



COMMISSION OF THE EUROPEAN COMMUNITIES

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COM(2003) 374 final

2003/0137 (CNS)

Proposal for a

COUNCIL REGULATION

establishing measures for the recovery of the Northern hake stock

(presented by the Commission)

EXPLANATORY MEMORANDUM

This proposal to establish measures for the recovery of the Northern hake stock follows on from those previously made for cod and Northern hake in December 2001 and 2002. (COM(2001) 724 final and COM (2002) 773 final).

A proposal for the recovery of cod stocks is now being made separately.

The overall objective of the proposal is to ensure the safe recovery of the Northern hake stock to the precautionary stock sizes advised by scientists within a time frame of five to ten years.

The proposal is written as four chapters:

Chapter I sets out which areas will be covered by this proposal and what the lowest Northern hake stock size should be to be in line with the precautionary approach. This chapter remains largely unchanged from the most recent proposal. The area covered is that occupied by the Northern hake stock and comprises Community waters of the North Sea, Skagerrak and Kattegat, West of Scotland, Channel, Irish Sea, Celtic Sea, West of Ireland and Bay of Biscay.

Chapter II sets out what the absolute minimum stock size should be, below which scientists indicate that the stock is in significant danger of total collapse.

The chapter then lays down the guidelines for the setting of the level of Total Allowable Catch (TAC) based on estimations of actual stock sizes by scientists. If this estimated stock size is below the *recommended* level but above or only slightly below the *minimum* level then the TAC will be set so as to aim for a 10% increase in stock size in the following year. If however the estimated stock size is well below the minimum level then more severe measures are proposed.

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.

However, these rules on the setting of TACs will be subject to the condition that the precautionary fishing mortality rates recommended by scientists – i.e. the maximum fishing mortality rate comparable with sustainable exploitation – should not be exceeded. The Commission considers that the breach of these rates would be incompatible with the precautionary approach.

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. For the Northern hake stock the effort scheme will cover only those areas in which the majority of the stock resides, namely, West of Ireland, Celtic Sea, Bay of Biscay and the western Channel. The Commission considers that in those areas which have been omitted from the Northern hake recovery plan the measures being taken to protect cod will provide sufficient protection for the small quantities of Northern hake found there. These proposals are considerably simplified compared to previous proposals. The system allows Member States and fishermen to manage and allocate fishing effort to individual fishing vessels in a more flexible manner. It ensures effective and proportionate reductions in fishing effort for each Member State and can be effectively monitored and controlled.

In simple terms the system works as follows:

- first the overall historical fishing effort of all vessels catching Northern hake is calculated;
- then the reduction in fishing effort required to match the selected TAC is determined;
- this reduction is distributed across Member States in proportion to how much Northern hake they have landed during the reference period in comparison to the total Community landings.

These effort limits, expressed in kilowatt-days, will be distributed among their vessels by Member States, within the geographical area to which they will apply. The kilowatt-days will be fully transferable and usable within that area at any time throughout the year.

Other features of the system – such as the exact definition of a day absent from port and exemptions from counting days under exceptional circumstances – have also been included, and are based on consultations in relation to the implementation of the interim cod recovery measures put in place in December 2002.

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 Northern hake in designated ports and stowage and transport conditions.

This chapter remains largely unchanged from previous proposals although the rules concerning the use of VMS have been removed as they will be addressed in a new Regulation on this issue to be adopted as part of the CFP reform.

Technical conservation measures have not been included in this regulation. A number of technical measures aimed at assisting the recovery of Northern hake stocks have already been included in a proposal from the Commission (COM(2002)672final) intended to modify and replace Council Regulation (850/1998). Further evaluation of technical conservation measures in relation to the recovery of Northern hake is currently underway and the Commission may come forward with proposals at a later date.

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

This proposal replaces the provisions set out in the revised proposal for a Council Regulation establishing measures for the recovery of cod and Northern hake stocks. (COM(2002) 773 final)

Proposal for a

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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 Northern hake stock in Community waters has suffered from levels of mortality by fishing which have eroded the quantities of mature fish in the sea to the point at which this stock may not be able to replenish itself by reproduction and that the stocks are therefore threatened with collapse.
- (2) The stock in question inhabits the Kattegat, the Skagerrak, the North Sea, the Channel, waters to the west of Scotland and all around Ireland and the Bay of Biscay.
- (3) Measures need to be taken to establish a multi-annual plan for the recovery of this stock.
- (4) It is expected that recovery of the stock under the conditions of this Regulation will take between five and ten years.
- (5) The objective of the plan should be considered to be achieved for this stock when, for two consecutive years, the quantity of mature Northern hake has been greater than the level set by managers as being within safe biological limits.
- (6) In order to achieve that objective, the level of the fishing mortality rate need to be controlled so that it is highly likely that the quantities of mature fish in the sea will increase from year to year.
- (7) Such control of the fishing mortality rate can be achieved by establishing an appropriate method for the establishment of the level of Total Allowable Catches (TACs) of the stock concerned, and a system whereby fishing effort on this stock is restricted to levels at which the TACs are unlikely to be exceeded.

¹ OJ C ..., p. ...

² OJ C ..., p. ...

- (8) The great majority of the Northern hake stock in question resides in a geographical area to the west and south of Ireland, in the western Channel and in the Bay of Biscay and it is in those areas that levels of fishing effort should be reduced. Furthermore, similar constraints adopted for the recovery of cod stocks will assist the recovery of that part of the Northern hake stock concerned which resides outside these areas.
- (9) Once recovery has been achieved the Council should decide upon follow-up measures in accordance with Article 6 of Council Regulation 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy³,
- (10) To reduce the probability of overshooting of the TAC, it is necessary to restrict landings and transshipments of Northern hake and of species with which Northern hake are taken as by-catch to those vessels which fall within the system adopted for the control of fishing effort,
- (11) 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,

HAS ADOPTED THIS REGULATION:

CHAPTER I SUBJECT MATTER

Article 1

Subject-matter

This Regulation establishes a recovery programme for the Northern hake stock which inhabits the ICES Division IIIa, ICES Sub-area IV, ICES Divisions V(b) (Community waters), VIa (Community waters), ICES Sub-area VII and ICES Divisions VIIIa,b,d,e (hereinafter referred to as “the Northern hake stock”).

CHAPTER II TARGET LEVELS

Article 2

Purpose of the recovery plan

The recovery programme referred to in Article 1 shall aim to increase the quantities of mature fish of the Northern hake stock concerned to values equal to or greater than 143000 tonnes.

³ OJ L 358, 31.12.2002, p. 59.

⁴ OJ L 261, 20.10.1993, p.1. Regulation as last amended by Regulation (EC) No 2846/98

Article 3

Reaching of target levels

Where the Commission finds, on the basis of advice from International Council for the Exploration of the Sea (ICES) and following agreement on that advice by the Scientific Technical and Economic Committee for Fisheries (STECF), that for two consecutive years the target level for the Northern hake stock concerned has been reached, the Council shall decide by qualified majority on a proposal from the Commission to replace the recovery plan by a management plan for the stock in accordance with Article 6 of Regulation 2371/2002.

CHAPTER III
Total Allowable Catches

Article 4

Setting of Total Allowable Catches (TACs)

A TAC shall be set in accordance with Article 5 where, for the Northern hake stock concerned the quantities of mature Northern hake have been estimated by the STECF, in the light of the most recent report of ICES, to be equal to or above 103000 tonnes.

Article 5

Procedure of setting TACs

1. Each year, the Council shall decide by qualified majority on a proposal from the Commission on a TAC for the following year for the Northern hake stock concerned.
2. The TAC shall not exceed a level of catches which a scientific evaluation carried out by the STECF, in the light of the most recent report of ICES, has indicated will result in an increase of 10% in the quantity of mature fish in the sea at the end of the year of their application compared to the quantity estimated to have been in the sea at the start of that year.
3. The Council shall not adopt a TAC whose capture is predicted by the STECF, in the light of the most recent report of the ICES, to generate in its year of application a fishing mortality rate greater than 0.24.
4. Where it is expected that the setting of the TAC for a given year in accordance with paragraph 2 will result in a quantity of mature fish at the end of that year in excess of the target level indicated in Article 2, the TAC shall not be set in accordance with paragraph 2, but at a level of catches, which following a scientific evaluation carried out by STECF in the light of the most recent report of ICES, will result in an expected quantity of mature fish at the end of that year being equal to the target level indicated in Article 2.

5. Except for the first year of application of this Regulation, the following rules shall apply:
 - (a) in the event that the rules provided for in paragraphs 2 or 4 would lead to a TAC for a given year 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 or;
 - (b) in the event that the rule provided for in paragraphs 2 or 4 would lead to a TAC for a given year 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.
6. Paragraphs 4 or 5 shall not apply when their application would imply that the value laid down in paragraph 3 will be exceeded.

Article 6

Setting of TACs in exceptional circumstances

Where the quantities of mature fish of the Northern hake stock concerned have been estimated by the STECF, in the light of the most recent report of the ICES, to be less than 103000 tonnes, the following rules shall apply:

- (a) Article 5 shall apply where its application is expected to result in an increase in the quantities of mature fish, at the end of the year of application of the TAC to a quantity equal to or greater than 103000 tonnes ;
- (b) where the application of Article 5 is not expected to result in an increase in the quantities of mature fish, at the end of the year of application of the TAC, to a quantity equal to or greater than 103000 tonnes, the decision by the Council under Art. 5(1) shall ensure that the quantity of mature fish at the end of the year of application of the TAC is expected to be equal to or greater than 103000 tonnes.

Chapter IV fishing effort limitation

Article 7

Setting of maximum permissible kilo-watt 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 Annex I for groups of fishing vessels of each Member State fishing for the Northern hake stock concerned in the forthcoming year.

Article 8

Establishment and composition of a data base

1. Each Member State shall establish a data base containing for the geographical area defined in paragraph 2, for each year of the reference period referred to in paragraph 3 and for each vessel flying its flag and registered within the Community which has landed any quantity of Northern hake in that period , the following information:
 - (a) the name and internal registration number of the vessel;
 - (b) the total installed engine power of the vessel in kilowatts measured in accordance with Council Regulation (EEC) No 2930/86;
 - (c) the number of days absent from port;
 - (d) the quantity of Northern hake landed, in tonnes;
 - (e) the kilowatt-days as the product of the number of days absent from port and the total installed engine power in kilowatts.
2. The data base shall refer to the geographical area encompassed by ICES Sub-area VII except ICES Divisions VIIa and VIId and ICES Sub-areas VIIa,b,d,e.
3. The data base shall be established no later than the following dates:
 - (a) 31 October 2003, in respect of the three-year reference period 2000, 2001 and 2002 ;
 - (b) 15 July of each year subsequent to 2003, in respect of the preceding three-year reference period.
4. The data base shall be communicated to the Commission in written form and in computer-accessible form by 15 November 2003 at the latest in respect of the reference period provided for in paragraph 3(a) and by 30 July of the year concerned in respect of the period provided for in paragraph 3(b).

Article 9

Calculations to be carried out by Member States

1. For the geographical area defined in Article 8(2), the following quantities shall be calculated by each Member State:
 - (a) the average kilowatt-days for the reference period for each vessel included in the data base referred to in Article 8;
 - (b) the total of the average kilowatt-days for vessels as the sum of the average kilowatt-days calculated in point (a).
2. Member States shall ensure that the calculation under paragraph 1(a) shall be adjusted where necessary to take into account any limits on fishing effort resulting from obligations entered into under Council Decision 97/413/EC.
3. The results of the calculations shall be communicated to the Commission within the same deadlines as those indicated in Article 8(4).

Article 10

Allocation of kilowatt-days

For the geographical area referred to in Article 8(2) each Member State shall decide on the distribution of the maximum permissible kilowatt-days among vessels flying its flag and registered in the Community.

Article 11

List of vessels

1. Each Member State shall communicate to the Commission for the geographical area referred to Article 8(2), a comprehensive list of vessels to which kilo-watt days have been allocated. The list shall be drawn up in accordance with the following provisions:
 - (a) the list shall contain the name and internal registration number of each vessel authorised to land Northern hake;
 - (b) all vessels which appear in the data base referred to in Article 8 shall be included in the list. Vessels which do not appear in that data base may also be included in the list.
2. Until a Member State communicates the list to the Commission under paragraph 1, the list most recently communicated to the Commission shall continue to apply.

Where no such lists have been communicated to the Commission, the list shall be deemed to include the vessels whose names and internal registration number are included in the data base referred to in Article 8 for the most recent reference period.

Article 12

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 total 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 a geographical area referred to in Article 8(2) or any part of such a time period.

Article 13

Obligations of Member States

Member States shall ensure that each vessel included in the list referred to in Article 11(1) is not absent from port and present within the geographical area defined in Article 8(2) for more than the number of days calculated under Article 12.

Article 14

Prohibitions on landing and transshipping

1. A vessel which has not been included in the list as defined in Article 11 shall be prohibited from landing or transshipping Northern hake, megrim or anglerfish caught in the geographical area defined in Article 8(2) and shall also be prohibited from landing or transshipping Norway lobsters caught in those areas unless the latter have been caught using creels.
2. Until a Member State establishes a data base and supplies it to the Commission in accordance with Article 8, all vessels of that Member State shall be prohibited from landing Northern hake, megrim, anglerfish or Norway lobsters caught in the geographical area defined in Article 8(2).

CHAPTER V

monitoring, inspection and surveillance

Article 15

Effort messages

The provisions of Title IIA of Regulation (EEC) No 2847/93 shall apply to vessels included in the list referred to in Article 11 operating in the geographical area referred to in Article 8(2).

Article 16

Prior notification

1. The master of a Community fishing vessel, or his representative, prior to any entry in to port or any landing location of a Member State with more than one tonne of Northern hake on board shall inform the competent authorities of that Member State, at least four hours in advance of such entry, of:
 - (a) the port or landing location;
 - (b) the estimated time of arrival at that port or landing location ;
 - (c) the quantities in kilograms live weight of Northern hake retained on board;
 - (d) the quantities in kilograms live weight of Northern hake to be landed, discharged or transhipped.
2. The competent authorities of a Member State in which a landing of more than one tonne of Northern hake is to be made, may require that the discharge of catch retained on board shall not commence until authorised by those authorities.
3. The master of a Community fishing vessel or his representative wishing to tranship or discharge at sea any quantity retained on board or to land in a port or landing location of a third country shall inform the competent authorities of the flag Member State at least 24 hours prior to transhipment or discharge at sea or to landing in a third country the information referred to in paragraph 1.

Article 17

Designated ports

1. Where more than two tonnes of Northern hake are to be landed in the Community from a Community fishing vessel, the master of the vessel shall ensure that such landings are made only at designated ports.
2. Each Member State shall designate ports at which any landing of Northern hake in excess of two tonnes shall take place.
3. Each Member State shall transmit to the Commission within 15 days of the date of entry into force of this Regulation the list of designated ports and, within 30 days thereafter, associated inspection and surveillance procedures including the terms and conditions for recording and reporting the quantities of Northern hake within each landing.

The Commission shall transmit the information to all Member States.

Article 18

Separate stowage of Northern hake

1. It shall be prohibited to retain on board a Community fishing vessel in any individual box or other container any quantity of Northern hake 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 Northern hake retained on board to be cross-checked.

Article 19

Transport of Northern hake

1. The competent authorities of a Member State may require that any quantity of Northern hake caught in the geographical area defined in Article 8(2) 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 the conditions laid down in Article 13 of Regulation (EEC) No 2847/93, all quantities of Northern hake which are transported to a place other than that of first landing or import shall be accompanied by a copy of the declaration provided for in Article 8(1) of that Regulation pertaining to the quantities transported.

Article 20

Specific monitoring programme

By way of derogation from Article 34c(1) of Regulation (EEC) No 2847/93, the specific monitoring programme for the Northern hake stock concerned may last more than two years from their date of entry into force.

CHAPTER VI

final provisions

Article 21

Entry into force

This Regulation shall enter into force on the 20th day following 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 I

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 hereafter 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 shall be divided by three. This value will be referred to hereafter as “ F_{ref} ”.

Part 3: Calculation of the maximum permissible kilowatt-days for each Member State⁵.

(a) The proportion of the landings of Northern 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 data base of a Member State under Article 8, the total quantity of Northern hake landed by each Member State shall be divided by the total quantity of Northern hake landed by all Member States.

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

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

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

(d) The values calculated for each Member State in (c) shall be divided by the kilo-watt days for that Member State as calculated under Article 9(1)(b).

⁵ The calculations defined in this Annex result in values of maximum permissible kilo-watt 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 kilo-watt days across all Member State during the reference period which is required to ensure that kilo-watt days associated with the uptake of the TAC and hence the fishing mortality rate associated with the TAC will not be exceeded.

The 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 kilo-watt days expended per year by a Member State during the reference period as calculated by Member States in Article 8(1)(b)

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

In Part 3:

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

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 kilo-watt days compared to those of the reference period 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 cod landings taken by each Member State during the reference period (these proportions were calculated in paragraph (a)).

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

(e) The values calculated in (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 (e)

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

(h) Each of the values calculated in (g) shall be added to the kilo-watt days calculated by each Member State under Article 9(1)(b).

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

For Member States who managed certain fleet segments with effort limits under the MAGP programmes, 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.

Part 5: Concluding comments

The quantities of kilowatt days calculated in paragraph (h) of Part 3 are the maximum permissible kilo-watt days for vessels appearing on the list required by Article 11.