



**COUNCIL OF  
THE EUROPEAN UNION**

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**PECHE 307**

**PROPOSAL**

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from:	Commission
dated:	7 November 2008
Subject:	Proposal for a Council Regulation fixing for 2009 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 catch limitations are required

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Delegations will find attached a proposal from the Commission, submitted under a covering letter from Mr Jordi AYET PUIGARNAU, Director, to Mr Javier SOLANA, Secretary-General/High Representative.

Encl.: COM(2008) 709 final



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 7.11.2008  
COM(2008) 709 final

Proposal for a

**COUNCIL REGULATION**

**fixing for 2009 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  
catch limitations are required**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

The annual fishing opportunities Regulation is the main instrument of the conservation policy under the Common Fisheries Policy. It includes limitations on catches and on fishing effort limitations in relation to recovery plans and long-term plans and also includes temporary measures and derogations to other legislation (such as the technical measures Regulation, the Regulation for restricting fishing effort on deep sea species, etc.).

Commission Communication (COM(2008) 331 final) sets out the background to the proposal. Many fish stocks are subject to an advice to reduce catches to zero or to the lowest possible level. Many stocks are outside safe biological limits. Despite conservation measures imposed under the CFP, the number of stocks in these vulnerable categories is not reducing. That analysis confirms that reinforced conservation measures concerning exploited fish stocks are highly necessary.

For 2009, the advice from ICES and STECF once more underlines the poor state of many fish resources in Community waters. Most stocks are exploited at levels in excess of those corresponding to maximum potential yield. Many are exploited beyond precautionary levels, and a number of key stocks, including most cod stocks, are exploited at levels corresponding to a very high risk of reproductive failure.

Council Regulation (EC) No 2371/2002 requires the Commission to propose annually the catch and fishing effort limitations to ensure that Community fisheries are ecologically, economically and socially sustainable.

- **General context**

Fishery resources are, in many cases, overexploited. Every year the Council establishes catch limitations but the real level of catches continues to be, in many cases, higher than that providing sustainable yields. This results from catch limitations being fixed sometimes at levels that are too high to ensure sustainability and to the poor enforcement of these catch limitations in a number of cases.

In recent years, effort limitations have been introduced in some fisheries to reinforce catch limitations, and multi-annual recovery plans have been introduced for some stocks to establish annual catch limitations within a framework of achieving sustainability through a gradual reduction of fishing mortality.

Failure to effectively control catches and fishing effort will result in a further depletion of fishery resources. Such depletion is incompatible with the objective of the Common Fisheries Policy of achieving sustainable fisheries in the Community

- **Existing provisions in the area of the proposal**

The existing provisions in the area of the proposal expire on 31 December 2008.

- Consistency with other policies and objectives of the Union

The measures proposed are designed in accordance with the objectives of the Common Fisheries Policy and are consistent with the Community's policy on sustainable development.

## 2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- Consultation of interested parties

### *Consultation methods, main sectors targeted and general profile of respondents*

The proposal takes into account consultations made with the Regional Advisory Councils, with the Advisory Committee on Fisheries and Aquaculture ('ACFA' is composed of representatives from professional organisations representing the production sector, the processing industry and trade in fishery and aquaculture products as well as non-professional organisations representing the interests of consumers, the environment and development) and with the Committee for Fisheries and Aquaculture. These consultations have taken place on the basis of the Communication from the Commission to the Council and European Parliament on improving consultation on Community fisheries management (COM(2006)246final), which sets out the principles for the so called front-loading process, and on the Communication from the Commission to the Council on fishing opportunities for 2009 (COM(2008) 331 final), which set out the views and intentions of the Commission concerning its proposals for TACs and Quotas, pending the scientific advice on the state of the stocks for 2009.

### *Summary of responses and how they have been taken into account*

Regional Advisory Councils insist on the need to ensure that any changes in the annual TACs and Quotas are gradual, in order to minimise short-term disruption of the economic activity. As is made clear in the detailed explanation of the proposal below, the principle of gradual adjustment and limitation of annual changes in fishery possibilities has been incorporated with the proposal where this has been possible without incurring deterioration in the state of vulnerable resources.

- Collection and use of expertises

### *Scientific/expertise domains concerned*

Fisheries biology and fisheries economics.

### *Methodology used*

Consultation of an independent international scientific body, ICES, and organisation of the plenary meeting of the STECF.

### *Main organisations/experts consulted*

- International Council for the Exploration of the Sea (ICES).
- Scientific, Technical and Economic Committee for Fisheries (STECF).

#### *Summary of advice received and used*

The existence of potentially serious risks with irreversible consequences has been mentioned. There is unanimity on the existence of such risks.

STECF confirms, and has in some cases developed, the advice provided by ICES.

#### *Means used to make the expert advice publicly available*

All STECF reports are available, after formal adoption by the Commission on the DG MARE website.

- **Impact assessment**

Catch and effort limitation measures must be adopted by public authorities, as required by Article 20 of Council Regulation (EC) No 2371/2002. The proposed measures will, if implemented, result in an overall reduction in fishing opportunities for Community vessels.

The proposal does not only comprise of short-term decisions but is also part of a longer term approach whereby the level of fishing is gradually reduced to long-term sustainable levels.

The approach taken in the proposal will in the short-term result in reduced TACs but as the overexploited stocks recover the catching possibilities will increase. The medium- to long-term consequences of the approach are predicted to be a reduced impact on the environment as a consequence of the decline in fishing effort, reductions in the catching sector in terms of number of vessels and/or in the average fishing effort per vessel, and unchanged or increased landings.

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

- **Summary of the proposed action**

The proposal establishes the catch and effort limitations applicable to Community fisheries and to international fisheries where Community vessels participate, in order to achieve the objective of the Common Fisheries Policy of ensuring fisheries at levels that are biologically, economically and socially sustainable.

- **Legal basis**

Article 20 of Regulation (EC) No 2371/2002

- **Subsidiarity principle**

The proposal falls under the exclusive competence of the Community. The subsidiarity

principle therefore does not apply.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason.

The Common Fisheries Policy is a common policy and should therefore be implemented through Council Regulations.

The Council Regulation in question allocates fishing opportunities to Member States but they are entirely free to allocate such opportunities among regions or operators as they see fit, so Member States have ample room for manoeuvre on decisions related to the social/economic model of their choice to exploit their allocated fishing opportunities.

The proposal has no new financial implications for Member States. This Regulation is adopted by Council every year, and the public and private means to implement it are already in place.

- **Choice of instruments**

Proposed instruments: Regulation.

Other means would not be adequate for the following reason:

This is a proposal for fisheries management which, according to Council Regulation (EC) No 2371/2002, should be implemented through an annual Council Regulation by qualified majority.

#### 4. **BUDGETARY IMPLICATION**

The proposal has no implication for the Community budget.

#### 5. **ADDITIONAL INFORMATION**

- **Simplification**

The proposal provides for simplification of administrative procedures for public authorities (EU or national), in particular as regards requirements for data transmission on the application of the effort management.

- **Review/revision/sunset clause**

The proposal concerns an annual Regulation for the year 2009 and therefore does not include a revision clause.

- **Detailed explanation of the proposal**

As regards catch limitations and effort management, the proposal is in accordance with the principles for the so called front-loading process which are set out in the Communication from the Commission to the Council and European Parliament on improving consultation on Community fisheries management (COM(2006)246final) and in the Communication from the Commission to the Council on fishing opportunities for 2009 (COM(2008) 331 final), which set out the views and intentions of the Commission concerning its proposals for TACs and Quotas, pending the scientific advice on the state of the stocks for 2009. In accordance with that Communication, for an increasing number of stocks, such as for example cod, hake, sole, plaice and nephrops, the fishing opportunities have established on the basis of the rules laid down in the relevant multi-annual plans.

In accordance with the front-loading process, consultations of stakeholders and Member States have taken place during the year.

The proposal is furthermore in line with the Communication from the Commission to the Council and the European Parliament on implementing sustainability in EU fisheries through maximum sustainable yield (COM(2006)360final), in that the proposal does not correspond to increases in fishing mortality which would be in conflict with the commitment of the Community and the Member States at the World Summit on Sustainable Development at Johannesburg to maintain or restore stocks to levels that can produce the maximum sustainable yield, with the aim of achieving these goals for depleted stocks on an urgent basis, and where possible not later than 2015.

In relation to effort management a possible alternative system based on kilowatt day ceilings has been discussed with Member States in more detail since 2007. The previous "Fishing opportunities" Regulation (for 2008) maintained a management of days at sea per type of vessel having a track record in the fishery, but opened it towards an alternative effort management by kilowatt days at the Member State level in order to make a more efficient use of fishing opportunities and to stimulate conservation practices in agreement with the fishing sector. At the same time, it was agreed to work towards a general implementation of effort management by maximum kilowatt days per groupings of gears from 2009, an agreement that was linked to the discussion on the effectiveness of the cod recovery plan. In 2008, the United Kingdom has used the option of introducing alternative effort management by kilowatt days for trawlers in the North Sea and to the West of Scotland. The proposal now generates a management shift towards kilowatt days for all Member States concerned by the cod recovery plan, while for the effort regimes of the Western Channel sole and the Southern hake fishery (Annexes IIB and IIC) the option of introducing such a system in 2009 will be maintained. The introduction of kilowatt day ceilings in Annex IIA is both conducive to more transparent and effective effort restrictions and to lowering the administrative burden, given that the number of different cases to which effort ceilings apply will be reduced considerably.

The proposal includes catch limitations agreed in the context of certain Regional Fishery Organisations. Catch limitations and other recommendations from the South East Atlantic Fisheries Organisation (SEAFO), the South Pacific Regional Fisheries Management Organisation (SPFO), the Commission for the Conservation of Southern Bluefin Tuna (CCSBT), the Inter American Tropical Tuna Commission (IATTC), the Commission on the Conservation of Antarctic Marine Living Resources (CCAMLR),

the North East Atlantic Fishery Commission (NEAFC and the International Commission for the Conservation of Atlantic Tunas (ICCAT), are pending the annual meetings of these organisations in November and December 2008. TACs for stocks in Greenland waters, as well as stocks shared jointly with Norway, are not available yet, pending the conclusion of consultations in November and December of 2008. These TACs are presented as *pro memoria* (pm).

It is also to be noted that in Annex II, which concerns fishing effort limitations for vessels in the context of the recovery of certain stocks, including cod, the maximum allowable effort, be it measured in days at sea per vessel or in kilowatt days per effort group, are also currently indicated as pm, as the Commission is still analyzing the information and advice from the Scientific, Technical and Economic Committee for Fisheries (STECF) regarding effort and catch trends up to and including the year 2007. The STECF will hold its plenary meeting in November 2008, after which its final report will be made available on the STECF website. The methodology for fixing the final fishing effort for the fisheries on sandeel in zones IIIa and IV and EC waters of IIa is also still being analyzed.

As regards effort management for deep-sea stocks, the Council adopted in December 2006 a 10 % reduction of the effort on deep-sea species, as compared with the 2005 levels. This reduction, however, is lower than the 35 % required by the North East Atlantic Fishery Commission (NEAFC). A further reduction of 10 % from the same reference level is necessary, both to meet the Community's international obligations and to protect stocks that, as ICES has underlined for several years, are extremely fragile and in need of urgent protection due to their extremely low reproductive potential.

In-year management systems are maintained for short-lived species such as anchovy in the Bay of Biscay and sandeel, Norway pout and sprat in the North sea. In these cases, fishing opportunities proposed for the early part of 2009 may be revised in-year in accordance with updated scientific advice, through Commission Regulations which will allow for rapid implementation of the management measures envisaged.



Proposal for a

## COUNCIL REGULATION

### **fixing for 2009 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 catch limitations are required**

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 Policy<sup>1</sup>, and in particular Article 20 thereof,

Having regard to Council Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of TACs and quotas<sup>2</sup>, and in particular Article 2 thereof,

[Having regard to Council Regulation (EC) No 423/2004 of 26 February 2004 establishing measures for the recovery of cod stocks<sup>3</sup>, and in particular Articles 6 and 8 thereof],

Having regard to Council Regulation (EC) No 811/2004 of 21 April 2004 establishing measures for the recovery of the Northern hake stock<sup>4</sup>, and in particular Article 5 thereof,

Having regard to Council Regulation (EC) No 2166/2005 of 20 December 2005 establishing measures for the recovery of the Southern hake and Norway lobster stocks in the Cantabrian Sea and Western Iberian peninsula<sup>5</sup> and in particular Articles 4 and 8 thereof,

Having regard to Council Regulation (EC) No 388/2006 of 23 February 2006 establishing a multiannual plan for the sustainable exploitation of the stock of sole in the Bay of Biscay<sup>6</sup>, and in particular Article 4 thereof,

Having regard to Council Regulation (EC) No 509/2007 of 7 May 2007 establishing a multiannual plan for the sustainable exploitation of the stock of sole in the Western Channel<sup>7</sup>, and in particular Articles 3 and 5 thereof,

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<sup>1</sup> OJ L 358, 31.12.2002, p. 59.

<sup>2</sup> OJ L 115, 9.5.1996, p. 3.

<sup>3</sup> OJ L 70, 9.3.2004, p. 8.

<sup>4</sup> OJ L 150, 30.4.2004, p. 1.

<sup>5</sup> OJ L 345, 28.12.2005, p. 5.

<sup>6</sup> OJ L 65, 7.3.2006, p. 1.

<sup>7</sup> OJ L 122, 11.5.2007, p. 7.

Having regard to Council Regulation (EC) No 676/2007 of 11 June 2007 establishing a multi-annual plan for fisheries exploiting stocks of plaice and sole in the North Sea<sup>8</sup>, and in particular Articles 6 and 9 thereof,

Having regard to the proposal from the Commission,

Whereas:

- (1) Article 4 of Regulation (EC) No 2371/2002 requires the Council to adopt the measures necessary to ensure access to waters and resources and the sustainable pursuit of fishing activities taking account of available scientific advice and, in particular, the report prepared by the Scientific, Technical and Economic Committee for Fisheries (STECF).
- (2) Under Article 20 of Regulation (EC) No 2371/2002, it is incumbent upon the Council to establish the total allowable catches (TAC) by fishery or group of fisheries. Fishing opportunities should be allocated to Member States and third countries in accordance with the criteria laid down in Article 20 of that Regulation.
- (3) In order to ensure effective management of the TACs and quotas, the specific conditions under which fishing operations occur should be established.
- (4) The principles and certain procedures for fishery management need to be laid down at Community level, so that Member States can ensure the management of the vessels flying their flag.
- (5) Article 3 of Regulation (EC) No 2371/2002 lays down definitions of relevance for the allocation of fishing opportunities.
- (6) Fishing opportunities should be used in accordance with the Community legislation on the subject, and in particular with Commission Regulation (EEC) No 2807/83 of 22 September 1983 laying down detailed rules for recording information on Member States' catches of fish<sup>9</sup>, Council Regulation (EEC) No 2930/86 of 22 September 1986 defining characteristics for fishing vessels<sup>10</sup>, Commission Regulation (EEC) No 1381/87 of 20 May 1987 establishing detailed rules concerning the marking and documentation of fishing vessels<sup>11</sup>, Council Regulation (EEC) No 3880/91 of 17 December 1991 on the submission of nominal catch statistics by Member States in the north-east Atlantic<sup>12</sup>, Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy<sup>13</sup>, Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing permits<sup>14</sup>, Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms<sup>15</sup>, Council Regulation (EC) No 1434/98 of

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<sup>8</sup> OJ L 157, 19.6.2007, p. 1.

<sup>9</sup> OJ L 276, 10.10.1983, p. 1.

<sup>10</sup> OJ L 274, 25.9.1986, p. 1.

<sup>11</sup> OJ L 132, 21.5.1987, p. 9.

<sup>12</sup> OJ L 365, 31.12.1991, p. 1.

<sup>13</sup> OJ L 261, 20.10.1993, p. 1.

<sup>14</sup> OJ L 171, 6.7.1994, p. 7.

<sup>15</sup> OJ L 125, 27.4.1998, p. 1.

29 June 1998 specifying conditions under which herring may be landed for industrial purposes other than direct human consumption<sup>16</sup>, Council Regulation (EC) No 2347/2002 of 16 December 2002 establishing specific access requirements and associated conditions applicable to fishing for deep-sea stocks<sup>17</sup>, Council Regulation (EC) No 1954/2003 of 4 November 2003 on the management of the fishing effort relating to certain Community fishing areas and resources<sup>18</sup>, Commission Regulation (EC) No 2244/2003 of 18 December 2003 laying down detailed provisions regarding satellite-based Vessel Monitoring Systems<sup>19</sup>, Regulation (EC) No 423/2004, Council Regulation (EC) No 601/2004 of 22 March 2004 laying down certain control measures applicable to fishing activities in the area covered by the Convention on the conservation of Antarctic marine living resources<sup>20</sup>, Regulation (EC) No 811/2004, Council Regulation (EC) No 2115/2005 of 20 December 2005 establishing a recovery plan for Greenland halibut in the framework of the Northwest Atlantic Fisheries Organisation<sup>21</sup>, Regulation (EC) No 2166/2005, Regulation (EC) No 388/2006, Council Regulation (EC) No 1967/2006 of 21 December 2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea<sup>22</sup>, Regulation (EC) No 509/2007, Council Regulation (EC) No 520/2007 of 7 May 2007 laying down technical measures for the conservation of certain stocks of highly migratory species<sup>23</sup>, Regulation (EC) No 676/2007 Council Regulation (EC) No 1386/2007 of 22 October 2007 laying down conservation and enforcement measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation<sup>24</sup>, Council Regulation (EC) No [...] /2008 concerning authorisations for fishing activities of Community fishing vessels outside Community waters and the access of third country vessels to Community waters<sup>25</sup> and Council Regulation (EC) No [...] /2008 fixing for 2009 and 2010 the fishing opportunities for Community fishing vessels for certain deep-sea fish stocks<sup>26</sup>.

- (7) It should be clarified that the provisions of this Regulation should apply if marine organisms caught during fishing operations conducted solely for the purpose of scientific investigations are sold, stored, displayed, or offered for sale for any purpose.
- (8) It is necessary, following the advice from the International Council for the Exploration of the Sea (ICES), to maintain the application of a system to manage the catch limits of anchovy in ICES zone VIII. The Commission should fix the catch limits for the stock of anchovy in ICES zone VIII in the light of scientific information collected during the first half of 2008 and of discussions taking place in the context of a multi-annual plan for anchovy.

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<sup>16</sup> OJ L 191, 7.7.1998, p. 10.  
<sup>17</sup> OJ L 351, 28.12.2002, p. 6.  
<sup>18</sup> OJ L 289, 7.11.2003, p. 1.  
<sup>19</sup> OJ L 333, 20.12.2003, p. 17.  
<sup>20</sup> OJ L 97, 1.4.2004, p. 16.  
<sup>21</sup> OJ L 340, 23.12.2005, p. 3.  
<sup>22</sup> OJ L 36, 8.2.2007, p. 6.  
<sup>23</sup> OJ L 123, 12.5.2007, p. 3.  
<sup>24</sup> OJ L 318, 5.12.2007, p. 1.  
<sup>25</sup> OJ L [...], [...] [...] 2008, p.X.  
<sup>26</sup> OJ L [...], [...] [...] 2008, p.X.

- (9) It is necessary, following the advice from the ICES, to maintain and revise a system to manage the fishing effort on sandeel in ICES zones IIIa and IV and EC waters of zone IIa.
- (10) As a transitional measure in the light of the most recent scientific advice from the ICES, the fishing effort on certain deep-sea species should be further reduced.
- (11) Under Article 20 of Regulation (EC) No 2371/2002 it is incumbent upon the Council to decide on the conditions associated with the limits on catches and/or fishing effort limits. Scientific advice indicates that substantial catches in excess of agreed TACs result in the sustainability of fishing operations being prejudiced. It is therefore appropriate to introduce associated conditions that will result in improved implementation of the agreed fishing possibilities.
- (12) At its Annual Meeting in 2008, the Northwest Atlantic Fisheries Organisation (NAFO) adopted a number of technical and control measures. It is necessary to implement these measures.
- (13) [At its XXVIth annual meeting in 2007, the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) adopted relevant catch limits for the stocks open to established fisheries by any CCAMLR Member. CCAMLR also approved the participation of Community vessels in exploratory fisheries for *Dissostichus* spp. in Subareas FAO 88.1 and 88.2 as well as in Divisions 58.4.1, 58.4.2, 58.4.3a) and 58.4.3b) and made the relevant fishing activities subject to catch and by-catch limits, as well as to certain specific technical measures. Those limits and technical measures should also be applied.]
- (14) [In order to comply with international obligations assumed by the Community as a Contracting Party to the CCAMLR, including the obligation to apply the measures adopted by the CCAMLR Commission, the TACs adopted by that Commission for the 2008-2009 season and the corresponding season limit dates should be applied.]
- (15) In accordance with Article 2 of Regulation (EC) No 847/96 of 6 May 1996, introducing additional conditions for year-to-year management of TACs and quotas<sup>27</sup>, the stocks that are subject to the various measures referred to therein must be identified.
- (16) In accordance with the procedure provided for in the agreements or protocols on fisheries relations, the Community has held consultations on fishing rights with Norway<sup>28</sup>, the Faroe Islands<sup>29</sup> and Greenland<sup>30</sup>.
- (17) The Community is a contracting party to several regional fisheries organisations. Those fisheries organisations have recommended the setting of catch limitations and/or effort limitations and other conservation rules for certain species. Such recommendations should therefore be implemented by the Community.

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<sup>27</sup> OJ L 115, 9.5.1996, p. 3.

<sup>28</sup> OJ L 226, 29.8.1980, p. 48.

<sup>29</sup> OJ L 226, 29.8.1980, p. 12.

<sup>30</sup> OJ L 172, 30.6.2007, p. 1

- (18) In order to comply with the North-East Atlantic Fisheries Commission (NEAFC) recommendation agreed in November 2008 it is necessary to adopt conservation and management measures for deep-sea species in the NEAFC Regulatory area, particularly on effort levels.
- (19) During 2008, alternative systems for effort management based on kilowatt day ceilings were allowed under certain conditions, with a view to the successive introduction of such a system as a general rule. A general shift towards management by kilowatt day ceilings in 2009 will be made for effort limitations linked to the cod recovery plan, while in other effort regimes the current system will be maintained in 2009, including the option of introducing kw day schemes at the discretion of the Member State.
- (20) Certain temporary provisions should be maintained on the use of vessel monitoring system (VMS) data in order to provide for greater efficiency and effectiveness in the monitoring, control and surveillance of effort management.
- (21) For the adjustment of fishing effort limitations on sole as laid down in Regulation (EC) No 509/2007 alternative arrangements should be established in order to manage fishing effort consistently with the TAC, as laid down in Article 5(2) of that Regulation.
- (22) For the adjustment of fishing effort limitations on plaice and sole as laid down in Regulation (EC) No 676/2007, alternative arrangements should be established in order to manage fishing effort consistently with the TAC, as laid down in Article 9(2) of that Regulation.
- (23) For the cod stocks in the North Sea, the Skagerrak and the Western channel, in the Irish Sea and in the west of Scotland, and the stocks of hake and of Norway lobster in ICES zones VIIIc and IXa, the levels of permissible effort within the management scheme need to be adapted.
- (24) In order to contribute to the conservation of fish stocks, certain supplementary measures on control and technical conditions of fishing should be implemented in 2009.
- (25) Having regard to the statement from the Commission at the meeting of the Council of Fisheries Ministers of December 2007 and following further scientific analysis and consultations with stakeholders in 2008, it is appropriate to take measures to protect the spawning aggregations of blue ling in addition to catch limitations in view of regulating directed fishery and by-catches in order to protect spawning aggregations of blue ling in ICES zone VIa.
- (26) Scientific investigations have demonstrated that the fishing practices when fishing with gillnets and entangling nets in ICES zones VIa, VIb, VIIb, VIIc, VIIj, VIIk, VIII, IX, X and XII constitute a serious threat to deep-sea species. However, transitional measures to allow these fisheries to take place under certain conditions should be implemented until more permanent measures are adopted.
- (27) [In accordance with the Agreed Record of conclusions between the European Community and Norway of [...] November 2008, technical measures to increase

selectivity of towed gears in order to reduce discards of whiting in the North Sea should continue to be tested during the first part of 2009.]

- (28) In order to ensure sustainable exploitation of the hake and Norway lobster stock and to reduce discards, the use of the latest developments as regards selective gears should be permitted in ICES zones VIIIa, VIIIb and VIIIc.
- (29) The use of gears that do not catch Norway lobster should be permitted in certain areas dedicated to the protection of the species, where fishing is prohibited.
- (30) In the light of advice from Scientific, Technical and Economic Committee for Fisheries (STECF), certain herring spawning ground closures are not necessary to ensure sustainable exploitation of that species in ICES zone VIa.
- (31) The control of landings and transshipments of fish frozen after being caught by third country fishing vessels landed in Community ports, as recommended by NEAFC, should be maintained. In 2008 NEAFC recommended replacing a number of vessels on the list of vessels that have been confirmed as having engaged in illegal, unreported and unregulated fisheries. Implementation of the recommendations in the Community legal order should be ensured.
- (32) In order to contribute to the conservation of octopus and in particular to protect juveniles, it is necessary to maintain, in 2009, a minimum size of octopus from the maritime waters under the sovereignty or jurisdiction of third countries and situated in the region of Fishery Committee for the Eastern Central Atlantic (CECAF) pending the adoption of a regulation amending Regulation (EC) No 850/98.
- (33) In the light of advice from STECF, fishing with beam trawl using electrical pulse current should be allowed in 2009 in ICES zones IVc and IVb south under certain conditions.
- (34) [The Inter-American Tropical Tuna Commission (IATTC) failed to adopt catch limitations for yellowfin tuna, bigeye tuna and skipjack tuna at its Annual Meeting in 2008, and although the Community is not a member of the IATTC, it is necessary to adopt measures to ensure sustainable management of the resource under the jurisdiction of that Organisation.]
- (35) [At its Third Annual Meeting, the Western and Central Pacific Fisheries Commission (WCPFC) adopted effort limitations for yellowfin tuna, bigeye tuna, skipjack tuna, swordfish and south pacific albacore, as well as technical measures as regards the treatment of by-catches. The Community has been a member of the WCPFC since January 2005. It is therefore necessary to incorporate those measures into Community law to ensure sustainable management of the resource under the jurisdiction of that Organisation.]
- (36) At its Annual Meetings in 2007 and 2008, the General Fisheries Commission for the Mediterranean (GFCM) adopted a number of recommendations on technical measures for certain fisheries in the Mediterranean Sea, as well as a scheme for port State control, establishing a system of port inspections in view of combating IUU fisheries in the context of the specificities of the GFCM area and preventing IUU vessels to use ports of GFCM contracting parties. In order to contribute to the conservation of fish

stocks and to protect the environment from harmful effects from fishing it is necessary to implement these measures in 2009 pending the adoption of a regulation amending Regulation (EC) No 1967/2006. Having regard to the existing obligation under Community law for the inspection of vessels active in the Bluefin tuna fisheries and in order to ensure that the inspections required under the GFCM recommendation would yield the intended results, it is necessary to apply a higher percentage of inspections to be conducted than the minimum percentage recommended by the GFCM.

- (37) At its Annual Meeting in 2008, the South East Atlantic Fisheries Organisation (SEAFO) adopted catch limits for 2 additional fish stocks in the SEAFO Convention Area. It is necessary to implement these measures into Community law.
- (38) [At its Annual Meetings in 2007 and 2008 the Indian Ocean Tuna Commission (IOTC) adopted a number of management and control measures. It is necessary to implement these measures into Community law. ]
- (39) [During the Third International Meeting for the creation of a new South Pacific Regional Fisheries Management Organisation (SPFO) held in May 2007, the participants adopted interim measures in order to regulate pelagic fishing activities as well as bottom fisheries in the South Pacific. It is necessary to implement these measures into Community law.]
- (40) [At its Annual Meeting in 2008, the International Commission for the Conservation of Atlantic Tunas (ICCAT) adopted the quotas and the adjusted quotas to reflect the under-utilisation and over-utilisation of the fishing possibilities of the ICCAT contracting parties. ICCAT further adopted a technical conservation measure for Mediterranean swordfish in 2009. In order to contribute to the conservation of fish stocks it is necessary to implement this measure.]
- (41) In order to ensure that catches of blue whiting by third-country vessels in Community waters are correctly accounted for, it is necessary to maintain the strengthened control provisions for such vessels.
- (42) The Community has been a cooperating non-member of the Commission for the Conservation of Southern Bluefin Tuna (CCSBT) since January 2007. The Convention establishing this Commission provides a framework for closer international cooperation for the purpose of ensuring the conservation and optimum utilisation of southern bluefin tuna. As a cooperating non-member, the Community has committed to implement the measures adopted by the CCSBT. At its Annual Meeting in 2008, the CCSBT adopted catch limits for fish stocks in the CCSBT Convention Area for Community vessels. It is necessary to implement these measures into Community law.
- (43) Having regard to Article 6(9) of the Act of Accession of 2003, the Community has the responsibility to manage the fisheries agreements concluded by the new Member States with third countries. Poland has been a member of the Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea since 1994. At its Annual Meeting in 2008, the Convention adopted management and conservation measures for Pollock resources in the Central Bering Sea. It is necessary to implement these measures into Community law.

- (44) In order to ensure the livelihood of Community fishers and in order to avoid endangering resources and any possible difficulty due to the lapsing of Council Regulation (EC) No 40/2008 of 16 January 2008 fixing for 2008 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 catch limitations are required<sup>31</sup>, it is essential to open those fisheries on 1 January 2009 and maintain in force in January 2009 some of the rules of the said Regulation. Given the urgency of the matter, it is imperative to grant an exception to the six-week period referred to in Title I, Article 3 of the Protocol on the role of national Parliaments in the European Union, annexed to the Treaty on European Union and to the Treaties establishing the European Communities,

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<sup>31</sup> OJ L 19, 23.1.2008, p. 1.



HAS ADOPTED THIS REGULATION:

## **CHAPTER I**

### **Scope and definitions**

#### *Article 1*

##### **Subject matter**

This Regulation fixes fishing opportunities for the year 2009, for certain fish stocks and groups of fish stocks, and the associated conditions under which such fishing opportunities may be used.

In addition, it fixes certain effort limits and associated conditions for January 2010, and for certain Antarctic stocks it fixes the fishing opportunities and specific conditions for the periods set out in Annex IE.

#### *Article 2*

##### **Scope**

1. If not otherwise provided for, this Regulation shall apply to:
  - (a) Community fishing vessels ("Community vessels"); and
  - (b) Fishing vessels flying the flag of, and registered in, third countries ("third-country fishing vessels") in Community waters ("EC waters").
2. By way of derogation from paragraph 1, the provisions of this Regulation, except point 4.2 of Annex III and footnote 1 to Annex XI, shall not apply to fishing operations conducted solely for the purpose of scientific investigations which are carried out with the permission and under the authority of the Member State whose flag the vessel is flying and of which the Commission and the Member States in whose waters the research is carried out have been informed in advance. Member States conducting fishing operations for the purpose of scientific investigations shall inform the Commission, the Member States in whose waters the research is carried out, ICES and STECF of all catches from such fishing operations.

#### *Article 3*

##### **Definitions**

For the purposes of this Regulation, in addition to the definitions laid down in Article 3 of Regulation (EC) No 2371/2002, the following definitions shall apply:

- (a) "total allowable catches" (TAC) means the quantity that can be taken and landed from each stock each year;
- (b) "quota" means a proportion of the TAC allocated to the Community, Member States or third countries;

- (c) "international waters" means waters falling outside the sovereignty or jurisdiction of any State.

*Article 4*  
**Fishing zones**

For the purposes of this Regulation, the following zone definitions shall apply:

- (a) ICES (International Council for the Exploration of the Sea) zones are as defined in Regulation (EEC) No 3880/91;
- (b) "Skagerrak" means the area bounded on the west by a line drawn from the Hanstholm lighthouse to the Lindesnes lighthouse and on the south by a line drawn from the Skagen lighthouse to the Tistlarna lighthouse and from this point to the nearest point on the Swedish coast;
- (c) "Kattegat" means the area bounded on the north by a line drawn from the Skagen lighthouse to the Tistlarna lighthouse and from this point to the nearest point on the Swedish coast and on the south by a line drawn from Hasenøre to Gnibens Spids, from Korshage to Spodsbjerg and from Gilbjerg Hoved to Kullen;
- (d) "Gulf of Cádiz" means the area of ICES zone IXa east of longitude 7°23'48"W;
- (e) The GFCM (General Fisheries Commission for the Mediterranean) zone is as defined in Council Decision 98/416/EC of 16 June 1998 on the accession of the European Community to the General Fisheries Commission for the Mediterranean<sup>32</sup>;
- (f) CECAF (Eastern Central Atlantic or FAO major fishing zone 34) zones are as defined in Council Regulation (EC) No 2597/95 of 23 October 1995 on the submission of nominal catch statistics by Member States fishing in certain areas other than those of the North Atlantic<sup>33</sup>;
- (g) "NEAFC Convention Area" means the waters as set out in Article 1 of the Convention attached to Council Decision 81/608/EEC of 13 July 1981 concerning the conclusion of the Convention on Future Multilateral Cooperation in the North-East Atlantic Fisheries<sup>34</sup>;
- (h) "NEAFC Regulatory Area" means the waters of the NEAFC Convention Area which lie beyond the waters under the jurisdiction of NEAFC Contracting Parties;
- (i) NAFO (Northwest Atlantic Fisheries Organisation) zones are as defined in Council Regulation (EEC) No 2018/93 of 30 June 1993 on the submission of catch and activity statistics by Member States fishing in the Northwest Atlantic<sup>35</sup>;

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<sup>32</sup> OJ L 190, 4.7.1998, p. 34.

<sup>33</sup> OJ L 270, 13.11.1995, p. 1.

<sup>34</sup> OJ L 227, 12.8.1981, p. 21.

<sup>35</sup> OJ L 186, 28.7.1993, p. 1.

- (j) "NAFO Regulatory Area" means the part of the area of the Northwest Atlantic Fisheries Organisation (NAFO) Convention not falling under the sovereignty or within the jurisdiction of coastal States;
- (k) SEAFO (South East Atlantic Fisheries Organisation) zones are as defined in Council Decision 2002/738/EC of 22 July 2002 on the conclusion by the European Community of the Convention on the Conservation and Management of Fishery Resources in the South-East Atlantic Ocean<sup>36</sup>;
- (l) The ICCAT (International Commission for the Conservation of Atlantic Tunas) zone is as defined in Council Decision 86/238/EEC of 9 June 1986 on the accession of the Community to the International Convention for the Conservation of Atlantic Tunas, as amended by the Protocol annexed to the Final Act of the Conference of Plenipotentiaries of the States Parties to the Convention signed in Paris on 10 July 1984<sup>37</sup>;
- (m) CCAMLR (Convention on the Conservation of Antarctic Marine Living Resources) zones are as defined in Regulation (EC) No 601/2004;
- (n) The IATTC (Inter American Tropical Tuna Convention) zone is as defined in Council Decision 2006/539/EC of 22 May 2006 on the conclusion, on behalf of the European Community, of the Convention for the Strengthening of the Inter-American Tropical Tuna Commission established by the 1949 Convention between the United States of America and the Republic of Costa Rica<sup>38</sup>;
- (o) The IOTC (Indian Ocean Tuna Commission) zone is as defined in Council Decision 95/399/EC of 18 September 1995 on the accession of the Community to the Agreement for the establishment of the Indian Ocean Tuna Commission<sup>39</sup>;
- (p) " SPFO (South Pacific Regional Fisheries Management Organisation) area" means the high seas area south of the Equator, north of the CCAMLR Convention area, east of the SIOFA Convention Area as defined in the Council Decision 2006/496/EC of 6 July 2006 on the signing, on behalf of the European Community, of the Southern Indian Ocean Fisheries Agreement<sup>40</sup>, and west of the areas of fisheries jurisdictions of South American States;
- (q) The WCPFC (Western and Central Pacific Fisheries Convention) zone is as defined in Council Decision 2005/75/EC of 26 April 2004 on the accession of the Community to the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean<sup>41</sup>.
- (r) "High Seas of the Bering Sea" means the area of the high seas of the Bering Sea beyond 200 nautical miles from the baselines from which the breadth of the territorial sea of the coastal States of the Bering Sea is measured.

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<sup>36</sup> OJ L 234, 31.8.2002, p. 39.

<sup>37</sup> OJ L 162, 18.6.1986, p. 33.

<sup>38</sup> OJ L 224, 16.8.2006, p. 22.

<sup>39</sup> OJ L 236, 5.10.1995, p. 24.

<sup>40</sup> OJ L 196, 18.7.2006, p. 14.

<sup>41</sup> OJ L 32, 4.2.2005, p. 1.

## **CHAPTER II**

### **Fishing opportunities and associated conditions for Community vessels**

#### *Article 5*

#### **Catch limits and allocations**

1. The catch limits for Community vessels in Community waters or in certain non-Community waters and the allocation of such catch limits among Member States and additional conditions in accordance with Article 2 of Regulation (EC) No 847/96 are set out in Annex I.
2. Community vessels are hereby authorised to make catches, within the quota limits set out in Annex I, in waters falling within the fisheries jurisdiction of the Faroe Islands, Greenland, Iceland and Norway, and the fishing zone around Jan Mayen, subject to the conditions set out in Articles 11, 20 and 21.
3. The Commission shall fix the catch limits for the fisheries on sandeel in ICES zones IIIa and IV and EC waters of ICES zone IIa according to the rules laid down in point 6 of Annex IID.
4. The Commission shall fix catch limits for capelin in Greenland waters of ICES zones V and XIV available to the Community at 7,7 % of the capelin TAC as soon as the TAC has been established.
5. Catch limits for the stock of Norway pout in ICES zone IIIa and in EC waters of ICES zones IIa and IV and for the stock of sprat in EC waters of ICES zones IIa and IV may be revised by the Commission in accordance with the procedure referred to in Article 30(2) of Regulation (EC) No 2371/2002 in the light of scientific information collected during the first half of 2009.
6. The Commission may fix the catch limits for the stock of anchovy in ICES zone VIII in accordance with the procedure referred to in Article 30(2) of Regulation (EC) No 2371/2002 in the light of scientific information collected during the first half of 2009.
7. As a consequence of a revision of the stock of Norway pout in accordance with paragraph 5, the catch limits for the stocks of whiting in ICES zone IIIa and ICES zone IV and EC waters of ICES zone IIa and for the stocks of haddock in ICES zone IIIa and EC waters of ICES zones IIIb, IIIc and IIId and in ICES zone IV and EC waters of ICES zone IIa may be revised by the Commission in accordance with the procedure referred to in Article 30(2) of Regulation (EC) No 2371/2002 to take into account industrial by-catches in the Norway pout fishery.

*Article 6*  
**Prohibited species**

It shall be prohibited for Community vessels to fish for, to retain on board, to tranship and to land the following species in all Community and non-Community waters:

- Basking shark (*Cetorhinus maximus*),
- White shark (*Carcharodon carcharias*).

*Article 7*  
**Special provisions on allocations**

1. The allocation of fishing opportunities among Member States as set out in Annex I shall be without prejudice to:
  - (a) exchanges made pursuant to Article 20(5) of Regulation (EC) No 2371/2002;
  - (b) reallocations made pursuant to Articles 21(4), 23(1) and 32(2) of Regulation (EEC) No 2847/93, pursuant to Article 23(4) of Regulation (EC) No 2371/2002 or pursuant to Article 10(4) of Regulation (EC) No [...] /2008
  - (c) additional landings allowed under Article 3 of Regulation (EC) No 847/96;
  - (d) quantities withheld in accordance with Article 4 of Regulation (EC) No 847/96;
  - (e) deductions made pursuant to Article 5 of Regulation (EC) No 847/96;
2. For the purpose of withholding quotas to be transferred to 2010, Article 4(2) of Regulation (EC) No 847/96 shall apply, by way of derogation from that Regulation, to all stocks subject to analytical TAC.

*Article 8*  
**Fishing effort limits and associated conditions  
for the management of stocks**

1. From 1 February 2009 to 31 January 2010, the fishing effort limitations and associated conditions laid down in:
  - (a) Annex IIA shall apply for the management of certain stocks in the Kattegat, the Skagerrak and ICES zones IV, VIa, VIIa, VIId, VIIe to k and EC waters of ICES zone IIa and Vb;
  - (b) Annex IIB shall apply for the management of hake and Norway lobster in ICES zones VIIIc and IXa with the exception of the Gulf of Cádiz;
  - (c) Annex IIC shall apply for the management of the sole stock in ICES zone VIIe;

- (d) Annex IID shall apply for the management of sandeel stocks in ICES zones IIIa and IV and EC waters of ICES zone IIa.
2. For the period from 1 January 2009 to 31 January 2009 for the stocks mentioned in paragraph 1, the fishing effort and associated conditions laid down in Annexes IIA, IIB, IIC and IID to Regulation (EC) No 40/2008 shall continue to apply.
  3. The Commission shall fix the fishing effort for 2009 for the fisheries on sandeel in ICES zones IIIa and IV and in EC waters of ICES zone IIa based on the rules laid down in points 4 and 5 of Annex IID.
  4. Member States shall ensure that for 2009 the fishing effort levels, measured in kilowatt days absent from port, by vessels holding deep-sea fishing permits do not exceed 65 % of the average annual fishing effort deployed by the vessels of the Member State concerned in 2003 on trips when deep-sea fishing permits were held and/or deep-sea species, as listed in Annexes I and II to Regulation (EC) No 2347/2002, were caught. This paragraph shall apply only to fishing trips on which more than 100 kg of deep sea species, other than greater silver smelt, were caught.

#### *Article 9*

#### **Conditions for landing catches and by-catches**

1. Fish from stocks for which catch limits are established shall be retained on board or landed only if:
  - (a) the catches have been taken by vessels of a Member State having a quota and that quota is not exhausted; or
  - (b) the catches consist of a part of a Community share which has not been allocated by quota among Member States, and that share has not been exhausted.
2. By way of derogation from paragraph 1, the following fish may be retained on board and landed even if a Member State has no quotas or the quotas or shares are exhausted:
  - (a) species, other than herring and mackerel, where
    - (i) they are caught mixed with other species with nets whose mesh size is less than 32 mm in accordance with Article 4 of Regulation (EC) No 850/98; and
    - (ii) the catches are not sorted either on board or on landing;or
  - (b) mackerel, where
    - (i) they are caught mixed with horse mackerel or pilchard;

- (ii) they do not exceed 10 % of the total weight of mackerel, horse mackerel and pilchard on board and;
  - (iii) the catches are not sorted either on board or on landing.
- 3. All landings shall count against the quota or, if the Community share has not been allocated between Member States by quotas, against the Community share, except for catches made under the provisions of paragraph 2.
- 4. The determination of the percentage of by-catches and their disposal shall be made in accordance with Articles 4 and 11 of Regulation (EC) No 850/98.

*Article 10*

**Unsorted landings in ICES zones IIIa, IV and VIIId  
and EC waters of ICES zone IIa**

- 1. Article 2(1) of Regulation (EC) No 1434/98, on the prohibition to retain herring on board under certain circumstances, shall not apply to herring caught in ICES zones IIIa, IV and VIIId and EC waters of ICES zone IIa.
- 2. When catch limits of a Member State for herring in ICES zones IIIa, IV and VIIId and EC waters of ICES zone IIa are exhausted, vessels flying the flag of that Member State, registered in the Community and operating within the fisheries to which the relevant catch limitations apply, shall be prohibited from landing catches which are unsorted and which contain herring.
- 3. Member States shall ensure that an adequate sampling programme is in place allowing an efficient monitoring of unsorted landings by species caught in ICES zones IIIa, IV and VIIId and EC waters of ICES zone IIa.
- 4. Unsorted catches in ICES zones IIIa, IV and VIIId and EC waters of ICES zone IIa shall be landed only at ports and landing locations where a sampling programme as referred to in paragraph 3 is in place.

*Article 11*

**Access limits**

No fishing by Community vessels shall take place in the Skagerrak within 12 nautical miles from the baselines of Norway. However, vessels flying the flag of Denmark or Sweden shall be allowed to fish up to four nautical miles from the baselines of Norway.

*Article 12*

**Determination of mesh size and twine thickness**

Mesh size and twine thickness referred to in this Regulation shall be determined in accordance with Commission Regulation (EC) No 129/2003 of 24 January 2003 laying down

detailed rules for determining the mesh seize and thickness of twine of fishing nets<sup>42</sup>, when Community fishing vessels are inspected by Community inspectors, Commission inspectors and national inspectors.

#### *Article 13*

### **Transitional technical and control measures**

Transitional technical and control measures for Community vessels shall be as set out in Annex III.

## **CHAPTER III**

### **Catch limits and associated conditions for third-country fishing vessels**

#### *Article 14*

### **Authorisation**

Fishing vessels flying the flag of Venezuela or Norway and fishing vessels registered in the Faroe Islands shall be authorised to make catches in Community waters, within the catch limits set out in Annex I, and subject to the conditions provided for in Chapter III of Regulation (EC) No [...] /2008 and Articles 15 to 18 and 22 to 27 of this Regulation

#### *Article 15*

### **Prohibited species**

It shall be prohibited for third-country fishing vessels to fish for, to retain on board, to tranship and to land the following species in all Community waters:

- Basking shark (*Cetorhinus maximus*),
- White shark (*Carcharodon carcharias*).

#### *Article 16*

### **Geographical restrictions**

1. Fishing by fishing vessels flying the flag of Norway or registered in the Faroe Islands shall be limited to those parts of the 200 nautical mile zone lying seawards of 12 nautical miles from the baselines of Member States in ICES zone IV, the Kattegat and the Atlantic Ocean north of 43°00'N, except the area referred to in Article 18 of Regulation (EC) No 2371/2002.
2. Fishing in the Skagerrak by fishing vessels flying the flag of Norway shall be allowed seawards of four nautical miles from the baselines of Denmark and Sweden.

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<sup>42</sup> OJ L 22, 25.1.2003, p. 5.



3. Fishing by fishing vessels flying the flag of Venezuela shall be limited to those parts of the 200 nautical mile zone lying seawards of 12 nautical miles from the baselines of the Department of French Guyana.

*Article 17*

**Transit through Community waters**

Third-country fishing vessels that transit through Community waters shall stow their nets so that they may not readily be used, in accordance with the following conditions:

- (a) nets, weights and similar gear shall be disconnected from their trawl boards and towing and hauling wires and ropes;
- (b) nets which are on or above deck shall be securely lashed to some part of the superstructure.

*Article 18*

**Conditions for landing catches and by-catches**

Fish from stocks for which catch limits are fixed shall not be retained on board or landed unless the catches have been taken by fishing vessels of a third-country having a quota and that quota is not exhausted.

*Article 19*

**Transitional technical and control measures**

Transitional technical and control measures for third-country fishing vessels shall be as set out in Annex III.

## **CHAPTER IV FISHING AUTHORISATIONS OF COMMUNITY VESSELS**

*Article 20*

**Fishing authorisations and associated conditions**

1. The following Community vessels shall be exempt from the obligation to have a fishing authorisation, as set out in Article 3 of Regulation (EC) No [...] /2008, when they engage in fishing activities in Norwegian waters of the North Sea:
  - (a) vessels of a tonnage equal to or less than 200 GT;
  - (b) vessels carrying out fisheries for human consumption for species other than mackerel; or
  - (c) vessels flying the flag of Sweden, in line with established practice.

3. The maximum number of fishing authorisations and other associated conditions for Community vessels fishing in waters of a third country are set out in Part I of Annex IV. .
4. If one Member State transfers quota to another Member State (swap) in the fishing areas set out in Part I of Annex IV, on the basis of Article 20(5) of Regulation (EC) No 2371/2002, the transfer shall include an appropriate transfer of fishing authorisations and shall be notified to the Commission. However, the total number of fishing authorisations for each fishing area, as set out in Part I of Annex IV, shall not be exceeded.
5. Community vessels shall comply with the conservation and control measures and all other provisions governing the zone in which they operate.

*Article 21*  
**Faroe Islands**

Community vessels authorised to conduct a directed fishery for one species in waters of the Faroe Islands may conduct directed fishery for another species provided that they give prior notification to the Faroese authorities.

**CHAPTER V**  
**FISHING AUTHORISATION OF THIRD-COUNTRY FISHING**  
**VESSELS**

*Article 22*  
**Obligation to have a fishing authorisation**

1. Fishing vessels of less than 200 GT flying the flag of Norway shall be exempt from the obligation to have a fishing authorisation, as set out in Article 18 of Regulation (EC) No [...] /2008, when they engage in fishing activities in Community waters. .
2. The fishing authorisation issued to third-country fishing vessel engaging in fishing activities in Community waters shall be kept on board. However, fishing vessels registered in the Faroe Islands or Norway shall be exempt from that obligation.

*Article 23*  
**Application for a fishing authorisation**

Without prejudice to Article 19(2) of Regulation (EC) No XX/2008, an application to the Commission for a fishing authorisation from an authority of a third-country shall contain the following information:

- (a) name of the vessel;
- (b) registration number;

- (c) external identification letters and numbers;
- (d) port of registration;
- (e) name and address of the owner or charterer;
- (f) gross tonnage and overall length;
- (g) engine power;
- (h) call sign and radio frequency;
- (i) intended method of fishing;
- (j) intended area of fishing;
- (k) species for which it is intended to fish;
- (l) period for which an authorisation is applied for.

#### *Article 24*

#### **Number of fishing authorisations**

The maximum number of fishing authorisations and other associated conditions for third-country vessels fishing in Community waters are laid down in Part II of Annex IV.

#### *Article 25*

#### **Cancellation**

Without prejudice to Chapter III of Regulation (EC) No [...] /2008, fishing authorisations may be cancelled with a view to the issue of new fishing authorisations. Such cancellations shall take effect on the day preceding the date of issue of the fishing authorisations by the Commission. New fishing authorisations shall take effect from their date of issue.

#### *Article 26*

#### **Obligations of the holder of the fishing authorisation**

1. In addition to complying with any data transmission requirement laid down in accordance with Article 23(1) of Regulation (EC) No [...] /2008, third-country fishing vessels shall keep a logbook in which the information set out in Part I of Annex V shall be entered.
2. When transmitting information in accordance with Article 23 of Regulation (EC) No [...] /2008, third-country fishing vessels shall transmit the information set out in Annex VI to the Commission, in accordance with the rules laid down in that Annex.
3. Paragraph 2 shall not apply to vessels flying the flag of Norway fishing in ICES zone IIIa.

*Article 27*

**Specific provisions concerning the Department of French Guyana**

1. In addition to the conditions set out in Chapter III of Regulation (EC) No [...] /2008, the granting of fishing authorisations to fish in the waters of the Department of French Guyana shall be subject to an undertaking by the owner of the third-country fishing vessel concerned to permit an observer to come on board at the Commission's request.
2. In addition to complying with any data transmission requirement laid down in accordance with Article 23 of Regulation (EC) No [...] /2008, third-country fishing vessels fishing in the waters of the Department of French Guyana shall keep a logbook corresponding to the model appearing in Part II of Annex V. Catch data shall be sent to the Commission upon request, via the French authorities.

**CHAPTER VI**

**Special provisions for Community vessels  
fishing in the GFCM Area**

**SECTION 1**

**CONSERVATION MEASURES**

*Article 28*

*Establishment of a closed season for the dolphinfish fisheries  
using fish aggregating devices (FADs)*

1. In order to protect the dolphinfish (*Coryphaena hippurus*), in particular small fish, the dolphinfish fisheries using fish aggregating devices (FADs) shall be prohibited from 1 January 2009 to 14 August of 2009, in all geographical sub-areas of the GFCM Agreement area as set out in Annex VII.
2. By way of derogation from paragraph 1, if a Member State can demonstrate that due to bad weather, the fishing vessels flying its flag were unable to utilise their normal fishing days that Member State may carry over days lost by its vessels in FAD fisheries until 31 January of the following year. Member States wishing to benefit from this carry over shall submit to the Commission before 1 January 2010 an application for the additional number of days on which a vessel will be authorised to fish dolphinfish by using FADs during the prohibition period from 1 January 2010 until 31 January 2010. Such an application shall be accompanied by the following information:
  - (a) a report containing the details of the cessation of fishing activities in question, including appropriate supporting meteorological information;
  - (b) the name of the vessel;
  - (c) the registration number;

- (d) the external identification markings as defined in Annex I to Commission Regulation (EC) No 26/2004 of 30 December 2003 on the Community fishing fleet register<sup>43</sup>.

The Commission shall forward the information obtained from the Member States to the Executive Secretary of the GFCM.

3. Member States shall send to the Commission before 1 November 2009 a report on the implementation of the measures referred to in paragraph 2 for the year 2008.
4. Member States shall report to the Commission by 15 January 2010 the total landings and transshipments of dolphinfish carried out in 2009 by the fishing vessels flying their flag in all geographical sub-areas of the GFCM Agreement area as set out in Annex VII.

The Commission shall forward the information received from the Member States to the Executive Secretary of the GFCM.

#### *Article 29*

#### *Establishment of fisheries restrictive areas in order to protect the deep-sea sensitive habitats*

1. Fishing with towed dredges and bottom trawl nets shall be prohibited in the areas bounded by lines joining the following coordinates:
  - (a) Deep Sea fisheries restricted area "Lophelia reef off Capo Santa Maria di Leuca"
    - 39° 27.72' N, 18° 10.74' E
    - 39° 27.80' N, 18° 26.68' E
    - 39° 11.16' N, 18° 32.58' E
    - 39° 11.16' N, 18° 04.28' E;
  - (b) Deep Sea fisheries restricted area "The Nile delta area cold hydrocarbon seeps"
    - 31° 30.00' N, 33° 10.00' E
    - 31° 30.00' N, 34° 00.00' E
    - 32° 00.00' N, 34° 00.00' E
    - 32° 00.00' N, 33° 10.00' E;

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<sup>43</sup> OJ L 5, 9.1.2004, p. 25.

(c) Deep Sea fisheries restricted area "The Eratosthenes Seamount"

- 33° 00.00' N, 32° 00.00' E
- 33° 00.00' N, 33° 00.00' E
- 34° 00.00' N, 33° 00.00' E
- 34° 00.00' N, 32° 00.00' E.

2. Member States shall take the measures necessary for the protection of the deep-sea sensitive habitats in the areas referred to in paragraph 1 and in particular shall ensure that these areas are protected from the impacts of any other activity than fishing activity jeopardising the conservation of the features that characterise these particular habitats.

*Article 30*

*Minimum mesh size of trawl nets deployed in certain local and seasonal demersal trawl fisheries in the Mediterranean Sea*

1. By way of derogation from Article 8(1)(h) and from point (2) of Article 9(3) of Regulation (EC) No 1967/2006, Member States may continue to authorise fishing vessels flying their flag the use of codend mesh size smaller than 40 mm diamond to operate in certain local and seasonal demersal trawl fisheries exploiting fish stocks that are not shared with third countries.
2. Paragraph 1 shall apply only to fishing activities formally authorised by Member States in accordance with national law in force on 1 January 2007 and shall not involve any future increase in fishing effort with respect to the year 2006.
3. Member States shall submit to the Commission by 15 January 2009, and through the accustomed data-processing support, the list of vessels authorised in accordance with paragraph 1.
4. The list of authorised vessels shall include the following information:
  - (a) the name of the vessel;
  - (b) the vessel's Community fleet register number (CFR) and external marking as defined in Annex I to Commission Regulation (EC) No 26/2004;
  - (c) the authorised fishery(ies) carried out by each vessel defined in terms of target stock(s), the fishing area set out in Annex VII and the technical mesh size characteristics of the fishing gear deployed;
  - (d) the authorised fishing period.

5. Where the list of authorised vessels as referred to in paragraph 4 does not contain changes with respect to what was communicated in the year 2008, Member States shall inform the Commission by 15 January 2009 that no changes have occurred.
6. The Commission shall forward the information received from the Member States to the GFCM Executive Secretariat.

**SECTION 2**  
**REGIONAL SCHEME ON PORT STATE MEASURES**

*Article 31*  
**Definitions**

For the purposes of implementing this Section, the following definitions shall apply:

- (1) “fishing” means:
  - (i) the actual or attempted searching for, catching, taking or harvesting of fish in the GFCM Area; and
  - (ii) engaging in any activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fish in the GFCM Area;
- (2) “fishing related activity” means any operation in support of, or in preparation for, fishing, including the processing, transshipment or transport of fish that have not been previously landed and offloaded at a port, as well as the provision of personnel, fuel, gear and other supplies at sea;
- (3) “vessel covered by the GFCM Agreement” means a fishing vessel or any other vessel used for, equipped to be used for, or intended to be used for, fishing or fishing related activities in the GFCM Area.
- (4) “port” means a port within the GFCM area, including offshore terminals and other installations for landing, transshipping, processing refuelling or resupplying;
- (5) the definition of illegal, unreported and unregulated (IUU) as laid down in Article 2(1) of Council Regulation (EC) No [...]/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing<sup>44</sup>.

*Article 32*  
**Scope**

1. This Section shall apply to third-country vessels covered by the GFCM Agreement which are seeking access to or are present in a port of a Member State and to Community vessels covered by the GFCM Agreement seeking access to or present in a port of a third-country GFCM Contracting Party.
2. Member States may take additional measures to reinforce effective jurisdiction and control over the fishing and fishing related activities of vessels flying their flag, which are seeking access to or are present in their ports, including the measures laid down in this Section.

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<sup>44</sup> OJ: Please add the date and number in 12083/08 in the text and the publication reference in this footnote.



### *Article 33*

#### **Relation with other Community provisions**

Unless otherwise provided for in this Section, this Section shall apply without prejudice to Regulation (EEC) No 2847/93 and to Council Regulation (EC) No 1093/94 of 6 May 1994 setting the terms under which fishing vessels of a third country may land directly and market their catches at Community ports<sup>45</sup>.

### *Article 34*

#### **Cooperation and exchange of information**

1. The Commission and Member States shall cooperate and exchange information with Executive Secretary of the GFCM, GFCM Contracting Parties and international organizations, in particular by:
  - (a) requesting information from, and providing information to, relevant databases;
  - (b) requesting and providing cooperation to promote the effective implementation of this Section.
2. Member States shall ensure, that their national fisheries related information systems allow for the direct electronic exchange of information on port State inspections referred to in this Section between them and the GFCM Secretariat, with due regard to appropriate confidentiality requirements.
3. Member States shall take measures to share by electronic means information among relevant national agencies and to coordinate the activities of such agencies in the implementation of the measures under this Section.
4. Member States shall establish a list of contact points for the purpose of this Section, which shall be transmitted electronically, by 15 February 2009 at the latest to the Commission, the Executive Secretary of GFCM and GFCM Contracting Parties.

### *Article 35*

#### **Designation of ports**

1. By way of derogation from Article 3 of Regulation (EC) No 1093/94, Member States shall designate the ports to which third-country vessels covered by the GFCM Agreement may be permitted access and shall ensure that every designated port has sufficient inspection capacity to conduct inspections and to take other port State measures in accordance with this Section.
2. Member States shall, by 15 February 2009, notify to the Commission and the Executive Secretary of GFCM the ports designated under paragraph 1 and make the information available on their website.

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<sup>45</sup> OJ L 121, 12.5.1994, p. 3.

### *Article 36*

#### **Prior Notice of Entry into Port and Port Use Authorisation**

1. By way of derogation from Article 28e(1) of Regulation (EEC) No 2847/93, the master of a third-country vessel covered by the GFCM Agreement wishing to utilise a designated port referred to in Article 35 shall comply with the requirement of the designated ports scheme as established by the port Member State in accordance with this Section and shall notify the competent authorities of that Member State of its intentions at least 72 hours before the estimated time of arrival. Another deadline may be established by the port State, taking into account, in particular, the distance between the fishing grounds and its ports.
2. The notification referred to in paragraph 1 shall include at least the information set out in Annex VIII, part A.
3. The competent authorities of the Member State shall communicate to the master of the third-country vessel seeking access to its port, in a written form, the authorisation for use of the port for landing, transshipping or processing. The master shall present the authorisation to the competent port authorities upon arrival at port before commencing the authorized activities.
4. Member States shall record, in electronic and paper format, the authorisations issued on the basis of this Article or the denial of access in accordance with Article 37 or 38.

### *Article 37*

#### **Denial of use of port**

Member States shall not allow a third-country vessel covered by the GFCM Agreement to use their designated ports, as designated in accordance with Article 35, for landing, transshipping or processing of fisheries products caught in the GFCM area and deny it access to port services, in particular refuelling and resupplying services, if:

- (a) the master of the vessel has not complied with its obligations as set out in Article 36(1);
- (b) the vessel is not flying the flag of a GFCM Contracting Party; or
- (c) the vessel is included in a list of vessels having engaged in, or supported, IUU fishing adopted by a regional fisheries management organisation to which the Community is party.
- (d) there are reasonable grounds to believe that the vessel does not have a valid authorisation to engage in fishing or fishing related activities in the GFCM Area and, upon being informed of those grounds, the master has not provided evidence of such authorisation.

*Article 38*

**Presumed IUU fishing**

1. Where a port Member State has reasons to assume that a third-country vessel which is seeking access to one of its ports, has carried out or supported IUU fishing in the GFCM Area, it shall notify the owner and, where appropriate, the operator of the fishing vessel by issuing a detailed statement of reasons, mentioning the right to ask for or to provide additional information, and give him the opportunity to be heard.
2. Where, on the basis of information obtained in accordance with paragraph 1, a Member State has reasonable grounds to believe that the vessel has carried out, or supported IUU, it shall not allow that vessel to use their ports for landing, transshipping or processing of fisheries products caught in the GFCM area and deny it access to port services, including, in particular, refuelling and resupplying services.

*Article 39*

**Communication and withdrawal of denial**

1. Where a Member State has denied the use of its ports in accordance Article 37 or Article 38(2), it shall promptly notify owner and, where appropriate, the operator of the fishing vessel, the flag State, the Commission, the Executive Secretary of the GFCM and other GFCM Contracting Parties of such action together with a detailed statement of reasons.
2. Where the grounds for denial referred to in Article 37 and 38 no longer apply, the Member State shall withdraw its denial and notify those to whom a notification was issued pursuant to paragraph 1.

*Article 40*

**Force majeure or distress**

The provisions of Articles 37 and 38 shall not affect the access of vessels to port in accordance with international law for reasons of *force majeure* or distress and the supply of services to vessels essential to the safety, health and welfare of the crew.

*Article 41*

**Non-authorized entry**

Member States shall ensure that any third-country vessel that has engaged in fishing or fishing related activities in the GFCM area and is entering their ports without prior authorisation shall be subject to inspection in accordance with this Section.

*Article 42*

**Inspections**

1. Each Member State shall inspect at least 50% of the third-country vessels entering its ports during the year 2009, in accordance with the inspection procedures set out in Annex VIII, part B.

2. In determining which vessels to inspect, Member States shall give priority to:
  - (a) vessels that have previously been denied the use of a port by another Member State in accordance with this Section, or by another GFCM Contracting Party in accordance with the provisions established by the GFCM, or
  - (b) requests from other Member States or GFCM Contracting Parties or regional fisheries management organisation that particular vessels be inspected.
3. Member States shall establish the conditions for the certification of its inspectors for the purpose of carrying out the inspections under this Article. Such conditions shall include the elements for the training of inspectors in Annex VIII, part C.
4. Inspections shall be carried out in such a way as to avoid unduly delaying vessels and to ensure that vessels suffer the minimum interference and inconvenience possible and that degradation of the quality of the fish is avoided.
5. The results of the inspection shall be laid down in an inspection report, to be completed and signed by the inspector and including at least the information set out in Annex VIII, part D.
6. The results of inspection shall be presented to owner and, where appropriate, the operator of the fishing vessel for review, who shall be given the opportunity to add any comment to the report and to contact the relevant authorities of the flag State, in particular when there are serious difficulties in understanding the contents of the report.
7. A copy of the report of inspection shall be provided to the master of the inspected vessel to be kept on board the vessel.

#### *Article 43*

#### **Standardised information on port inspections**

Member States shall record and handle the information on port inspections in a standardised form in accordance with the provisions laid down in Annex VIII, part E.

#### *Article 44*

#### **Role of the flag State**

1. Member States shall ensure that vessels flying their flag land, tranship and process fish, and use other port services, in ports of other Member States or GFCM Contracting Parties that are acting in accordance, or in a manner consistent, with this Section.
2. When a Member State has reasonable grounds to assume that a vessel flying its flag has carried out, or supported, IUU fishing and is seeking access to or is in the port of another Member State or GFCM Contracting Party, it shall, as appropriate, request that Member State or GFCM Contracting Party to inspect the vessel and to advise it of the results.

3. The master of a vessel when being inspected shall:
  - a) co-operate with and assist in the inspection of the vessel conducted pursuant to the procedures in this Section, and not obstruct, intimidate or interfere with the inspectors in the performance of their duties;
  - b) provide access to any areas, decks and rooms of the vessel, catches and fisheries products on board, nets or other gear, equipment, and any information or documents which the inspector deems necessary in undertaking an inspection;
  - c) provide access to registration documents, fishing authorisations or any other documentation as required by the inspector.
4. If the master of a vessel refuses to allow an authorized inspector to carry out an inspection in accordance with this Section, the master shall offer an explanation of the reason for such refusal. The port inspection authorities of the concerned Member State shall immediately notify the authorities of the flag State, the Commission and the Executive Secretary of the GFCM of the master's refusal and explanation.
5. In case the master of a vessel flying the flag of a Member State does not comply with its obligations under paragraph 3 and the explanation for refusal referred to in paragraph 4 cannot be considered to be justified on grounds of force majeure or distress, the flag Member States shall take appropriate action in respect of the vessel concerned, in particular by suspending the vessel's authorisation to fish and order the vessel to remain in port or by taking other measures that it deems appropriate. The flag Member State shall immediately notify the port inspection authorities, the Commission and the Executive Secretary of the GFCM of the action it has taken in these circumstances.

### **SECTION 3**

#### **REPORTING OF STATISTICAL MATRIXES**

##### *Article 45*

##### **Transmission of data**

1. Member States shall submit to the Executive Secretary of GFCM, by 30 June 2009, the data of Task 1.1 and Task 1.2 of the GFCM statistical matrix as set out in Annex IX.
2. Member States shall submit to the Executive Secretary of GFCM, by 30 June 2009 and to the extent possible, the data of Tasks 1.3, 1.4 and 1.5 of the GFCM statistical matrix as set out in Annex IX.
3. Member States shall use the GFCM data-entry system as available at the GFCM web-site<sup>46</sup> for the submission of data referred to in paragraphs 1 and 2.

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<sup>46</sup> <http://www.gfcm.org/gfcm/topic/16164>

4. Member States shall inform the Commission of the data submitted on the basis of this Article.

## **CHAPTER VII**

### **Special provisions for Community vessels fishing in the NAFO Regulatory Area**

#### *Article 46*

#### **Catch reporting**

1. The master of a vessel authorised to fish for Greenland halibut in accordance with Article 5 of Regulation (EC) No 2115/2005 shall, by electronic means, send to the competent authorities of his flag Member State a catch report stating the quantities of Greenland halibut caught by his vessel, including zero catch returns.
2. The report provided for in paragraph 1 shall for the first time be transmitted at the latest at the end of the tenth day following the date of the entry of the vessel into the NAFO Regulatory Area or after the beginning of the fishing trip. The report shall be transmitted on a five day basis. When catches of Greenland halibut notified in accordance with paragraph 1 are deemed to have exhausted 75 % of the flag Member States' quota allocation, the master of a vessel shall transmit the reports on a three day basis.
3. Each Member State shall upon receipt forward the catch reports to the Commission. The Commission shall promptly forward that information to the NAFO Secretariat.

#### *Article 47*

#### **Additional control measures**

1. Vessels authorised to fish for Greenland halibut in accordance with Article 5 of Regulation (EC) No 2115/2005 may only enter into the NAFO Regulatory Area to fish for Greenland halibut if they have less than 50 tons of any catch on board or if access is permitted in accordance with paragraphs 2, 3 and 4 of this Article.
2. Where a vessel authorised to fish for Greenland halibut in accordance with Article 5 of Regulation (EC) No 2115/2005 has catches from outside the NAFO Regulatory Area of 50 tons or more on board, it shall communicate to the NAFO Secretariat, by e-mail or fax at the latest 72 hours prior to the entry (ENT) into the NAFO Regulatory area, the amount of catch retained on board, the position (latitude/longitude) where the master of the vessel estimates that the vessel will commence fishing, and the estimated time of arrival at the position.
3. If an inspection vessel, following the notification referred to in paragraph 2, signals its intention to carry out an inspection, it shall communicate the coordinates of a checkpoint for an inspection to take place to the fishing vessel. The checkpoint shall be no more than 60 nautical miles from the position where the master of the vessel estimates that the vessel will commence fishing.

4. If a fishing vessels authorised to fish for Greenland halibut in accordance with Article 5 of Regulation (EC) No 2115/2005 receives no communication from the NAFO Secretariat or from an inspection vessel, by the time it enters the NAFO Regulatory Area, that an inspection vessel intends to carry out an inspection in accordance with paragraph 3, the fishing vessel may proceed to fish. The fishing vessel may also commence fishing activities without prior inspection if the inspection vessel has not commenced the inspection within three hours following the arrival of the fishing vessel at the checkpoint.]

## **CHAPTER VIII**

### **Special provisions for the landing or transshipping of fish frozen after being caught by third-country fishing vessels in the NEAFC Convention area**

#### *Article 48*

#### **Port State control**

Without prejudice to Regulation (EEC) No 2847/93 and to Regulation (EC) No 1093/94 the procedures set out in this Chapter shall apply to landing or transshipping in ports of Member States of fish frozen after being caught by third country fishing vessels in the NEAFC Convention area.

#### *Article 49*

#### **Designated ports**

Landings and transshipments in Community waters shall only be allowed in designated ports.

Member States shall designate a place used for landings or a place close to the shore (designated ports) where landings or transshipment operations of fish, referred to in Article 48, are permitted. Member States shall notify the Commission of any changes to the list of ports designated in 2007 at least fifteen days before the change shall come into force.

The Commission shall publish the list of designated ports and changes thereto in the "C" series of the Official Journal of the European Union and place it on its website.

#### *Article 50*

#### **Prior notice of entry into port**

1. By way of derogation from Article 28e(1) of Regulation (EEC) No 2847/93, the masters of all fishing vessels or their representatives, carrying fish referred to in Article 48 of this Regulation, intending to call into a port to land or tranship shall notify the competent authorities of the Member State of the port they wish to use at least three working days before the estimated time of arrival.

2. The notification referred to in paragraph 1 of this Article shall be accompanied by the form provided for in Part I of Annex X with Part A duly completed as follows:
  - (a) Form PSC 1 shall be used where the fishing vessel is landing its own catch;
  - (b) Form PSC 2 shall be used where the fishing vessel has engaged in transshipment operations. In such cases a separate form shall be used for each donor vessel.
3. Masters of vessels or their representatives may cancel a prior notification by notifying the competent authorities of the port they wish to use at least 24 hours before the notified estimated time of arrival in the port. The notification shall be accompanied by a copy of the original notification PSC1 or 2 with the word "CANCELLED" written across Part B.
4. The competent authorities of the port Member State shall forward a copy of the form as referred to in paragraphs 2 and 3 without delay to the flag State of the fishing vessel and to the flag State(s) of donor vessels when the vessel has engaged in transshipment operations and to the NEAFC Secretary.

#### *Article 51*

#### **Authorisation to land or tranship**

1. Landings or transshipments may only be authorised by the competent authorities of the port Member State if the flag State of the fishing vessel intending to land or tranship, or where the vessel has engaged in transshipment operations outside a port, the flag State or States of donor vessels, have confirmed by returning a copy of the form transmitted pursuant to Article 50(3) with Part B duly completed, that:
  - (a) the fishing vessels declared to have caught the fish had sufficient quota for the species declared;
  - (b) the quantities of fish on board have been duly reported and taken into account for the calculation of any catch or effort limitations that may be applicable;
  - (c) the fishing vessels declared to have caught the fish had authorisation to fish in the areas declared;
  - (d) the presence of the vessel in the area of catch declared has been verified according to VMS data.

Landing or transshipment operations may only commence after authorisation has been given by the competent authorities of the port Member State.

2. By way of derogation from paragraph 1 the competent authorities of the port Member State may authorise all or part of a landing in the absence of the confirmation referred to in paragraph 1 but shall in such cases keep the fish concerned in storage under their control. The fish shall only be released to be sold, taken over or transported once the confirmation referred to in paragraph 1 has been received. If the confirmation has not been received within 14 days of the landing the



competent authorities of the port Member State may confiscate and dispose of the fish in accordance with national rules.

3. The competent authorities of the port Member State shall notify without delay its decision whether or not to authorise the landing or transshipment by transmitting a copy of the form provided for in Part I of Annex X with Part C duly completed to the Commission and to the Secretary of NEAFC when the fish landed or transhipped is caught in the NEAFC Convention area.

#### *Article 52* **Inspections**

1. The competent authorities of Member States shall carry out inspections of at least 15 % of landings or transshipments by third country fishing vessels, referred to in Article 48, in its ports each year.
2. Inspections shall involve the monitoring of the entire discharge or transshipment and include a cross-check between the quantities by species recorded in the prior notice of landing and the quantities by species landed or transhipped.
3. Inspectors shall make all possible efforts to avoid unduly delaying a fishing vessel and ensure that the fishing vessel suffers the minimum interference and inconvenience and that degradation of the quality of the fish is avoided.

#### *Article 53* **Inspection reports**

1. Each inspection shall be documented by completing an inspection report as set out in Part II of Annex X.
2. A copy of each inspection report shall be transmitted without delay to the flag State of the inspected fishing vessel and to the flag State or States of donor vessels where the fishing vessel has engaged in transshipment operations and to the Commission and the Secretary of NEAFC when the fish landed or transhipped is caught in the NEAFC Convention Area.
3. The original or a certified copy of each inspection report shall be forwarded on request to the flag State of the inspected fishing vessel.

# [CHAPTER IX Special provisions for Community vessels fishing in the CCAMLR Convention Area

## SECTION 1 RESTRICTIONS AND VESSEL INFORMATION REQUIREMENTS

### *Article 54*

#### **Prohibitions and catch limitations**

1. Direct fishing of the species set out in Annex XI shall be prohibited in the zones and during the periods set out in that Annex.
2. For new and exploratory fisheries, the catch and by-catch limits set out in Annex X shall apply in the Subareas set out in that Annex.

## SECTION 2 EXPLORATORY FISHERIES

### *Article 55*

#### **Rules of conduct for exploratory fisheries**

Without prejudice to Article 4 of Regulation (EC) No 601/2004 Member States shall ensure that all Community fishing vessels are equipped with:

- (a) adequate communication equipment (including MF/HF radio and carriage of at least one 406MHz Emergency Position Indicating Radio Beacon (EPIRB) and trained operators on board and wherever possible fitted with GMDSS equipment;
- (b) sufficient immersion survival suits for all on board;
- (c) adequate arrangements to handle medical emergencies that may arise in the course of the voyage;
- (d) reserves of food, fresh water, fuel and spare parts for critical equipment to provide for unforeseen delays and besetment;
- (e) an approved Shipboard Oil Pollution Emergency Plan (SOPEP) outlining marine pollution mitigation arrangements (including insurance) in the event of a fuel or waste spill.

#### Article 56

### Participation in exploratory fisheries

1. Fishing vessels flying the flag of, and registered in, Spain that have been notified to CCAMLR in accordance with the provisions of Articles 7 and 7a of Regulation (EC) No 601/2004 may participate in long-line exploratory fisheries for *Dissostichus* spp. in Subareas FAO 88.1 and 88.2 as well as in Divisions 58.4.1, 58.4.2 and 58.4.3b) outside Areas of national jurisdiction.
2. No more than one fishing vessel shall fish in Division 58.4.3b) at any one time.
3. With regard to Subareas 88.1 and 88.2 as well as Divisions 58.4.1 and 58.4.2, total catch and by-catch limits per Subarea and Division, and their distribution among Small Scale Research Units (SSRUs) within each of them shall be as set out in Annex XII. Fishing in any SSRU shall cease when the reported catch reaches the specified catch limit, and that SSRU shall be closed to fishing for the remainder of the season.
4. Fishing shall take place over as large a geographical and bathymetric range as possible to obtain the information necessary to determine fishery potential and to avoid over-concentration of catch and fishing effort. However, fishing in Divisions 58.4.1 and 58.4.2 shall be prohibited in depths less than 550 m.

#### Article 57

### Reporting systems

Fishing vessels participating in the exploratory fisheries as referred to in Article 55 shall be subject to the following catch and effort reporting systems:

- (a) the Five-day Catch and Effort Reporting System set out in Article 12 of Regulation (EC) No 601/2004, with the exception that Member States shall submit to the Commission catch and effort reports not later than two working days after the end of each reporting period, for immediate transmission to CCAMLR. In Subareas 88.1 and 88.2 as well as in Divisions 58.4.1 and 58.4.2, reporting shall be made by Small Scale Research Units;
- (b) the Monthly fine-scale Catch and Effort Reporting System set out in Article 13 of Regulation (EC) No 601/2004;
- (c) the total number and weight of *Dissostichus eleginoides* and *Dissostichus mawsoni* discarded, including those with the "jellymeat" condition, shall be reported.

#### Article 58

### Definition of hauls

1. For the purposes of this Section, a haul shall comprise the setting of one or more lines in a single location. The precise geographic position of a haul shall be determined by the centre-point of the line or lines deployed for the purposes of catch and effort reporting.

2. To be designated as a research haul:
  - (a) each research haul shall be separated by no less than five nautical miles from any other research haul, distance to be measured from the geographical mid-point of each research haul;
  - (b) each haul shall comprise at least 3 500 hooks and no more than 10 000 hooks; this may comprise a number of separate lines set in the same location;
  - (c) each haul of a longline shall have a soak time of not less than six hours, measured from the time of completion of the setting process to the beginning of the hauling process.

#### *Article 59*

#### **Research plans**

Fishing vessels participating in the exploratory fisheries referred to in Article 55 shall implement Research Plans, in each and all SSRUs in which FAO Subareas 88.1 and 88.2 as well as Divisions 58.4.1 and 58.4.2 are divided. The Research Plan shall be implemented in the following manner:

- (a) on first entry into a SSRU, the first 10 hauls, designated "first series", shall be designated "research hauls" and must satisfy the criteria set out in Article 58(2);
- (b) the next 10 hauls, or 10 tonnes of catch, whichever trigger level is achieved first, shall be designated the "second series". Hauls in the second series may, at the discretion of the master, be fished as part of normal exploratory fishing. However, provided they satisfy the requirements of Article 58(2), these hauls may also be designated as research hauls;
- (c) on completion of the first and second series of hauls, if the master wishes to continue to fish within the SSRU, the vessel shall undertake a "third series" which shall result in a total of 20 research hauls being made in all three series. The third series of hauls shall be completed during the same visit as the first and the second series in a SSRU;
- (d) on completion of 20 research hauls of the third series, the vessel may continue to fish within the SSRU;
- (e) in SSRUs A, B, C, E and G in Subareas 88.1 and 88.2 where fishable seabed area is less than 15 000 km<sup>2</sup>, points (b), (c) and (d) shall not apply and on completion of 10 research hauls the vessel may continue to fish within the SSRU.

#### *Article 60*

#### **Data collection plans**

1. Fishing vessels participating in the exploratory fisheries referred to in Article 56 shall implement data collection plans, in each and all SSRUs in which FAO Subareas 88.1 and 88.2 as well as Divisions 58.4.1 and 58.4.2 are divided. The Data Collection Plan shall comprise the following data:

- (a) the position and sea depth at each end of every line in a haul;
  - (b) the setting, soak, and hauling times;
  - (c) the number and species of fish lost at surface;
  - (d) the number of hooks set;
  - (e) the bait type;
  - (f) the baiting success ( %);
  - (g) the hook type; and
  - (h) the sea and cloud conditions and phase of the moon at the time of setting the lines.
2. All data referred to under paragraph 1 shall be collected for every research haul; in particular, all fish in a research haul up to 100 fish are to be measured and at least 30 fish sampled for biological studies. Where more than 100 fish are caught, a method for randomly subsampling the fish shall be applied.

#### *Article 61*

#### **Tagging programme**

Without prejudice to Article 7b of Regulation (EC) No 601/2004 each longline vessel shall tag and release *Dissostichus* spp., continuously while fishing, at a rate specified in the conservation measure for that fishery according to the CCAMLR Tagging Protocol.

#### *Article 62*

#### **Scientific observers**

1. Each fishing vessel participating in the exploratory fisheries referred to in Article 56 shall have at least two scientific observers, one of which shall be an observer appointed in accordance with the CCAMLR Scheme of International Scientific Observation, on board throughout all fishing activities within the fishing period.
2. Each Member State, subject to and in accordance with their applicable laws and regulations, including rules governing the admissibility of evidence in domestic courts, shall consider and act on reports from inspectors of designating CCAMLR Contracting party under this scheme on the same basis as reports from its own inspectors and both Member State and designating CCAMLR Contracting party concerned shall cooperate in order to facilitate judicial or other proceedings arising from any such report.

#### *Article 63*

#### **Notifications of intent to participate in a krill fishery**

1. By way of derogation from Article 5a of Regulation (EC) No 601/2004, Member States intending to fish for krill in the CCAMLR Convention Area, shall notify the

CCAMLR Secretariat and the Commission, of their intention not less than four months in advance of the annual meeting of the CCAMLR Commission, immediately prior to the season in which they intend to fish, using the format laid down in Annex XIII to this Regulation in order to ensure an appropriate review by the CCAMLR Commission before the vessels commence fishing.

2. The notification, referred to in paragraph 1 shall include the information provided for in Article 3 of Regulation (EC) No 601/2004 for each vessel to be authorised by the Member State to participate in the krill fishery.
3. Member States intending to fish for krill in the CCAMLR Convention Area shall only notify vessels flying its flag at the time of the notification.
4. By way of derogation from paragraph 3, Member States shall be entitled to authorise participation in a krill fishery by a vessel other than that notified to CCAMLR in accordance with paragraphs 1 to 3, if the notified vessel is prevented from participation due to legitimate operational reasons or *force majeure*. In such circumstances Member States concerned shall immediately inform the CCAMLR Secretariat and the Commission, providing:
  - (i) full details of the intended replacement vessel(s) referred to in paragraph 2;
  - (ii) a comprehensive account of the reasons justifying the replacement and any relevant supporting evidence or references.
5. By way of derogation from paragraphs 3 and 4, Member States shall not authorise a vessel on either of the CCAMLR IUU Vessel Lists to participate in krill fisheries.

#### *Article 64*

#### **Precautionary catch limitations on krill fishery for certain sub areas**

1. The total combined catch of krill in Statistical Sub areas 48.1, 48.2, 48.3 and 48.4 shall be limited to 3,47 million tonnes in any fishing season. The total catch of krill in Statistical Division 58.4.2 shall be limited to 2,645 million tonnes in any fishing season.
2. Until an allocation of this total catch limit between smaller management units has been defined, based on the advice from the Scientific Committee, the total combined catch in Statistical Sub areas 48.1, 48.2, 48.3 and 48.4 shall be further limited to 620 000 tonnes in any fishing season. The total catch in Division 58.4.2 shall be limited to 260 000 tonnes West of 55°E and 192 000 tonnes East of 55°E in any fishing season.
3. A fishing season shall begin on 1 December and end on 30 November of the following year.
4. Each vessel participating in the krill fishery in Division 58.4.2 shall have at least one scientific observer in accordance with the CCAMLR Scheme of International Scientific Observation or a domestic scientific observer fulfilling the requests in that

scheme, and where possible one additional scientific observer on board throughout all fishing activities within the fishing period.

#### *Article 65*

#### **Data Reporting System for krill fisheries**

1. Catches of krill shall be reported in accordance with Article 10 of Regulation (EC) 601/2004.
2. When the total reported catch in any fishing season is greater than or equal to 80 % of the trigger level of 620 000 tonnes in Sub areas 48.1, 48.2, 48.3 and 48.4 and of 260 000 tonnes west of 55°E and 192 000 tonnes east of 55°E in sub area 58.4.2, catches shall be reported in accordance with Article 11 of Regulation (EC) 601/2004.
3. In the fishing season following that in which the total catch has been greater than or equal to 80 % of the trigger level, laid down in paragraph 2, catches shall be reported in accordance with Article 11 of Regulation (EC) 601/2004 when the total catch is greater than or equal to 50 % of that trigger level.
4. At the end of each fishing season Member States shall obtain from each of its vessels the haul-by-haul data required to complete the CCAMLR fine-scale catch and effort data form. It shall transmit those data, in the trawl fisheries form C1 of CCAMLR, to the CCAMLR Executive Secretary and to the Commission not later than 1 April of the following year.

#### *Article 66*

#### **Certain limits on the exploratory fishery for *Dissostichus* spp.**

1. The total catch of *Dissostichus* spp. on BANZARE Bank (Statistical Division 58.4.3b) outside areas falling under national jurisdiction in the 2008/09 fishing season shall not exceed:
  - (i) a precautionary catch limit of 150 tonnes applied as follows:
    - SSRU A – 150 tonnes
    - SSRU B – 0 tonnes;
  - (ii) an additional catch limit of 50 tonnes for the scientific research survey in SSRUs A and B in 2008/09.
2. The total catch in SSRU A, referred to in paragraph 1(i), shall not be taken during the period from 16 March 2009 until the end of the scientific research survey or 1 June 2009, whichever is sooner.

#### *Article 67*

#### **Interim prohibition of deep-sea gillnetting**

1. For the purpose of this Article the following definition shall apply:

Gillnets are strings of single, double or triple netting walls, vertical, near the surface, in midwater or on the bottom, in which fish will gill, entangle or enmesh. Gillnets have floats on the upper line (headrope) and, in general, weights on the ground-line (footrope). Gillnets consist of single or, less commonly, double or triple netting (known as "trammel net") mounted together on the same frame ropes. Several types of nets may be combined in one gear (for example, trammel net combined with gillnet). These nets can be used either alone or, as is more usual, in large numbers placed in line ("fleets" of nets). The gear can be set, anchored to the bottom (known as "bottom-set net") or left drifting, free or connected with the vessel (known as "driftnet").

2. The use of gillnets in the CCAMLR Convention Area, for purposes other than scientific research, is prohibited until such time as the Scientific Committee has investigated and reported on the potential impacts of this gear and the Commission has agreed on the basis of advice from the Scientific Committee that such a method may be used in the CCAMLR Convention Area.
3. Proposal for the use of gillnets for scientific research in waters deeper than 100 meters shall be notified in advance to the Scientific Committee and be approved by the Commission before such research can commence.
4. Any vessel seeking to transit the CCAMLR Convention Area carrying gillnets must give advance notice of its intent, including the expected dates of its passage through the CCAMLR Convention Area to the Secretariat. Any vessel in possession of gillnets within the CCAMLR Convention Area which has not given such an advance notice, shall be in breach of this provisions.

#### *Article 68*

##### **Minimisation of the incidental mortality of seabirds**

1. Without prejudice to Article 8 of Regulation (EC) No 601/2004 vessels using the Spanish method of longline fishing shall release weights before line tension occurs.
2. For the purpose of the longline fishing referred to in paragraph 1, the following weights may be used:
  - (a) traditional weights made from rocks or concrete of at least 8.5 kg mass which shall be used, spaced at intervals of no more than 40 m;
  - (b) traditional weights made from rocks or concrete of at least 6 kg mass which shall be used, spaced at intervals of no more than 20 m; or
  - (c) solid steel weights, not made from chain links of at least 5 kg mass which shall be used, spaced at intervals of no more than 40 m.

#### *Article 69*

##### **Closure of all fisheries**

1. Following notification by the CCAMLR Secretariat of the closure of a fishery, Member States shall ensure that all vessels flying their flag and fishing in the area,



management area, subarea, division, small-scale research unit or other management unit, subject to the closure notice, shall remove all their fishing gear from the water by the notified closure date and time.

2. On receipt of such notification by the vessel, no further longlines may be set within 24 hours of the notified date and time. If such notification is received less than 24 hours before the closure date and time, no further longlines may be set following receipt of that notification.
3. In the case of closure of the fishery, all vessels shall depart from the fishing area as soon as all fishing gear has been removed from the water.
4. Where a vessel is unable to remove all its fishing gear from the water by the notified closure date and time for reasons relating to:
  - (i) the safety of the vessel and crew;
  - (ii) the limitations which may arise from adverse weather conditions;
  - (iii) sea-ice cover; or
  - (iv) the need to protect the Antarctic marine environment,the vessel shall notify the Member State concerned of the situation. The Member States shall promptly notify the CCAMLR Secretariat, and the Commission. The vessel shall nonetheless make all reasonable efforts to remove all its fishing gear from the water as soon as possible.
5. If paragraph 4 applies, Member States shall carry out an investigation of the vessel's actions and, according to its domestic procedures, report the CCAMLR Secretariat and the Commission of its findings, including all relevant matters, no later than the next CCAMLR meeting. The final report shall assess whether the vessel made all reasonable efforts to remove all its fishing gear from the water:
  - (i) by the notified closure date and time; and
  - (ii) as soon as possible after the notification referred to in paragraph 4.
6. Where a vessel does not depart from the closed area as soon as all fishing gear has been removed from the water, the flag Member State or vessel shall inform the CCAMLR Secretariat and the Commission.]

# **CHAPTER X**

## **Special provisions for Community vessels fishing in the SEAFO area**

### **SECTION 1**

#### **AUTHORISATION OF VESSELS**

##### *Article 70*

##### **Authorisation of vessels**

1. Member States shall submit electronically, where possible, to the Commission by 1 June 2009, the list of their vessels that are authorised to operate in the SEAFO Convention Area by issue of a fishing authorisation.
2. Owners of the vessels included in the list referred to in paragraph 1 shall be citizens or legal entities of the Community.
3. Fishing vessels may be authorised to operate in the SEAFO Convention Area only if they are able to fulfil in respect of those vessels the requirements and responsibilities under the SEAFO Convention and its conservation and management measures.
4. No fishing authorisation shall be issued to vessels that have a history of IUU fishing activities unless the new owners have provided sufficient evidence demonstrating that the previous owners and operators have no legal, beneficial or financial interest in, or control over those vessels, or that, having taken into account all relevant facts, their vessels are not engaged in or associated with IUU fishing.
5. The list referred to in paragraph 1 shall include the following information:
  - (a) name of vessel, registration number, previous names (if known), and port of registry;
  - (b) previous flag (if any);
  - (c) International Radio Call Sign (if any);
  - (d) name and address of owner or owners;
  - (e) type of vessel;
  - (f) length;
  - (g) name and address of operator (manager) or operators (managers) (if any);
  - (h) gross register tonnage; and
  - (i) power of main engine or engines.

6. Member States shall promptly notify the Commission, after the establishment of the initial list of authorised vessels, of any addition to, deletion from and/or any modification whenever such changes occur.

*Article 71*

**Obligations for authorised vessels**

1. Vessels shall comply with all the relevant SEAFO conservation and management measures.
2. Authorised vessels shall keep on board valid certificates of vessel registration and valid authorisation to fish and/or tranship.

*Article 72*

**Unauthorised vessels**

1. Member States shall take measures to prohibit the fishing for, the retaining on board, the transshipment and landing of species covered by the SEAFO Convention by the vessels which are not entered into the SEAFO record of authorised vessels.
2. Member States shall notify the Commission of any factual information showing that there are reasonable grounds for suspecting vessels not on the SEAFO record of authorised vessels to be engaged in fishing for and/or transshipment of species covered by the SEAFO Convention in the SEAFO Convention Area.
3. Member States shall take the necessary measures to ensure that the owners of vessels included in the SEAFO record of authorised vessels are not engaged in or associated with fishing activities conducted by vessels not entered into the record of authorised vessels in the SEAFO Convention Area.

**SECTION 2**

**TRANSHIPMENTS**

*Article 73*

*Prohibition of transshipments at sea*

Each Member State shall prohibit transshipments at sea by vessels flying their flag in the SEAFO Convention Area, for species covered by the SEAFO Convention.

*Article 74*

*In-port Transshipments*

1. Community fishing vessels which catch species covered by the SEAFO Convention in the SEAFO Convention Area shall only tranship in the port of a SEAFO Contracting Party if they have prior authorisation from the Contracting Party in whose port the operation will take place. Community fishing vessels shall be

permitted to carry out transshipments only if they have obtained such a prior authorisation to tranship from the flag Member State and the port State.

2. Each Member State shall ensure that its authorised fishing vessels obtain a prior authorisation to engage in in-port transshipments. Member States shall also ensure that the transshipments are consistent with the reported catch amount of each vessel and require the reporting of transshipments.
3. The master of a Community fishing vessel who transships to another vessel, hereinafter referred to as "the receiving vessel", any quantity of catches of species covered by the SEAFO Convention fished in the SEAFO Convention Area shall at the time of the transshipment inform the flag State of the receiving vessel of the species and quantities involved, of the date of the transshipment and the location of catches and shall submit to his flag Member State a SEAFO transshipment declaration in accordance with the format set out in Part I of Annex XIV.
4. The master of the Community fishing vessel shall notify, at least 24 hours in advance, the following information to the SEAFO Contracting Party in whose port the transshipment will take place:
  - the names of the transshipping fishing vessels,
  - the names of the receiving vessels,
  - the tonnage by species to be transshipped,
  - the day and port of transshipment.
5. Not later than 24 hours before the beginning, and at the end of a transshipment when this takes place in a port of a SEAFO Contracting Party, the master of the Community flagged receiving vessel shall inform the competent authorities of the port State of the quantities of catches of species covered by the SEAFO Convention on board his vessel and transmit the SEAFO transshipment declaration to these competent authorities within 24 hours.
6. The master of the receiving Community vessel shall, 48 hours before landing, submit a SEAFO transshipment declaration to the competent authorities of the port State where the landing takes place.
7. Each Member State shall take the appropriate measures to verify the accuracy of the information received and shall cooperate with the flag State to ensure that landings are consistent with the reported catches amount of each vessel.
8. Each Member State with vessels authorised to fish in the SEAFO Convention Area for species covered by the SEAFO Convention, shall notify by 1 June 2009 to the Commission the details of the transshipments by its flag vessels.

**SECTION 3**  
**CONSERVATION MEASURES FOR**  
**THE MANAGEMENT OF VULNERABLE DEEP-WATER**  
**HABITATS AND ECOSYSTEMS**

*Article 75*  
**Closed areas**

All fishing activities for species covered by the SEAFO Convention by Community fishing vessels shall be prohibited in the areas defined below:

- (a) Sub Division A1
  - (i) Dampier Seamount
    - 10°00'S 02°00'W      10°00'S 00°00'E
    - 12°00'S 02°00'W      12°00'S 00°00'E;
  - (ii) Malahit Guyot Seamount
    - 11°00'S 02°00'W      11°00'S 04°00'W
    - 13°00'S 02°00'W      13°00'S 04°00'W;
- (b) Sub-division B1
  - Molloy Seamount
    - 27°00'S 08°00'E      27°00'S 10°00'E
    - 29°00'S 08°00'E      29°00'S 10°00'E;
- (c) Division C
  - (i) Schmidt-Ott Seamount & Erica Seamount
    - 37°00'S 13°00'E      37°00'S 17°00'E
    - 40°00'S 13°00'E      40°00'S 17°00'E;
  - (ii) Africana seamount
    - 37°00'S 28°00'E      37°00'S 30°00'E
    - 38°00'S 28°00'E      38°00'S 30°00'E;
  - (iii) Panzarini Seamount

39°00'S 11°00'E      39°00'S 13°00'E  
41°00'S 11°00'E      41°00'S 13°00'E;

(d) Sub-division C1

(i) Vema Seamount

31°00'S 08°00'E      31°00'S 09°00'E  
32°00'S 08°00'E      32°00'S 09°00'E;

(ii) Wust Seamount

33°00'S 06°00'E      33°00'S 08°00'E  
34°00'S 06°00'E      34°00'S 08°00'E;

(e) Division D

(i) Discovery, Junoy, Shannon Seamounts

41°00'S 06°00'W      41°00'S 03°00'E  
44°00'S 06°00'W      44°00'S 03°00'E;

(ii) Schwabenland & Herdman Seamounts

44°00'S 01°00'W      44°00'S 02°00'E  
47°00'S 01°00'W      47°00'S 02°00'E.

*Article 76*

**Resumption of fishing in a closed area**

1. No fishing shall resume in a closed fishing area referred to in Article 75 until the flag State has identified and mapped vulnerable marine ecosystems, including seamounts, hydrothermal vents and cold water corals in the area and made an assessment on the impact of any resumption of fishing on such vulnerable marine ecosystems.
2. The results of the identification, mapping and impact assessment carried out in accordance with paragraph 1 shall be submitted by the flag State to the Commission for transmission to the Annual Scientific Committee Meeting of SEAFO.
3. Member States may submit Research Fishing Plans to the Commission for evaluation of the impact of the fisheries on the sustainability of the fisheries resources and on vulnerable marine habitats.

**SECTION 4**  
**MEASURES ON REDUCING INCIDENTAL**  
**BY-CATCH OF SEABIRDS**

*Article 77*

**Information on interactions with seabirds**

Member States shall collect and provide all available information to the Commission by 1 June 2009, on interactions with seabirds, including incidental catches by their fishing vessels, fishing for species covered by the SEAFO Convention.

*Article 78*

**Mitigation measures**

1. All Community vessels fishing south of the parallel of latitude 30 degrees South shall carry and use bird-scaring lines (tori poles):
  - (a) tori poles shall comply with agreed tori pole design and deployment guidelines, as set out in Part II of Annex XIV;
  - (b) tori poles shall be deployed prior to longlines entering the water at all times south of the parallel of latitude 30 degrees South;
  - (c) where practical, vessels shall be encouraged to use a second tori pole and bird-scaring line at times of high bird abundance or activity;
  - (d) back-up tori lines shall be carried by all vessels and be ready for immediate use.
2. Longlines shall be set at night only (i.e. during the hours of darkness between the times of nautical twilight<sup>47</sup>). During longline fishing at night, only the minimum ship's lights necessary for safety shall be used.
3. The dumping of offal shall be prohibited while gear is being shot or set. The dumping of offal during the hauling of gear shall be avoided. Any such discharge shall take place, where possible, on the opposite side of the vessel to that where the gear is being hauled. For vessels or fisheries where there is no requirement to retain offal on board the vessel, a system shall be implemented to remove fish hooks from offal and fish heads prior to discharge. Nets shall be cleaned prior to shooting to remove items that might attract seabirds.
4. Community fishing vessels shall adopt shooting and hauling procedures that minimise the time during which the net is lying on the surface with the meshes slack.

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<sup>47</sup> The exact times of nautical twilight are set out in the Nautical Almanac tables for the relevant latitude, local time and date. All times, whether for ship operations or observer reporting, shall be referenced to GMT.

Net maintenance shall, to the extent possible, not be carried out with the net in the water.

5. Community fishing vessels shall be encouraged to develop gear configurations that will minimise the likelihood of birds encountering the part of the net to which they are most vulnerable. This may include increasing the weighting or decreasing the buoyancy of the net so that it sinks faster, or placing coloured streamer or other devices over particular areas of the net where the mesh sizes create a particular danger to birds.
6. Community fishing vessels which are so configured that they lack on-board processing facilities or adequate capacity to retain offal on-board, or the ability to discharge offal on the opposite side of the vessel to that where gear is being hauled, shall not be authorised to fish in the SEAFO Convention Area.
7. Every effort shall be made to ensure that birds captured alive during fishing operations are released alive and that whenever possible hooks are removed without jeopardising the life of the bird concerned.

## **SECTION 6 TECHNICAL MEASURES**

### *Article 79*

#### **measures for the protection of deep water sharks**

Directed fishing for deep water sharks in the SEAFO Convention Area shall be prohibited.

## **SECTION 6 CONTROL**

### *Article 80*

#### **Special Provisions for Patagonian Toothfish (*Dissostichus eleginoides*)**

1. The master of a vessel authorised to fish for Patagonian Toothfish in the SEAFO Convention Area in accordance with Article 70 shall, by electronic means, send to the competent authorities of his flag Member State and the SEAFO Secretariat a catch report stating the quantities of Patagonian Toothfish caught by his vessel including nil returns. This report shall be sent every five days of the fishing trip. Each Member State shall promptly forward that information to the Commission.
2. Member States with vessels authorised to fish for Patagonian Toothfish in the SEAFO Convention Area shall provide detailed catch and effort data to the Commission, and the SEAFO Secretariat, no later than 30 June 2009.



*Article 81*

**Special Provisions for Deep-sea Red Crab (*Chaceon spp*)**

1. The master of a vessel authorised to fish for Deep-sea Red Crab in the SEAFO Convention Area in accordance with Article 70 shall, by electronic means, send to the competent authorities of his flag Member State and the SEAFO Secretariat a catch report stating the quantities of Deep-sea Red Crab caught by his vessel including nil returns. This report shall be sent every five days of the fishing trip. Each Member State shall promptly forward that information to the Commission.
2. Member States with vessels authorised to fish for Deep-sea Red Crab in the SEAFO Convention Area shall provide detailed catch and effort data to the Commission, and the SEAFO Secretariat, no later than 30 June 2009.

*Article 82*

**Special Provisions for Alfonsino (*Beryx spp*)**

1. The master of a vessel authorised to fish for Alfonsino in the SEAFO Convention Area in accordance with Article 70 shall, by electronic means, send to the competent authorities of his flag Member State and the SEAFO Secretariat a catch report stating the quantities of Alfonsino caught by his vessel including nil returns. This report shall be sent every five days of the fishing trip. Each Member State shall promptly forward that information to the Commission.
2. Member States with vessels authorised to fish for Alfonsino in the SEAFO Convention Area shall provide detailed catch and effort data to the Commission, and the SEAFO Secretariat, no later than 30 June 2009.

*Article 81*

**Special Provisions for Orange Roughy (*Hoplostethus atlanticus*)**

1. The master of a vessel authorised to fish for Orange Roughy in the SEAFO Convention Area in accordance with Article 70 shall, by electronic means, send to the competent authorities of his flag Member State and the SEAFO Secretariat a catch report stating the quantities of Orange Roughy caught by his vessel including nil returns. This report shall be sent every five days of the fishing trip. Each Member State shall promptly forward that information to the Commission.
2. Member States with vessels authorised to fish for Orange Roughy in the SEAFO Convention Area shall provide detailed catch and effort data to the Commission, and the SEAFO Secretariat, no later than 30 June 2009.

*Article 84*

**Communication of vessel movements and catches**

1. Fishing vessels and fishing research vessels authorised to fish in the SEAFO Convention Area and which are engaged in fishing shall send entry, catch and exit

reports to the flag Member State's authorities by VMS, or other appropriate means, and, if the flag Member State so requires, to the SEAFO Executive Secretary.

2. The entry report shall be made no more than 12 hours and at least 6 hours in advance of each entry into the SEAFO Convention Area and shall include entering date, time, geographical position of the vessel and the quantity of fish on board by species (FAO 3 Alfa Code) and by live weight (Kg).
3. The Catch report shall be made by species (FAO 3 Alfa Code) and by live weight (Kg) at the end of each calendar month.
4. The exit report shall be made no more than 12 hours and at least 6 hours in advance of each exit from the SEAFO Convention Area. It shall include exiting date, time, geographical position of the vessel, the number of fishing days and the catch taken by species (FAO 3 Alfa Code) and by live weight (Kg) in the SEAFO Convention Area since the commencement of fishing in the SEAFO Convention Area, or since the last catch report.

#### *Article 85*

#### **Scientific observation and collection of information to support stock assessment**

1. Each Member State shall ensure that all its fishing vessels operating in the SEAFO Convention Area, and targeting species covered by the SEAFO Convention, carry qualified scientific observers.
2. Each Member State shall require the submission of the information collected by the observers, in respect of each vessel flying its flag, within 30 days of leaving the SEAFO Convention Area. The data shall be submitted in the format specified by the SEAFO Scientific Committee. The Member State shall provide the Commission with a copy of the information, as soon as possible, taking account of the need to maintain confidentiality of non-aggregated data. The Member State may also provide the SEAFO Executive Secretary with a copy of the information.
3. The information referred to in this Article shall, to the greatest extent possible, be collected and verified by designated observers by 30 June 2009.

#### *Article 86*

#### **Sightings of non-Contracting Party vessels**

1. Fishing vessels flying the flag of a Member State shall report to their flag Member State information on any possible fishing activity by vessels flying the flag of a non-Contracting Party in the SEAFO Convention Area. This information shall contain, *inter alia*:
  - (a) name of the vessel;
  - (b) registration number of the vessel;
  - (c) flag State of the vessel;

- (d) any other relevant information regarding the sighted vessel.
2. Each Member State shall submit the information referred to in paragraph 1 to the Commission as rapidly as possible. The Commission shall forward this information to the SEAFO Executive Secretary for information.

## **CHAPTER XI**

### **Special provisions for Community vessels fishing in the IOTC Area**

#### *Article 87*

#### **Reduction of sea-birds by-catch**

1. Member States shall collect and provide all available information to the IOTC, with copy to the Commission, on interactions with seabirds, including incidental catches by their fishing vessels.
2. Member States shall seek to achieve reductions in levels of seabird by catch across all fishing areas, seasons, and fisheries through the use of effective mitigation measures.
3. Community vessels fishing south of 30°S shall carry and use bird-scaring lines (tori poles) according to following technical provisions:
  - (a) tori poles shall be in accordance with agreed tori pole design and deployment guidelines adopted by IOTC;
  - (b) tori lines are to be deployed prior to longlines entering the water at all times south of 30°S;
  - (c) where practical, vessels shall use a second tori pole and bird-scaring line at times of high bird abundance or activity;
  - (d) back-up tori lines shall be carried by all vessels and be ready for immediate use.
4. Community surface longline vessels, whilst targeting swordfish, utilising the "American longline system" and equipped with a line-throwing device, shall be exempted from the requirements of paragraph 3.

#### *Article 88*

#### **Limitation of fishing capacity of vessels fishing for tropical tunas**

1. The maximum number of Community vessels fishing for tropical tunas in the IOTC Area, and the corresponding capacity in GT, shall be as follows:

Member State	Maximum number of vessels	Capacity (GT)

Spain	pm	pm
France	pm	pm
Italy	pm	pm

2. Notwithstanding paragraph 1, Member States may change the number of vessels, by gear type, provided that they can demonstrate to the Commission that the change in the number of vessels, by gear type, does not lead to an increase of fishing effort on the fish stocks involved.
3. Member States shall ensure that, where there is a proposed transfer of capacity to their fleet, vessels to be transferred are on the IOTC Record of Vessels or on the Record of vessels of other Tuna Regional Fisheries Organisations. No vessels on an IUU vessels list of any Regional Fisheries Management Organisation may be transferred.

*Article 89*

**Limitation of fishing capacity of vessels fishing  
for swordfish and albacore**

1. The maximum number of Community vessels fishing for swordfish and albacore in the IOTC Area, and the corresponding capacity in GT, shall be as follows:

Member State	Maximum number of vessels	Capacity (GT)
Spain	pm	pm
France	pm	pm
Portugal	pm	pm
United Kingdom	pm	pm

2. Notwithstanding paragraph 1, Member States may change the number of their vessels, by gear type, provided that they can demonstrate to the Commission that the change in the number of vessels, by gear type, does not lead to an increase of fishing effort on the fish stocks involved.
3. Member States shall ensure that, where there is a proposed transfer of capacity to their fleet, vessels to be transferred are on the IOTC Record of Vessels or on the Record of vessels of other Tuna Regional Fisheries Organisations. No vessels on an IUU vessels list of any Regional Fisheries Management Organisation may be transferred.

## CHAPTER XII

### Special provisions for Community vessels fishing in the SPFO Area

#### *Article 90*

#### **Pelagic fisheries – Capacity limitation**

1. The maximum number of Community vessels fishing for pelagic stocks in 2009 shall not exceed pm8 vessels and the corresponding capacity shall not exceed pm GT of the total level of GT.

The maximum number of Community vessels is allocated among Member States as follows:

Member State	Maximum number of vessels
Germany	pm
Latvia	pm
Lithuania	pm
The Netherlands	pm
Poland	pm

2. Member States shall submit for review to the Interim Science Working Group of the SPFO any stock assessments and research in respect of pelagic stocks in the SPFO area and shall promote the active participation of their scientific experts in Organisation's scientific works on pelagic species.
3. Member States shall ensure as much as possible an appropriate level of observer coverage on fishing vessels flying their flag in order to observe the pelagic fisheries in the South Pacific and collect relevant scientific information.

#### *Article 91*

#### **Bottom fisheries**

1. Member States shall limit bottom fishing effort or catch in the SPFO area to the average annual levels over the period 1 January 2002 to 31 December 2006 in terms of the number of fishing vessels and other parameters that reflect the level of catch, fishing effort, and fishing capacity.
2. Member States shall not expand bottom fishing activities into new regions of the SPFO area where such fishing is not currently occurring.
3. Community vessels shall cease bottom fishing activities within five nautical miles of any site in the SPFO area where, in the course of fishing operations, evidence of

vulnerable marine ecosystems is encountered. Community vessels shall report the encounter, including the location, and the type of ecosystem in question, to the authorities of the of their flag State, to the Commission and to the SPFO Interim Secretariat so that appropriate measures can be adopted in respect of the relevant site.

4. Member States shall appoint observers to each vessel flying their flag and undertaking or proposing to undertake bottom trawling activities in the SPFO area and ensure an appropriate level of observer coverage on vessels flying their flag and undertaking other bottom fishing activities in the SPFO area.

*Article 92*

**Data collection and sharing**

Member States shall collect, verify and provide data in accordance with the procedures outlined in the SPFO Standards for the collection, reporting, verification and exchange of data.

**CHAPTER XIII**  
**Special provisions for Community vessels**  
**fishing in the WCPFC Area**

*Article 93*

**Fishing effort limitations**

Member States shall ensure that the total fishing effort for bigeye tuna, yellowfin tuna, skipjack tuna and south pacific albacore in the WCPFC Area is limited to the fishing effort provided for in fisheries partnership agreements between the Community and coastal States in the region.

*Article 94*

**Management plans for the use of FADs**

1. Member States whose vessels are authorised to fish in the WCPFC Area shall develop management plans for the use of anchored or drifting FADs. Those management plans shall include strategies to limit the interaction with juvenile bigeye and yellowfin tuna.
2. Management plans referred to in paragraph 1 shall be submitted to the Commission not later than 15 October 2009. The Commission shall compile those management plans and submit a Community management plan to the WCPFC Secretariat not later than 31 December 2009.

*Article 95*

**Maximum number of vessels fishing for swordfish**

The number of Community vessels fishing for swordfish in areas south of 20° S of the WCPFC Area shall not exceed 14 vessels. Community participation shall be limited to vessels flying the flag of Spain.

**[CHAPTER XIV  
Special provisions for Community vessels  
fishing in the ICCAT Area**

*Article 96*

**Reduction of sea-birds by-catch**

1. Member States shall collect all available information on interactions with seabirds, including incidental catches by their fishing vessels and shall transmit that information to the ICCAT Secretariat and the Commission.
2. Member States shall seek to achieve reductions in levels of seabird by catch across all fishing areas, seasons, and fisheries through the use of effective mitigation measures.
3. Community vessels fishing south of 20°S shall carry and use bird-scaring lines (tori poles) according to following technical provisions:
  - (a) tori poles shall meet the conditions on the tori pole design and be in accordance with the deployment guidelines adopted by ICCAT;
  - (b) tori lines are to be deployed prior to longlines entering the water at all times south of 20°S;
  - (c) where practical vessels shall use a second tori pole and bird-scaring line at times of high bird abundance or activity;
  - (d) back-up tori lines shall be carried by all vessels and be ready for immediate use.
4. By way of derogation from paragraph 3, Community longline vessels targeting swordfish may use monofilament longline gear, provided that these vessels:
  - (a) set their longlines during the period between nautical dusk/dawn as laid down in the nautical dusk/dawn almanac for the geographical position fished;
  - (b) use a minimum swivel weight of 60 g placed not more than 3 m from the hook to achieve optimum sink rates.

*Article 97*  
**Establishment of a closed area/season of  
the swordfish fisheries in Mediterranean Sea**

In order to protect the swordfish, in particular small fish, fishing for swordfish in Mediterranean Sea shall be prohibited from 15 October to 15 November 2009.

*Article 98*  
**Sharks**

Member States shall take appropriate measures to reduce fishing mortality in fisheries targeting North Atlantic shortfin mako.

*Article 99*  
**Maximum Number of vessels fishing bluefin tuna in the Eastern Atlantic**

1. The maximum number of Community bait boats and trolling boats authorised to fish bluefin tuna of a minimum size of 8 kg or 75 cm in the Eastern Atlantic, and the allocation among the Member States of that maximum number shall be fixed as follows:

---

Spain	pm
France	pm
EC	pm

---

2. The maximum number of Community pelagic trawlers authorised to fish bluefin tuna of a minimum size of 8 kg or 75 cm as a bycatch in the Eastern Atlantic, and the allocation of that maximum number among the Member States, shall be fixed as follows:

---

France	pm
EC	pm

---

*Article 100*  
**Catch limits for bluefin tuna in the Eastern Atlantic**

1. Within the catch limits laid down in Annex ID, the catch limit for bluefin tuna between 8 kg/75 cm and 30 kg/115 cm applicable to authorised Community vessels referred to in Article 99, and the allocation of that catch limit among the Member States, shall be fixed as follows (in tonnes):

---

Spain	pm(*)
France	pm
EC	pm

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(\*) Including a maximum of pm tonnes of by-catches for trolling boats.

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2. Within the catch limits laid down in paragraph 1, the catch limit for bluefin tuna of no less than 70 cm applicable to bait boats of an overall length of less than 17 metres among the Community vessel referred to in Article 99, and the allocation of that catch limit among the Member States, shall be fixed as follows (in tonnes):

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France	pm (**)
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EC	pm (**)
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(\*) This quantity may be altered by the Commission, up to an amount of pm tonnes.

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#### *Article 101*

### **Catch limits for bluefin tuna in the Eastern Atlantic applicable to Community coastal fishery**

Within the catch limits laid down in Annex ID, the catch limit for bluefin tuna between 8 kg and 30 kg allocated to the Community coastal fishery for fresh fish in the Eastern Atlantic, and the allocation of that catch limit among the Member States, shall be fixed as follows (in tonnes):

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Spain	pm
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France	pm
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EC	pm
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## **CHAPTER XV**

### **Illegal, unreported and unregulated fisheries**

#### *Article 102*

#### **North Atlantic**

Vessels engaged in illegal, unreported and unregulated fisheries in the North Atlantic shall be subject to the measures set out in Annex XV.

**CHAPTER XVI**  
**Special provisions for Community vessels**  
**in the High Seas of the Bering Sea**

*Article 103*

**Prohibition to fish in the High Seas of the Bering Sea**

Fishing for Pollock in the High Seas of the Bering Sea shall be prohibited.

**CHAPTER XVII**  
**Final provisions**

*Article 104*

**Data transmission**

When, pursuant to Articles 15(1) and 18(1) of Regulation (EEC) No 2847/93, Member States send the Commission data relating to landings of quantities of stocks caught, they shall use the stock codes set out in Annex I to this Regulation.

*Article 105*

**Entry into force**

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

It shall apply from 1 January 2009.

Where the TACs of the CCAMLR area are set for periods starting before 1 January 2009, Article 54 shall apply with effect from the beginning of the respective periods of application of the TACs.

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

Done at Brussels,

*For the Council*  
*The President*