living aquatic resources that provides sustainable environmental, economic and social conditions.

For this purpose, the Community shall apply the precautionary principle in taking measures designed to protect and conserve living aquatic resources, to provide for their sustainable exploi-

tation and to minimise the impact of fishing activities on marine eco-systems. It shall aim at a progressive implementation of an eco-system-based approach to fisheries management. It shall aim to contribute to efficient fishing activities within an economically viable and competitive fisheries and aquaculture industry, providing a fair standard of living for those who depend on fishing activities and taking account of the interest of consumers.

2. The common fisheries policy shall be guided by the following principles of good governance:

- (a) a clear definition of responsibilities at the Community, national and local levels;
- (b) a decision-making process based on sound scientific advice and delivering timely results;
- (c) broad involvement of stakeholders at all stages of the policy from conception to implementation;
- (d) coherence with other Community policies, in particular with environmental, social, regional, development, health and consumer protection policies.

Article 3

Definitions

For the purpose of this Regulation the following definitions shall apply:

- (a) 'Community waters' means the waters under the sovereignty or jurisdiction of the Member States;
- (b) 'fishing vessel' means any vessel equipped for and licensed to carry out commercial exploitation of living aquatic resources including exploratory or experimental fishing;
- (c) 'Community fishing vessel' means a fishing vessel flying the flag of a Member State and registered in the Community;
- (d) 'sustainable exploitation' means the exploitation of a stock in such a way that it is unlikely that future benefits from the stock will be prejudiced and that it does not have negative impacts on the marine eco-systems;
- (e) 'fishing mortality rate' means the catches of a stock over a given period as a proportion of the average stock available to the fishery in that period;
- (f) 'stock' means a living aquatic resource that occurs in a given management area;

⁽¹⁾ OJ L 20, 28.1.1976, p. 19.

- (g) 'fishing effort' means the product of the capacity and the activity of a fishing vessel; for a group of vessels it is the sum of fishing effort exerted by each vessel of the group;
- (h) 'safe biological limits' means indicators of a state of a stock or of its exploitation above which there is a low risk of transgressing certain limit reference points;
- (i) 'reference points' means estimated values derived through an agreed scientific procedure, which correspond to the state of the resource and of the fishery and which can be used as a guide for fisheries management;
- (j) 'precautionary approach to fisheries management' means management action based on the principle that absence of adequate scientific information should not be used as a reason for postponing or failing to take measures to conserve target species, associated or dependent species and non-target species and their environment.
- (k) conservation reference points set boundaries which are intended to constrain harvesting within safe biological limits.
- (l) 'catch limit' means a quantitative limit on landings of a stock or group of stocks in a given period of time;
- (m) 'fishing capacity' means a vessel's tonnage in GT and its power in kW, as defined in Council Regulation (EC) No 2930/86. For certain types of fishing activity, capacity may be defined in terms of the amount and/or the size of a vessel's fishing gear;
- (n) 'exit from the fleet' means the removal of a vessel from the fishing fleet register of a Member State. As long as a vessel continues to fly the flag of a Member State, it shall not be considered as an exit from the fleet;
- (o) 'entry into the fleet' means the registration in the fishing fleet register of a Member State of a vessel which has a licence to fish for commercial purposes;
- (p) 'fishing opportunity' means a quantified legal entitlement to fish;
- (q) 'Community fishing opportunity' means the fishing opportunities available to the Community in Community waters, plus the total Community fishing opportunities outside the Community waters, less the Community fishing opportunities allocated to third countries.

CHAPTER II

CONSERVATION AND SUSTAINABILITY

Article 4

Types of measures

1. To achieve the objectives mentioned in Article 2, the Council shall establish Community measures governing access to waters and resources and the sustainable pursuit of fishing activities.
2. The measures referred to in paragraph 1 shall be drawn up on the basis of the available scientific and technical advice and in particular of the reports drawn up by the Committee established under Article 34. They may, in particular, include measures for each stock to limit fishing mortality and the environmental impact of fishing activities by:
 - (a) adopting multi-annual management plans under Article 5;
 - (b) establishing targets for the sustainable exploitation of stocks;
 - (c) limiting catches;
 - (d) fixing the number and type of fishing vessels authorised to fish;
 - (e) limiting fishing effort;
 - (f) adopting technical measures, including
 - (i) measures regarding the structure of fishing gears, their methods of use and the composition of catches that may be retained on board when fishing with such gears;
 - (ii) zones and/or periods in which fishing activities are prohibited or restricted;
 - (iii) minimum size of individuals that may be retained on board and/or landed;
 - (iv) specific measures to reduce the impact of fishing activities on marine eco-systems and non-target species;
 - (g) establishing incentives, including those of an economic nature, to promote more selective fishing.

*Article 5***Multi-annual management plans**

1. The Council shall adopt multi-annual management plans for the sustainable exploitation of stocks, and as a priority, of stocks which are estimated to be outside safe biological limits. These plans shall take into account the impact of exploiting these stocks on other species.

2. Multi-annual management plans shall:

- (a) for stocks outside safe biological limits, ensure their rapid return within those limits;
- (b) for stocks at or within safe biological limits, maintain them within those limits;
- (c) in the cases referred to in points (a) and (b) ensure that the impact of fishing activities on ecosystems is kept at levels compatible with the sustainability of such ecosystems.

3. The multi-annual plans shall be drawn up on the basis of the precautionary approach to fisheries management. They shall be based on conservation reference points recommended by relevant scientific bodies.

4. The multi-annual plans shall include targets against which the recovery of stocks to within safe biological limits or the maintenance of stocks within such limits shall be assessed. The targets shall be expressed in terms of

- (a) population size and/or
- (b) long-term yields, and/or
- (c) fishing mortality rate and/or
- (d) stability of catches.

The plans shall specify the priorities for achieving these targets and shall, where appropriate, include targets relating to other living aquatic resources and the maintenance or improvement of the conservation status of ecosystems.

5. The multi-annual management plans shall include harvesting rules which consist of a predetermined set of biological parameters to govern catch limits and may include any measure referred to in Article 4(2)(b)-(g).

6. The Commission shall report on the effectiveness of the multi-annual management plan in achieving the targets.

*Article 6***Fixing of catch and fishing effort limits**

1. For stocks for which a multi-annual management plan has been adopted, the Council shall decide on catch and/or fishing effort limits as well as the conditions associated to those limits for the first year of fishing under the plan. For the following years, catch and/or fishing effort limits shall be decided by the Commission in accordance with Article 31(2), in accordance with the harvesting rules set out in the multi-annual management plan.

2. For stocks not subject to a multi-annual management plan the Council, acting by qualified majority on a proposal from the Commission, shall decide on catch and/or fishing effort limits as well as the conditions associated to those limits.

*Article 7***Commission emergency measures**

1. In the event of a serious threat to the conservation of living aquatic resources, or to the ecosystem resulting from fishing activities, which requires immediate action, the Commission, at the substantiated request of a Member State or on its own initiative, may decide on emergency measures which shall last not more than one year.

2. The Member State shall communicate the request referred to in paragraph 1 at the same time to the Commission and to the Member States as well as to the Regional Advisory Councils concerned, which may submit their written comments to the Commission within five working days of their receipt of the request.

The Commission shall take a decision on the matter at any time within 15 working days of its receipt of the substantiated request.

3. The emergency measures shall have immediate effect. They shall be notified to the Member States concerned, and published in the Official Journal.

4. The Member States concerned may refer the Commission decision mentioned in the second subparagraph of paragraph 2 to the Council within 10 working days of their receipt of the notification referred to in paragraph 3.

5. The Council acting by a qualified majority may take a different decision within 20 working days of the date of receipt of the referral mentioned in paragraph 4.

Article 8

Member State emergency measures

1. In the event of a serious and unforeseen threat to the conservation of resources, or to the ecosystem resulting from fishing activities, in waters falling under its sovereignty or jurisdiction where any undue delay would result in damage that would be difficult to repair, a Member State may take emergency measures the duration of which shall not exceed three months.

2. Member States intending to take emergency measures shall notify the Commission, the Member States as well as the Regional Advisory Councils concerned of their intention by sending a draft of those measures, together with an explanatory memorandum, before adopting them.

3. The Member States as well as Regional Advisory Councils concerned may submit their written comments to the Commission within 5 working days of the date of notification. The Commission shall confirm the measure or require its cancellation or amendment at any time within 15 working days of the date of notification.

4. The decision shall be notified to the Member States concerned. It shall be published in the *Official Journal of the European Communities*.

5. The Member States concerned may refer the Commission decision mentioned in the second subparagraph of paragraph 3 to the Council within 10 working days of notification of the decision referred to in paragraph 4.

6. The Council acting by a qualified majority may take a different decision within 20 working days of the date of receipt of the referral mentioned in paragraph 5.

Article 9

Member State measures within the 12 nautical mile zone

1. A Member State may take non-discriminatory measures for the conservation and management of fisheries resources and to minimise the effect of fishing on the conservation of marine eco-systems within 12 nautical miles of its baselines provided that the Community has not adopted measures specifically addressing conservation and management within this area. The Member State measures shall be compatible with the objectives set out in Article 2 and no less stringent than Community legislation.

When Member State measures affect vessels of another Member State they may be taken only after consultation on a draft of the measures, accompanied by an explanatory memorandum, with the Commission, Member States and the Regional Advisory Councils concerned has taken place.

2. Measures applying to fishing vessels from other Member States shall be subject to the procedures laid down in Article 8(3) to (6).

CHAPTER III

ADJUSTMENT OF FISHING CAPACITY

Article 10

Fishing capacity reduction

1. Member States shall put in place measures to reduce the fishing capacity of their fleets in order to achieve a stable and enduring balance between such fishing capacity and Community fishing opportunities and taking into account the measures adopted pursuant to Article 6.

2. Member States shall ensure that the reference levels for fishing capacity referred to in Article 11 and paragraph 4 of this Article are not exceeded.

3. No exit from the fleet supported by public aid shall be permitted unless preceded by the withdrawal of the fishing licence as defined in Regulation (EC) 3690/93 and, where provided for, the fishing authorisations as defined in relevant regulations. The capacity corresponding to the license, and where necessary to the fishing authorisations for the fisheries concerned, cannot be replaced.

4. Where public aid is granted for the withdrawal of fishing capacity that goes beyond the capacity reduction necessary to comply with the reference levels under Article 11(1), the amount of the capacity withdrawn shall be automatically deducted from the reference levels. The reference levels thus obtained shall become the new reference levels.

Article 11

Reference levels for fishing fleets

1. The Commission shall establish for each Member State reference levels for the total fishing capacity of the Community fishing vessels flying the flag of that Member State in accordance with the provisions of Article 31(2).

The reference levels shall be the sum of the objectives of the Multiannual Guidance Programme 1997-2002 (hereinafter 'MAGP IV') for each segment as fixed for 31 December 2002 pursuant to Council Decision 97/413/EC.

2. Reference levels for fishing capacity expressed in terms other than kW and GT may be fixed by the Council.

*Article 12***Entry/Exit scheme**

In order to prevent any overall increase in fishing capacity Member States shall manage entries into the fleet and exits from the fleet in such a way that, at any time, the total fishing capacity of entries into the fleet shall not exceed the total fishing capacity of exits from the fleet.

*Article 13***Implementing rules**

Rules for the control of the execution of the obligations under Article 11 and 12 may be adopted in accordance with the procedure laid down in Article 31(2).

*Article 14***Exchanges of information**

The Commission and the Member States shall regularly exchange information on the state of the fleet and its evolution in relation to the objectives and the measures adopted under this regulation. Detailed rules for these exchanges shall be adopted in accordance with the procedure laid down in Article 31(2).

*Article 15***Fishing fleet registers**

1. Each Member State shall establish a register of Community fishing vessels flying its flag which shall include the minimum amount of information on vessel characteristics and activity that is necessary for the management of measures established at Community level.
2. Each Member State shall make available to the Commission the minimum information referred to in paragraph 1.
3. The Commission shall set up a Community fishing fleet register containing the information that it receives under paragraph 2 and shall make it available to Member States.
4. The minimum information referred to in paragraph 1 and the procedures for its transmission referred to in paragraphs 2 and 3 shall be determined in accordance with the procedure laid down in Article 31(2).

*Article 16***Suspension of Community contributions**

Without prejudice to Article 23(4), the Commission may suspend Community financial assistance under Council Regulations (EC) No 2792/1999 and (EC) No .../2002 establishing

an emergency Community measure for scrapping fishing vessels or may reduce the allocation of fishing opportunities or fishing effort for the Member State concerned as long as a Member State fails to comply with Articles 10, 12 and 15, or fails to provide the information required under Council Regulation (EC) No 2792/99 and Commission Regulation (EC) No 366/2001.

CHAPTER IV

RULES ON ACCESS TO WATERS AND RESOURCES*Article 17***General rules**

1. Community fishing vessels shall have equal access to waters and resources in all Community waters other than those referred to in paragraph 2, subject to the measures adopted under Chapter II.
2. Member States shall be authorised to restrict fishing in the waters up to 12 nautical miles from baselines under their sovereignty or jurisdiction to fishing vessels that traditionally fish in those waters from ports on the adjacent coast, without prejudice to the arrangements for Community fishing vessels flying the flag of other Member States under existing neighbourhood relations between Member States and the arrangements contained in Annex I, fixing for each Member State the geographical zones within the coastal bands of other Member States where fishing activities are pursued and the species concerned.

*Article 18***Particular rules (Shetland Box)**

1. In the region defined in Annex II, fishing activity by Community fishing vessels of a length between the perpendiculars of not less than 26 metres, for demersal species other than Norway pout and blue whiting, shall be governed by a system of prior authorisation in accordance with the conditions laid down in this Regulation and, in particular, in Annex II.
2. Detailed rules of application and procedures for the implementation of paragraph 1 may be adopted in accordance with the procedure laid down in Article 31(2).

*Article 19***Review of access rules**

1. By 31 December 2003 the Commission shall present to the European Parliament and the Council a report on the rules concerning access to resources laid down in Community legislation other than those referred to in Article 17(2), assessing the justification for these rules in terms of conservation and sustainable exploitation objectives.

2. On the basis of the report referred to in paragraph 1 and having regard to the principle established in Article 17(1), the Council shall decide by 31 December 2004 on any adjustments to be made to these rules.

Article 20

Allocation of fishing opportunities and fishing effort

1. The Council shall decide on a method of allocation for the distribution among Member States of the Community fishing opportunities for each stock that ensures each Member State a share of those fishing opportunities and/or of the fishing effort to be distributed, having regard to the need to assure each Member State as to relative stability of fishing activities.

2. When the Community establishes new fishing opportunities the Council shall decide on the method of allocating those opportunities, taking into account the interests of each Member State.

3. Each Member State shall decide, for vessels flying its flag, on the method of allocating the fishing opportunities assigned to that Member State. It shall inform the Commission of the allocation method.

4. The Council shall establish the fishing opportunities available to third countries in Community waters and allocate those opportunities to each third country.

5. Member States may, after notifying the Commission, exchange all or part of the fishing opportunities allocated to them.

CHAPTER V

COMMUNITY CONTROL AND ENFORCEMENT SYSTEM

Article 21

Objectives

Under the Community control and enforcement system access to waters and resources and the pursuit of activities within the scope of the common fisheries policy as set out in Article 1 shall be controlled and compliance with the rules of the common fisheries policy shall be enforced.

Article 22

Conditions for access to waters and resources and for marketing of fisheries products

1. It shall be prohibited to engage in activities within the scope of the common fisheries policy, unless the following obligations are respected:

(a) a vessel shall carry on board its licence and, where provided for, its authorisations for fishing;

(b) a vessel shall have installed on board a functioning system which allows detection and identification of that vessel by remote monitoring systems;

(c) the master shall without undue delay record and report information on fishing activities, including landings and transshipments, in a manner which allows such records to be transmitted electronically. Copies of the records shall be made available to the authorities;

(d) the master shall accept inspectors on board and cooperate with them; and where an observer scheme applies, the master shall also accept observers on board and cooperate with them;

(e) the master shall respect conditions and restrictions relating to landings, transshipments, joint fishing operations, fishing gear, nets and the marking and identification of vessels.

2. The marketing of fisheries products shall be subject to the following obligations:

(a) the master shall only sell fisheries products to a registered buyer or at a registered auction;

(b) the buyer of fisheries products shall be registered with the authorities;

(c) the buyer of fisheries products shall submit invoices or sales notes to the authorities, unless the sale takes place at a registered auction which is itself obliged to submit invoices or sales notes to the authorities;

(d) all fisheries products landed in or imported into the Community for which neither invoices nor sales notes have been submitted to the authorities and which are transported to a place other than that of landing or import shall be accompanied by a document drawn up by the transporter until the first sale has taken place;

(e) the persons responsible for premises or transport vehicles shall accept inspectors and cooperate with them.

(f) where a minimum size has been fixed for a given species, operators responsible for selling, stocking or transporting must be able to prove the geographical origin of the products.

3. For the implementation of paragraphs 1 and 2, detailed rules may be adopted following the procedure laid down in Article 31(2).

These rules may cover, in particular, documentation, recording, reporting and information obligations of Member States, masters, and legal and natural persons engaged in activities falling within the scope of the common fisheries policy.

The rules may also provide exemptions from obligations for certain groups of fishing vessels, where they may be justified by the negligible impact on living aquatic resources of these vessels' activity, or by the disproportionate burden the obligations would create compared to the economic importance of the vessels' activity.

Article 23

Responsibilities of Member States

1. Unless otherwise provided for in Community law, Member States shall ensure effective control, inspection and enforcement of the rules of the common fisheries policy.

2. Member States shall control the activities carried out within the scope of the common fisheries policy on their territory or in the waters subject to their sovereignty or jurisdiction. They shall also control access to waters and resources and fishing activities outside Community waters by Community fishing vessels flying their flag and of their nationals.

3. Member States shall adopt the measures, allocate the financial and human resources and set up the administrative and technical structure necessary for ensuring effective control, inspection and enforcement, including satellite-based monitoring systems. Member States shall also set up a means of remote sensing by 2004. In each Member State, a single authority shall be responsible for collecting and verifying information on fishing activities, including placing observers on board of fishing vessels, and for taking appropriate decisions, including the prohibition of fishing activities, and for reporting to and cooperating with the Commission.

4. Any loss to the common living aquatic resources resulting from a violation of the rules of the common fisheries policy attributable to any activity or omission by the Member State shall be made good by the Member State. The reparation shall take the form of a deduction in the quota allocated to the Member State. This deduction may be made during the year in which the prejudice occurred or in the succeeding year or years. If a quota deduction is not possible, the Commission shall establish the quota equivalent value as compensation by the Member State.

Decisions shall be taken by the Commission in accordance with Article 31(2). The Commission may decide that the measures

imposed on the Member State be accompanied by the reallocation of the quota, or quota equivalent value in question to the Member States which it has been established have suffered prejudice due to the loss to the common resources. These Member States shall use the quota or quota equivalent value allocated to them for the benefit of the fishing industry which has suffered prejudice due to the loss to the common resources caused by the violation of the rules of the common fisheries policy.

If no specific Member State has suffered prejudice, the quota equivalent value shall be an assigned revenue of the Community under Article 4 of the Financial Regulation⁽¹⁾, to be used for the strengthening of control and enforcement measures in the common fisheries policy.

5. Implementing rules for this article may be adopted in accordance with the procedure laid down in Article 31(2), including for the accreditation by the Member States of the authority referred to in paragraph 3.

Article 24

Inspection and enforcement

Member States shall take the inspection and enforcement measures necessary to ensure compliance with the rules of the common fisheries policy on their territory or in the waters subject to their sovereignty or jurisdiction. They shall also take enforcement measures relating to the fishing activities outside Community waters of Community fishing vessels flying their flag and of their nationals.

Such measures shall include,

- (a) spot checks and inspections on fishing vessels, the premises of businesses and other bodies with activities relating to the common fisheries policy;
- (b) sightings of fishing vessels;
- (c) investigation, legal pursuit of infringements and sanctions in accordance with Article 25;
- (d) preventive measures in accordance with Article 25(4).

The measures taken shall be properly documented. They shall be effective, dissuasive and proportionate.

Implementing rules for this Article may be adopted in accordance with the procedure laid down in Article 31(3).

⁽¹⁾ Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities, as amended (OJ L 356, 31.12.1977, p. 1).

Article 25

Follow-up of infringements

1. Member States shall ensure that the appropriate measures be taken, including administrative action or criminal proceedings in conformity with their national law, against the natural or legal persons responsible where the rules of the common fisheries policy have not been respected.

2. The proceedings initiated pursuant to paragraph 1 shall be capable, in accordance with the relevant provisions of national law, of effectively depriving those responsible of the economic benefit of the infringements and of producing results proportionate to the seriousness of such infringements, effectively discouraging further offences of the same kind.

3. The sanctions arising from the proceedings referred to in paragraph 2 shall include, in particular, depending on the gravity of the offence:

- (a) fines;
- (b) seizure of prohibited fishing gear and catches;
- (c) sequestration of the vessel;
- (d) temporary immobilisation of the vessel;
- (e) suspension of the licence;
- (f) withdrawal of the licence.

4. Without prejudice to the obligations referred to in paragraphs 1, 2 and 3, the Council shall decide on the level of sanctions to be applied by the Member States for behaviour which constitutes a serious infringement, as defined in Regulation (EC) No 1447/1999.

5. Member States shall adopt immediate measures to prevent vessels, natural or legal persons found *in flagrante delicto* to be committing a serious infringement, as defined in Council Regulation (EC) No 1447/1999, from continuing to do so.

Article 26

Responsibilities of the Commission

1. Without prejudice to the responsibilities of the Commission under the Treaty, the Commission shall evaluate and control the application of the rules of the common fisheries policy by the Member States, and facilitate coordination and cooperation between them.

2. If the Commission finds that there are indications that rules on conservation, control, inspection or enforcement

under the common fisheries policy are not being complied with and that this may have a negative impact on living aquatic resources or the effective operation of the Community control and enforcement system necessitating urgent action, it shall set the Member State concerned a deadline of no less than 10 working days to demonstrate compliance and to give its comments.

3. If, after the deadline referred to in paragraph 2 has expired, the Commission finds that doubts as to compliance remain, it shall suspend, in whole or in part, fishing activities or landings of catches by certain categories of vessel or in certain ports, regions or areas. The decision shall be proportionate to the risk which non-compliance with the rules would bring for the conservation of living aquatic resources.

The Commission shall lift the suspension within 10 working days of the Member State's demonstrating that no doubts as to compliance remain.

4. In the event of a Member State's quota, allocation or available share being deemed to be exhausted, the Commission may take immediate action.

5. Notwithstanding Article 23(2) the Commission shall control fishing activities in Community waters by vessels flying the flag of a third country where this is provided for in Community law. To this end, the Commission and the relevant Member States shall cooperate and coordinate their actions.

6. Detailed rules for the application of this Article may be adopted in accordance with the procedure laid down in Article 31(2).

Article 27

Evaluation and inspections by the Commission

1. The Commission may, of its own accord and by its own means, initiate and carry out audits, inquiries, verifications and inspections concerning the application of the rules of the common fisheries policy. It may in particular control:

- (a) the implementation and application of those rules by Member States and their competent authorities;
- (b) the conformity of national administrative practices and inspection and surveillance activities with the rules;
- (c) the existence of the required documents and their concordance with the applicable rules;
- (d) the circumstances in which control and enforcement activities are carried out by Member States.

For these purposes, the Commission may carry out inspections on vessels as well as on the premises of businesses and other bodies with activities relating to the common fisheries policy and shall have access to all information and documents needed to exercise its control.

Member States shall afford the Commission such assistance as it needs to fulfil these tasks.

2. Detailed rules for the application of this Article may be adopted in accordance with the procedure laid down in Article 31(2).

3. Every three years the Commission shall draw up an evaluation report on the application of the common fisheries policy rules by the Member States to be submitted to the European Parliament and the Council.

Article 28

Cooperation and coordination

1. Member States shall cooperate with each other and with third countries to ensure compliance with the rules of the common fisheries policy. To this end, the Member States shall afford other Member States and third countries the assistance needed to ensure compliance with those rules.

2. In the case of control and inspection of transboundary fishing activities, Member States shall ensure that their actions under this Chapter are coordinated. To this end, Member States shall exchange inspectors.

3. Member States shall authorise each other's inspectors, inspection vessels and inspection aircraft to carry out inspections in accordance with the rules of the common fisheries policy relating to fishing activities in the waters subject to their sovereignty or jurisdiction and in international waters on Community fishing vessels flying their flag.

4. On the basis of appointments by Member States communicated to the Commission, the Commission shall establish, in accordance with the procedure laid down in Article 31(2), a list of Community inspectors, inspection vessels and inspection aircraft authorised to carry out inspections under this Chapter in Community waters and on Community fishing vessels.

5. Inspection and surveillance reports drawn up by Community inspectors or inspectors of another Member State or Commission inspectors shall constitute admissible evidence

in administrative or judicial proceedings of any Member State. They shall have the same value for establishing facts as inspection and surveillance reports of the Member States.

6. Detailed rules for the application of this Article may be drawn up in accordance with the procedure laid down in Article 31(2).

CHAPTER VI

DECISION-MAKING AND CONSULTATION

Article 29

Decision-making procedure

Except where otherwise provided for in this regulation, the Council shall act in accordance with the procedure laid down in Article 37 of the Treaty.

Article 30

International relations

Measures adopted under international agreements to which the Community is a party and which become binding on the Community shall be implemented in Community law in accordance with the procedure laid down in Article 31(3).

Where such measures concern the allocation of fishing opportunities, the first paragraph shall apply after the Council has adopted the measures provided for in Article 20.

Article 31

Committee for fisheries and aquaculture

1. The Commission shall be assisted by a Committee for Fisheries and Aquaculture (hereinafter referred to as 'the Committee').

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC ⁽¹⁾ shall apply. The period referred to in Article 4(3) of Decision 1999/468/EC shall be set at 20 working days.

3. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply. The period provided for in Article 5(6) of Decision 1999/468/EC shall be set at 60 working days.

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

*Article 32***Regional Advisory Councils**

1. Regional Advisory Councils shall be established to contribute to the achievement of the objectives of Article 2(1) and in particular to advise the Commission on matters of fisheries management in respect of certain sea areas or fishing zones.

2. Regional Advisory Councils shall be composed of representatives of the fisheries and aquaculture sectors, environmental protection and consumer interests, national and/or regional administrations and scientific experts from all Member States whose fishing vessels operate in the sea area or fishing zone concerned. The Commission may be present at their meetings.

3. Regional Advisory Councils may be consulted by the Commission in respect of proposals for measures to be adopted on the basis of Article 37 of the Treaty that it intends to present and that relate specifically to fish stocks in the area concerned. They may also be consulted by the Commission and by the Member States in respect of other measures.

4. Regional Advisory Councils may

- (a) submit recommendations and suggestions, of their own accord or at the request of the Commission or a Member State, on matters relating to fisheries management to the Commission or the Member State concerned;
- (b) inform the Commission or the Member State concerned about problems relating to the implementation of Community rules in the area they cover and submit recommendations and suggestions addressing such problems to the Commission or the Member State concerned;
- (c) conduct any other activities necessary to fulfil their functions.

*Article 33***Procedure for the establishment of Regional Advisory Councils**

The Council shall decide on the establishment of a Regional Advisory Council. A Regional Advisory Council shall cover sea areas falling under the jurisdiction of at least two Member States.

*Article 34***Scientific, Technical and Economic Committee for Fisheries**

1. A Scientific, Technical and Economic Committee for Fisheries (STECF) shall be established. The STECF shall be consulted as necessary on matters pertaining to the conservation and management of living aquatic resources, including biological, economic, environmental, social and technical considerations.

2. The Commission shall take into account the advice from the STECF when presenting proposals on fisheries management under this Regulation.

CHAPTER VII

FINAL PROVISIONS*Article 35***Repeal**

1. Council Regulations (EEC) No 3760/92 and (EEC) No 101/76 are hereby repealed.

2. References to the provisions of the Regulations repealed under paragraph 1 shall be construed as references to the corresponding provisions of this Regulation.

*Article 36***Review**

The provisions of Chapters II and III shall be reviewed before the end of the year 2008

*Article 37***Entry into force**

This Regulation shall enter into force 1 January 2003.

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

ANNEX I ⁽¹⁾

ACCESS TO COASTAL WATERS WITHIN THE MEANING OF ARTICLE 17(2)

1. COASTAL WATERS OF THE UNITED KINGDOM

A. ACCESS FOR FRANCE

Geographical area	Species	Importance or particular characteristics
United Kingdom coast (6 to 12 nautical miles)		
1. Berwick-upon-Tweed east Coquet Island east	Herring	Unlimited
2. Flamborough Head east Spurn Head east	Herring	Unlimited
3. Lowestoft east Lyme Regis south	All species	Unlimited
4. Lyme Regis south Eddystone south	Demersal	Unlimited
5. Eddystone south Longships south-west	Demersal Scallops Lobster Crawfish	Unlimited Unlimited Unlimited Unlimited
6. Longships south-west Hartland Point north-west	Demersal Crawfish Lobster	Unlimited Unlimited Unlimited
7. Hartland Point to a line from the north of Lundy Island	Demersal	Unlimited
8. From a line due west Lundy Island to Cardigan Harbour	All species	Unlimited
9. Point Lynas North Morecambe Light Vessel east	All species	Unlimited
10. County Down	Demersal	Unlimited
11. New Island north-east ⁽¹⁾ Sanda Island south-west	All species	Unlimited
12. Port Stewart north Barra Head west	All species	Unlimited
13. Latitude 57°40' N Butt of Lewis west	All species Except shellfish	Unlimited
14. St Kilda, Flannan Islands	All species	Unlimited
15. West of the line joining Butt of Lewis lighthouse to the point 59°30' N, 5°45' W	All species	Unlimited

⁽¹⁾ Corrigendum, OJ No L 73, 19.3.1983, p. 42⁽¹⁾ All limits are calculated from their baselines, as they existed at the time Regulation (EEC) No 170/83 was adopted and, for the States that acceded to the Community after this date, at the time of their accession.

B. ACCESS FOR IRELAND

Geographical area	Species	Importance or particular characteristics
United Kingdom coast (6 to 12 nautical miles)		
2. Point Lynas north Mull of Galloway south	Demseral Nephrops	Unlimited Unlimited
2. Mull of Oa west Barra Head west	Demseral Nephrops	Unlimited Unlimited

C. ACCESS FOR GERMANY

Geographical area	Species	Importance or particular characteristics
United Kingdom coast (6 to 12 nautical miles)		
1. East of Shetlands and Fair Isle between lines drawn due south-east from Sumbrugh Head lighthouse due north-east from Skroo lighthouse and due south-west from Skadan lighthouse	Herring	Unlimited
2. Berwick-upon-Tweed east Whitby High lighthouse east	Herring	Unlimited
3. North Foreland lighthouse east Dungeness new lighthouse south	Herring	Unlimited
4. Zone around St Kilda	Herring Mackerel	Unlimited Unlimited
5. Butt of Lewis lighthouse west to the line joining Butt of Lewis lighthouse and the point 59°30' N, 5°45' W	Herring	Unlimited
6. Zone around North Rona and Sulisker (Sulasgeir)	Herring	Unlimited

D. ACCESS FOR THE NETHERLANDS

Geographical area	Species	Importance or particular characteristics
United Kingdom coast (6 to 12 nautical miles)		
1. East of Shetlands and Fair Isle between lines drawn due south-east from Sumbrugh Head lighthouse due north-east from Skroo lighthouse and due south-west from Skadan lighthouse	Herring	Unlimited
2. Berwick-upon-Tweed east Flamborough Head east	Herring	Unlimited
3. North Foreland east Dungeness new lighthouse south	Herring	Unlimited

E. ACCESS FOR BELGIUM

Geographical area	Species	Importance or particular characteristics
United Kingdom coast (6 to 12 nautical miles)		
1. Berwick upon Tweed east Coquet Island east	Herring	Unlimited
2. Cromer north North Foreland east	Demersal	Unlimited
3. North Foreland east Dungeness new lighthouse south	Demersal Herring	Unlimited Unlimited
4. Dungeness new lighthouse south Selsey Bill south	Demersal	Unlimited
5. Straight Point south-east South Bishop north-west	Demersal	Unlimited

2. COASTAL WATERS OF IRELAND

A. ACCESS FOR FRANCE

Geographical area	Species	Importance or particular characteristics
Irish coast (6 to 12 nautical miles)		
1. Erris Head north-west Sybil Point west	Demersal Nephrops	Unlimited Unlimited
2. Mizen Head south Stags south	Demersal Nephrops Mackerel	Unlimited Unlimited Unlimited
3. Stags south Cork south	Demersal Nephrops Mackerel Herring	Unlimited Unlimited Unlimited Unlimited
4. Cork south Carnsore Point south	All species	Unlimited
5. Carnsore Point south Haulbowline south-east	All species, except Shellfish	Unlimited

B. ACCESS FOR THE UNITED KINGDOM

Geographical area	Species	Importance or particular characteristics
Irish coast (6 to 12 nautical miles)		
1. Mine Head south Hook Point	Demersal Herring Mackerel	Unlimited Unlimited Unlimited
2. Hook Point Carlingford Lough	Demersal Herring Mackerel Nephrops Scallops	Unlimited Unlimited Unlimited Unlimited Unlimited

C. ACCESS FOR THE NETHERLANDS

Geographical area	Species	Importance or particular characteristics
Irish coast (6 to 12 nautical miles)		
1. Stags south Carnsore Point south	Herring Mackerel	Unlimited Unlimited

D. ACCESS FOR GERMANY

Geographical area	Species	Importance or particular characteristics
Irish coast (6 to 12 nautical miles)		
1. Old Head of Kinsale south Carnsore Point south	Herring	Unlimited
2. Cork south Carnsore Point south	Mackerel	Unlimited

E. ACCESS FOR BELGIUM

Geographical area	Species	Importance or particular characteristics
Irish coast (6 to 12 nautical miles)		
1. Cork south Carnsore Point south	Demersal	Unlimited
2. Wicklow Head east Carlingford Lough south-east	Demersal	Unlimited

3. COASTAL WATERS OF BELGIUM

Geographical area	Member State	Species	Importance or particular characteristics
6 to 12 nautical miles	Netherlands	All species	Unlimited
	France	Herring	Unlimited

5. COASTAL WATERS OF GERMANY

Geographical areas	Member State	Species	Importance or particular characteristics	
North Sea coast (3 to 12 nautical miles) all coasts	Denmark	Demersal Sprat Sand-eel	Unlimited Unlimited Unlimited	
	Netherlands	Demersal Shrimps and Prawns	Unlimited Unlimited	
	Danish/German frontier to the northern tip of Amrum at 54°43' N	Denmark	Shrimps and Prawns	Unlimited
	Zone around Helgoland	United Kingdom	Cod Plaice	Unlimited Unlimited
Baltic coast	Denmark	Cod Plaice Herring Sprat Eel Whiting Mackerel	Unlimited Unlimited Unlimited Unlimited Unlimited Unlimited Unlimited	

6. COASTAL WATERS OF FRANCE AND THE OVERSEAS DEPARTMENTS

Geographical area	Member State	Species	Importance or particular characteristics
North-east Atlantic coast (6 to 12 nautical miles) Belgian/French frontier to east of Departement Manche (Vire-Grandcamp les Bains estuary 49°23'30" N, 1°2' WNNE) Dunkerque (2°20' E) to Cap d'Antifer (0°10' E) Belgian/French frontier to Cap d'Alprech west (50°42'30" N, 1°33'30" E)	Belgium	Demersal Scallops	Unlimited Unlimited
	Netherlands	All species	Unlimited
	Germany	Herring	Unlimited only during October to December
	United Kingdom	All species	Unlimited
Atlantic Coast (6 to 12 nautical miles) Spanish/French frontier to 46°08' N	Spain	Anchovies Sardines	— Directed fishing, Unlimited only from 1 March to 30 June — Fishing for live bait from 1 July to 31 October only — Unlimited only from 1 January to 28 February and from 1 July to 31 December — In addition, activities relating to the above-mentioned species must be pursued in accordance with and within the limits of the activities pursued during 1984
Mediterranean coast (6 to 12 nautical miles) Spanish frontier Cap Leucate	Spain	All species	Unlimited (1)

(1) Act of Accession of 1985.

7. COASTAL WATERS OF SPAIN

Geographical area	Member State	Species	Importance or particular characteristics
Atlantic coast (6 to 12 nautical miles) French/Spanish frontier to Cap Mayor lighthouse (3°47' W)	France	Pelagic	Unlimited in accordance with and within the limits of the activities pursued during 1984
Mediterranean coast (6 to 12 nautical miles) French frontier/Cap Creus	France	All species	Unlimited ⁽¹⁾

⁽¹⁾ Act of Accession of 1985.

8. COASTAL WATERS OF THE NETHERLANDS

Geographical area	Member State	Species	Importance or particular characteristics
(3 to 12 nautical miles) whole coast	Belgium Denmark	All species Demersal Sprat Sand-eel Horse-mackerel	Unlimited Unlimited Unlimited Unlimited Unlimited
	Germany	Cod Shrimps and Prawns	Unlimited Unlimited
(6 to 12 nautical miles) whole coast	France	All species	Unlimited
Texel south point, west to the Netherlands/ German frontier	United Kingdom	Demersal	Unlimited

ANNEX II

SHETLAND BOX

A. Geographical limits

From the point on the west coast of Scotland in latitude 58°30' N to 59°30' N, 6°15' W
 From 58°30' N, 6°15' W to 59°30' N, 5°45' W
 From 59°30' N, 5°45' W to 59°30' N, 3°45' W
 along the 12 nautical miles line north of the Orkneys
 From 59°30' N, 3°00' W to 61°00' N, 3°00' W
 From 61°00' N, 3°00' W to 61°00' N, 0°00' W
 along the 12 nautical miles line north of the Shetlands
 From 61°00' N, 0°00' W to 59°30' N, 0°00' W
 From 59°30' N, 0°00' W to 59°30' N, 1°00' W
 From 59°30' N, 1°00' W to 59°00' N, 1°00' W
 From 59°00' N, 1°00' W to 59°00' N, 2°00' W
 From 59°00' N, 2°00' W to 58°30' N, 2°00' W
 From 58°30' N, 2°00' W to 58°30' N, 3°00' W
 From 58°30' N, 3°00' W to the east coast of Scotland in latitude 58°30' N.

B. Fishing effort authorised

Maximum number of vessels with a length between perpendiculars of not less than 26 metres ⁽¹⁾ authorised to fish for demersal species, other than Norway pout and blue whiting ⁽²⁾:

Member State	Number of fishing vessels authorised
France	52
United Kingdom	62
Germany	12
Belgium	2

⁽¹⁾ Length between perpendiculars as laid down by Commission Regulation (EEC) No 2930/86 (OJ L 274, 25.9.1986, p. 1).

⁽²⁾ Vessels fishing for Norway pout and blue whiting may be subject to specific monitoring measures concerning the keeping on board of fishing gear and species other than those referred to above.