S.I. No. 330/2003 — Fishing Effort and Additional Conditions For Monitoring, Inspection and Surveillance in The Context of Recovery of Certain Cod Stocks Regulations 2003

S.I No 330 of 2003

FISHING EFFORT AND ADDITIONAL CONDITIONS FOR MONITORING, INSPECTION AND SURVEILLANCE IN THE CONTEXT OF RECOVERY OF CERTAIN COD STOCKS REGULATIONS 2003

I, Dermot Ahern, Minister for Communications, Marine and Natural Resources, in exercise of the powers conferred on me by section 224B (inserted by section 5 of the Fisheries (Amendment) Act 1983 (No. 27 of 1983)) of the Fisheries (Consolidation) Act 1959 (No. 14 of 1959) and the Fisheries (Transfer of Departmental Administration and Ministerial Functions) Order 1977 (S.I. No. 30 of 1977) (as adapted by the Marine and Natural Resources (Alteration of Name of Department and Title of Minister) Order 2002 (S.I. No. 307 of 2002)), for the purpose of giving effect to Council Regulation (EC) No 671/2003 of 10 April 2003[1] hereby make the following Regulations:

1. (1) These Regulations may be cited as the Fishing Effort and Additional Conditions for Monitoring, Inspection and Surveillance in the context of Recovery of Certain Cod Stocks Regulations 2003.

(2) These Regulations come into operation on 23 July 2003.

2. (1) In these Regulations, unless the context otherwise requires -

“Annex” means Annex XVII to the Council Regulation;

“Council Regulation” means Council Regulation (EC) No. 2341/2002 of 20 December 2002 as amended by Council Regulation (EC) 671/2003 and any future Regulation of the Council made after the making of these Regulations which amends, extends, replaces or consolidates (with or without modification) the Council Regulation (as defined herein);

“designated port” means Galway, Greencastle, Killybegs and Rossaveel or such other port as may be designated from time to time by a sea fisheries protection officer stationed at Killybegs, Galway or Rossaveel;

"Fisheries Monitoring Centre" means the Fisheries Monitoring Centre, Naval Base Haulbowline, Co Cork;

"ICES" means the International Council for the Exploration of the Sea;

"ICES zones" means those zones given, respectively, in Council Regulation (EEC) No 3880/91 of 17 December 1991 on the submission of nominal catch statistics by Member States fishing in the north east Atlantic[2] , and 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[3] ;

"Irish sea-fishing boat" means a fishing boat included on the Irish Register of Fishing Boats;

"length overall" in relation to a sea-fishing boat, means the distance in a straight line between the foremost point of the bow at the aftermost point of the stern. For the purposes of this definition:

(a) the bow shall be taken to include the watertight hull structure, forecastle, stem and forward bulwark, if fitted, but shall exclude bowsprits and safety rails,

(b) the stern shall be taken to include the watertight hull structure, transom, poop, trawl ramp and bulwark but shall exclude safety rails, bumkins, propulsion machinery, rudders and steering gear, and divers' ladders and platforms, and

(c) the length overall shall be measured in metres with an accuracy of two decimals;

"master", in relation to a sea-fishing boat, includes a person in charge of the boat;

"Member State" means a Member State of the European Communities other than the State;

"Minister" means the Minister for Communications, Marine and Natural Resources;

"Register of Fishing Boats" means the Register of Fishing Boats established and maintained pursuant to the Merchant Shipping Act 1894 (as adapted and amended by any subsequent enactments);

"sea fisheries protection officer" means an officer of the Minister authorised by the Minister as a sea fisheries protection officer for the purposes of the Fisheries Acts 1959 to 2003 and of these Regulations and stationed at Galway, Killybegs or Rossaveel;

"specified area" means —

(i) that part of ICES Division IIIa 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;

(ii) that part of Division IIIa not covered by the area specified in paragraph (i) and ICES sub-area IV excluding the following ICES statistical rectangles:

52E6, 52E7, 52E8, 52E9, 52F0, 52F1, 52F2, 52F3, 52F4

51E6, 51E7, 51E8, 51E9, 51F0, 51F1, 51F2, 51F3, 51F4

50E6, 50E7[4] , 50E8[4] , 50F2[5] , 50F3, 50F4

49E6[4] , 49E7[4] , 49F3, 49F4

48F3, 48F4[4]

47F3 [5] , 47F4, 47F5

46F3 [6] , 46F4, 46F5

45F3 [7] , 45F4 [8] , 45F5, 45F6

44F4 [8] , 44F5 [8] , 44F6

(iii) ICES Division VIa excluding that part which lies to the west of a line drawn by sequentially joining with straight lines the following geographical coordinates:

60°00'N, 04°00' W

59°45'N, 05°00'W

59°30'N, 06°00'W

59°00'N, 07°00'W

58°30'N, 08°00'W

58°00'N, 08°00'W

58°00'N, 08°30'W

56°00'N, 08°30'W

56°00'N, 09°00'W

55°00'N, 09°00'W

55°00'N, 10°00'W

54°30'N, 10°00'W.

"specified fishing gear" means fishing gears specified in Regulation 6;

(2) A reference to a paragraph is a reference to a paragraph of the Regulation in which the reference occurs, unless it is indicated that reference to some other Regulation is intended.

(3) A word or expression that is used in these Regulations and is also used in the Council Regulation has, unless the contrary intention appears, the same meaning in these Regulations as it has in the Council Regulation.

3. The provisions of these Regulations shall apply to sea-fishing boats specified in Regulation 4, operating in a specified area and deploying any specified fishing gears.

4. (1) The master of an Irish sea-fishing boat greater than or equal to 10 metres in length overall shall comply with the Annex.

(2) The master of an Irish sea-fishing boat greater than or equal to 10 metres in length overall shall not cause or permit a person on board the boat to fail to comply with the Annex.

(3) The master of a sea-fishing boat registered in a Member State greater than or equal to 10 metres in length overall shall comply with the Annex.

(4) The master of a sea-fishing boat registered in a Member State greater than or equal to 10 metres in length overall shall not cause or permit a person on board the boat to fail to comply with the Annex.

5. In these Regulations a day absent from port shall be the 24 hour period between 00.00 hours of a calendar day and 24.00 hours of the same calendar day or any part of such a time period; or any continuous period of 24 hours from the time of departure from port or any part of any such time period.

6. (1) The following fishing gears are specified for the purposes of these Regulations:-

(a) demersal trawls, seines or similar towed gears of mesh size equal to or greater than 100 mm except beam trawls;

(b) beam trawls of mesh size equal to or greater than 80 mm;

(c) static demersal nets including gill nets, trammel nets and tangle nets;

(d) demersal longlines;

(e) demersal trawls, seines or similar towed gears of mesh size between 70 mm and 99 mm except beam trawls; and

(f) demersal trawls, seines or similar towed gears of mesh size between 16 mm and 31 mm except beam trawls.

7. (1) For each calendar month, the master of an Irish sea-fishing boat, when carrying on board any specified fishing gears in a specified area, shall be absent from port and present within a specified area for no more than the number of days specified in Regulation 8 or Regulation 9.

(2) For each calendar month, the master of a sea-fishing boat registered in a Member State, when carrying on board any of the specified fishing gears in a specified area, shall be absent from port for no more than the number of days specified in Regulation 8 or Regulation 9.

8. (1) The respective maximum number of days in each calendar month on which a sea-fishing boat may be absent from port while carrying on board any specified fishing gears are:

	Specified fishing gears in Article 6					
	6(a)	6(b)	6(c)	6(d)	6(e)	6(f)
Specified Area in Article 2						
2(i)	11 days	0 days	16 days	19 days	25 days	23 days

2(ii)	11 days	15 days	16 days	19 days	25 days	23 days
2(iii)	11 days	15 days	16 days	19 days	25 days	23 days

(2) Notwithstanding the conditions laid down in paragraph (1), the Minister may permit a sea-fishing boat fishing with demersal trawls, seines or similar towed gears of mesh size equal to or greater than 120mm to spend no more than 16 days absent from port.

9. (1) Subject to paragraph 2 the master of an Irish sea-fishing boat, which is present within a specified area and carrying on board any specified fishing gears, shall not simultaneously carry on board any other type of specified fishing gears.

(2) Notwithstanding paragraph (1), the master of an Irish sea-fishing boat which is present within a specified area, may carry simultaneously on board more than one type of specified fishing gears only if:

(a) any of these fishing gears are not deployed within a specified area, and

(b) while the sea-fishing boat is within a specified area, all specified fishing gears are lashed and stowed in accordance with conditions laid down in Article 20(1) of Council Regulation (EEC) No 2847/93[9] . Any specified fishing gears which are not lashed and stowed in accordance with those conditions shall be considered to be in use in the specified area for so long as the boat was there.

(3) Subject to paragraph (4) the master of a sea-fishing boat registered in a Member State, which is absent from port within the State while carrying on board any specified fishing gears in a specified area, shall not simultaneously carry on board any other type of specified fishing gears.

(4) Notwithstanding paragraph (3), the master of a sea-fishing boat registered in a Member State, which is absent from port within the State and is present in a specified area, may carry simultaneously on board more than one type of specified fishing gears only if : -

(a) any of these fishing gears are not deployed within a specified area, and

(b) while the sea-fishing boat is within a specified area, all specified fishing gears are lashed and stowed in accordance with conditions laid down in Article 20(1) of Council Regulation (EEC) No 2847/93[9] . Any specified fishing gears which are not lashed and stowed in accordance with those conditions shall be considered to be in use in the specified area for so long as the boat was there.

(5) The master of an Irish sea-fishing boat may, during a calendar month or during a period of two calendar months, deploy within a specified area a maximum of two types of specified fishing gears. Such types of specified fishing gears shall be deployed on different days and the total number of days available to such boats shall be no more than one half of the sum of the days allocated to each of the specified types of fishing gears. Within this total number, it shall not be permitted to deploy any one of the gears

concerned for more days than the number of days laid down with respect to that gear in Regulation 8.

(6) The master of a sea-fishing boat registered in a Member State may, during a calendar month or during a period of two calendar months, deploy in a specified area a maximum of two types of specified fishing gears. Such types of specified fishing gears shall be deployed on different days and the total number of days available to such boats shall be no more than one half of the sum of the days allocated to each of the respective types of specified fishing gears. Within this total number, it shall not be permitted to deploy any one of the gears concerned for more days than the number of days laid down with respect to that gear in Regulation 8.

10. (1) The master of an Irish sea-fishing boat which has deployed any type of specified fishing gears in any specified area may not deploy the same type of specified fishing gears in another specified area on more days than are specified in Regulation 8 for a calendar month, or for an alternative period determined under Regulation 12, minus the total number of days on which the type of fishing gears has already been deployed in any other specified area in that month or alternative period.

(2) The master of a sea-fishing boat registered in a Member State, which has deployed any type of specified fishing gears in any specified area may not deploy the same type of specified fishing gears in another specified area on more days than are specified in Regulation 8 for a calendar month, or for an alternative period determined under Regulation 12, minus the total number of days on which the type of fishing gears has already been deployed in any other specified area in that month or alternative period.

11. (1) A sea fisheries protection officer, having considered logbook returns provided by the master of an Irish sea-fishing boat or by an agent, may authorize the transfer of a maximum of 20% of the days to which such a boat is eligible from one calendar month to the following calendar month or from an alternative period determined under Regulation 12 to the next respective alternative period.

(2) The Minister may, at his or her discretion and subject to such terms and conditions as he or she considers appropriate, permit any Irish sea-fishing boat to transfer days to which it is eligible for a given month or an alternative time period determined under the conditions of Regulation 12 to another Irish sea-fishing boat:

(a) when the boat receiving days has an installed engine power equal to or less than that of the boat contributing days; or

(b) when the installed engine power of the boat receiving days is greater than that of the boat contributing days, provided that the product of the days received by a boat multiplied by the installed engine power in kilowatts of that boat is equal to or less than the product of the days transferred by the smaller boat multiplied by the installed engine power in kilowatts of that boat. The kilowatts of the larger boat and the smaller boat shall be those recorded for each boat in the Register of Fishing Boats.

(3) The transfer of days defined in Regulation 8 and referred to in paragraph (2) shall not be permitted from any of the gears defined in Regulation 6 (b) to (f) to those defined in Regulation 6(a).

12. Notwithstanding Regulation 8, a sea fisheries protection officer may authorise, having considered an application by the master of an Irish sea-fishing boat or an agent, the aggregation of days absent from port either —

(a) within any period of no more than two consecutive months, or

(b) within any period of no more than four consecutive months where the Minister has directed that Irish sea-fishing boats remain in port to avoid the capture of spawning fish during any part of that period.

13. (1) The provisions of Title IIA of Council Regulation (EEC) No 2847/93, in so far as they relate to notification of entry into, exit from or re-entry into a specified area shall be applied in the following manner -

The master of an Irish sea-fishing boat deploying any specified fishing gears shall communicate to the Fisheries Monitoring Centre by telex, fax, telephone message, or by radio station via a radio station approved under Community legislation for the reception of such reports, information as required under Council Regulation (EEC) No 2847/93, on each occasion that the boat enters, exits or re-enters a specified area.

(2) An Irish sea-fishing boat equipped with functioning real-time automatic monitoring system recognized under Community legislation shall be exempt from the conditions laid down in paragraph 1(a).

14 (1) The master of an Irish sea-fishing boat deploying any specified fishing gears in any part of a specified area which is within the exclusive fishery limits of the State shall provide effort reports in accordance with the provisions of Title IIA of Council Regulation (EEC) No 2847/93, to the Fisheries Monitoring Centre.

(2) The master of a sea-fishing boat registered in a Member State deploying any specified fishing gears in any part of a specified area which is within the exclusive fishery limits of the State shall provide effort reports in accordance with the provisions of Title IIA of Council Regulation (EEC) No 2847/93 to the competent authority of the Member State of vessel registration only.

15. (1) Notwithstanding the provisions of Regulation 17, the master of an Irish sea-fishing boat deploying any specified fishing gears in a specified area shall not land cod of a quantity in excess of 1 tonne at a port or landing place in the State unless a sea fisheries protection officer approves the landing of cod.

(2) Notwithstanding the provisions of Regulation 17, the master of a sea-fishing boat registered in a Member State deploying any specified fishing gears in a specified area shall not land cod of a quantity in excess of 1 tonne at a port or landing place in the State unless a sea fisheries protection officer approves the landing of cod.

16. (1) The master of an Irish sea-fishing boat or the agent, deploying any specified fishing gears in a specified area shall give at least four hours notice to the sea fisheries protection officer of the intention to land cod of a quantity in excess of 1 tonne at a port or landing place in the state, or at a landing place outside the State. The notice shall include such information as the sea fisheries protection officer may require regarding the proposed port or place of landing, the estimated time of arrival at that place, the quantity of cod to be retained on

board and the quantity of cod to be landed.

(2) The master of a sea-fishing boat registered in a Member State or the agent, deploying any specified fishing gears in a specified area shall give to a sea fisheries protection officer at least four hours notice of the intention to land cod of a quantity in excess of 1 tonne at an Irish port or landing place. The notice shall include such information as the sea fisheries protection officer may require regarding the proposed port or place of landing, the estimated time of arrival at that port, the quantity of cod to be retained on board and the quantity of cod to be landed.

17. (1) The master of an Irish sea-fishing boat or the agent, deploying any specified fishing gears in a specified area shall not cause to be landed at any place within the State, cod of a quantity in excess of 2 tonnes other than at a designated port.

(2) The master of a sea-fishing boat registered in a Member State or the agent deploying any specified fishing gears in a specified area shall not cause to be landed at any place within the State, cod of a quantity in excess of 2 tonnes other than at a designated port.

18. (1) An Irish sea-fishing boat shall not have on board in any individual box or other container any quantity of cod which has been caught in a specified area mixed with any other species of marine organism.

(2) The master of an Irish sea-fishing boat shall not cause or permit the retention on board the boat in any individual box or other container any quantity of cod which has been caught in a specified area mixed with any other species of marine organism.

(3) A sea-fishing boat registered in a Member State shall not have on board in any individual box or other container any quantity of cod which has been caught in a specified area mixed with any other species of marine organism.

(4) The master of a sea-fishing boat registered in a Member State shall not cause or permit the retention on board the boat in any individual box or other container any quantity of cod which has been caught in a specified area mixed with any other species of marine organism.

19. The master of an Irish sea-fishing boat and the master of a sea-fishing boat registered in a Member State deploying any specified fishing gears in a specified area shall provide all reasonable assistance to a sea fisheries protection officer to enable the quantities of cod declared in the respective logbook and the quantity of cod on board the respective sea-fishing boat to be cross-checked for verification purposes.

20. A sea fisheries protection officer may require that any quantity of cod caught in a specified area by an Irish sea-fishing boat or a sea-fishing boat registered in a Member State deploying any specified fishing gears in a specified area, be landed either at a designated port or a landing place approved by the sea fisheries protection officer and be weighed under the supervision of that officer prior to being transported from the designated port or place of landing.

21. The master of an Irish sea-fishing boat and the master of a sea-fishing boat registered in a Member State deploying any specified fishing gears in a specified area shall ensure that all quantities of cod caught by the respective sea-fishing boat in a specified area, which are transported to a place other than the place of landing or import, shall be accompanied by a copy of one of the declarations

provided for in Article 8(1) of Council Regulation (EEC) No 2847/93, as amended, pertaining to the quantities of fish transported. In a prosecution for an infringement of these Regulations it shall not be a defence to claim an exemption under Article 13(4)(b) of Council Regulation (EEC) No 2847/93.

22. In a prosecution for an infringement of these Regulations it shall be for the person charged to establish a defence by reference to any exclusion, qualification or exception to the relevant obligation provided for by these Regulations and it shall be presumed, until the contrary is proved, that there is no such defence in this particular case.

23. Where, in proceedings in which a contravention of these Regulations is alleged, it is proved that —

(a) any specified fishing gear or fishing gears were found on board an Irish sea-fishing boat or a sea-fishing boat registered in a Member State, other than as provided for under Regulation 9, and

(b) at the time when the specified fishing gears were so found the sea-fishing boat concerned was in a specified area,

it shall be presumed until the contrary is proved that all specified fishing gears were deployed in a specified area.

GIVEN under my Official Seal

23 July 2003

Dermot Ahern

Minister for Communications, Marine and Natural Resources

(This note is not part of the instrument and does not purport to be a legal interpretation).

These Regulations transpose into Irish law the provisions of Council Regulation (EC) No 671/2003 which establishes, for fishing vessels greater than 10 metres in overall length and operating in certain waters, a fishing effort scheme and additional conditions for monitoring, inspection and surveillance in the context of recovery of certain cod stocks.

Masters or other persons in charge of the Irish sea-fishing boats in question and operating in any of the specified areas will be restricted if deploying any of six specified types of fishing gears to carrying on board not more than one of the specified types of fishing gears. They will be required to give advance notice of landings to Sea Fisheries Officers, and must obtain the prior approval of the relevant Sea Fisheries Officer to land cod in excess of 1 tonne into ports or landing places. Quantities of cod in excess of 2

tonnes may only be landed into designated ports.

These Regulations also sets out the maximum number of days in a calendar month on which a sea-fishing boat is permitted to be absent from a port depending on the type of specified fishing gears being used. It also sets out rules regarding the use of more than one type of specified fishing gears during a period.

Published by the Stationery Office, Dublin

[1] O.J. No L97, 15.4.2003 p.11

[2] O.J. No L351, 28.12.2002 p.6

[3] O.J. No. L 270, 13.11.1995, p.1. Regulation as amended by Commission Regulation (EC) No. 1637/2001 (O.J. No. L 222, 18.18.2001, p.29)

[4] North of a straight line drawn between 60 00'N, 04 03'W and 61 00'N, 01 43'W.

[4] North of a straight line drawn between 60 00'N, 04 03'W and 61 00'N, 01 43'W.

[5] North of a straight line drawn between 61 00'N, 02 00'E and 60 30'N, 03 00'E.

[4] North of a straight line drawn between 60 00'N, 04 03'W and 61 00'N, 01 43'W.

[4] North of a straight line drawn between 60 00'N, 04 03'W and 61 00'N, 01 43'W.

[4] North of a straight line drawn between 60 00'N, 04 03'W and 61 00'N, 01 43'W.

[5] North of a straight line drawn between 61 00'N, 02 00'E and 60 30'N, 03 00'E.

[6] East of a straight line drawn between 59 30'N, 03 00'E and 59 00'N, 03 30'E

[7] East of 03 30' E

[8] North of a straight line drawn between 58 30'N, 03 30'E and 57 30'N, 05 30E

[8] North of a straight line drawn between 58 30'N, 03 30'E and 57 30'N, 05 30E

[8] North of a straight line drawn between 58 30'N, 03 30'E and 57 30'N, 05 30E

[9] OJ NO L 261, 20.10.1993 p.1

[9] OJ NO L 261, 20.10.1993 p.1

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