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(Acts adopted under the EC Treaty/Euratom Treaty whose publication is obligatory)

REGULATIONS

COUNCIL REGULATION (EC) No 676/2007

of 11 June 2007

establishing a multiannual plan for fisheries exploiting stocks of plaice and sole in the North Sea

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,

Whereas:

(1) Recent scientific advice from the International Council for the Exploration of the Sea (ICES) has indicated that the stocks of plaice and of sole in the North Sea have been subjected to levels of mortality by fishing which have exceeded the level determined by ICES as being consistent with the precautionary approach, and the stocks are at risk of being harvested unsustainably.

(2) Advice from a committee of experts examining multi-annual management strategies indicates that the highest yield of sole can be taken at a fishing mortality rate of 0,2 on ages two to six years.

(3) The Scientific, Technical and Economic Committee for Fisheries (STECF) has advised that the precautionary

biomass for the stock of plaice in the North Sea should be 230 000 tonnes, that the fishing mortality rate necessary to produce the highest yield from the stock of plaice in the North Sea in the long term is 0,3 and that the precautionary biomass for the stock of sole in the North Sea should be 35 000 tonnes.

(4) Measures need to be taken to establish a multiannual plan for fisheries management of the stocks of plaice and sole in the North Sea. Such measures, where they concern the stock of plaice in the North Sea, are to be established in the light of consultations with Norway.

(5) The objective of the plan is to ensure, in a first stage, that stocks of plaice and sole in the North Sea are brought within safe biological limits, and in a second stage and after due consideration by the Council on the implementing methods for doing so that those stocks, are exploited on the basis of maximum sustainable yield and under sustainable economic, environmental and social conditions.

(6) Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy ⁽²⁾ requires, *inter alia*, that to achieve that objective, the Community is to apply the precautionary approach in taking measures to protect and conserve the stock, to provide for its sustainable exploitation and to reduce to a minimum the impact of fishing on marine ecosystems.

⁽¹⁾ Opinion of the European Parliament delivered on 28 September 2006 (not yet published in the Official Journal).

⁽²⁾ OJ L 358, 31.12.2002, p. 59.

- (7) This Regulation should aim at a progressive implementation of an ecosystem-based approach to fisheries management, and should contribute to efficient fishing activities within an economically viable and competitive fisheries industry, providing a fair standard of living for those who depend on fishing North Sea plaice and sole and taking into account the interest of consumers. The Community bases its policy partly on the policy recommended by the appropriate Regional Advisory Council (RAC). A large part of the catches of plaice in the North Sea are taken together with catches of sole. The management of plaice cannot be addressed independently of the management of sole.
- (8) Consequently, in drawing up the multiannual plan, account should also be taken of the fact that the high fishing mortality rate for plaice is due to a great extent to the large discards from beam-trawl sole fishing with 80mm nets in the southern North Sea.
- (9) Such control of the fishing mortality rates can be achieved by establishing an appropriate method for the establishment of the level of total allowable catches (TACs) of the stocks concerned, and a system including limitations on permissible days at sea whereby fishing efforts on those stocks are restricted to levels at which the TACs and planned fishing mortality rates are unlikely to be exceeded, but are sufficient to catch the TAC allowed on the basis of the fishing mortality rates established in the plan.
- (10) The plan should cover all flatfish fisheries having a significant impact on the fishing mortality of the plaice and sole stocks concerned. However, Member States whose quotas for either stock are less than 5 % of the European Community's share of the TAC should be exempted from the provisions of the plan concerning effort management.
- (11) This plan should be the main instrument for flatfish management in the North Sea, and should contribute to the recovery of other stocks such as cod.
- (12) Control measures in addition to those laid down in Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the Common Fisheries Policy⁽¹⁾ need to be included in order to ensure compliance with the measures laid down in this Regulation.
- (13) In 2006 the Commission initiated a debate concerning a Community strategy for a gradual reduction in fishing mortality in all major fisheries by means of a communication concerning the attainment of the maximum sustainable yield objective by 2015. The Commission has submitted this communication to the RACs for their opinion.
- (14) The Commission has requested STECF to report on key aspects of impact assessment in relation to the management of plaice and sole, which should be based on accurate, objective and comprehensive biological and financial information. That impact assessment will be annexed to the Commission's proposal concerning the second stage of the multiannual plan.
- (15) The multiannual plan should be deemed to be a recovery plan during its first stage and a management plan during its second stage, within the meaning of Articles 5 and 6 of Regulation (EC) No 2371/2002,

HAS ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT-MATTER AND OBJECTIVE

Article 1

Subject-matter

1. This Regulation establishes a multiannual plan for the fisheries exploiting the stocks of plaice and sole that inhabit the North Sea.
2. For the purposes of this Regulation, 'North Sea' means the area of the sea delineated by the International Council for the Exploration of the Sea as Sub-area IV.

Article 2

Safe biological limits

1. For the purposes of this Regulation, the stocks of plaice and sole shall be deemed to be within safe biological limits in those years in which, according to the opinion of the Scientific, Technical, and Economic Committee for Fisheries (STECF), all of the following conditions are fulfilled:
 - (a) the spawning biomass of the stock of plaice exceeds 230 000 tonnes;

⁽¹⁾ OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 1967/2006 (OJ L 409, 30.12.2006, p. 11).

- (b) the average fishing mortality rate on ages two to six years experienced by the stock of plaice is less than 0,6 per year;
- (c) the spawning biomass of the stock of sole exceeds 35 000 tonnes;
- (d) the average fishing mortality rate on ages two to six years experienced by the stock of sole is less than 0,4 per year.

2. If the STECF advises that other levels of biomass and fishing mortality should be used to define safe biological limits, the Commission shall propose to amend paragraph 1.

Article 3

Objectives of the multiannual plan in the first stage

1. The multiannual plan shall, in its first stage, ensure the return of the stocks of plaice and of sole to within safe biological limits.

2. The objective specified in paragraph 1 shall be attained by reducing the fishing mortality rate on plaice and sole by 10 % each year, with a maximum TAC variation of 15 % per year until safe biological limits are reached for both stocks.

Article 4

Objectives of the multiannual plan in the second stage

1. The multiannual plan shall, in its second stage, ensure the exploitation of the stocks of plaice and sole on the basis of maximum sustainable yield.

2. The objective specified in paragraph 1 shall be attained while maintaining the fishing mortality on plaice at a rate equal to or no lower than 0,3 on ages two to six years.

3. The objective specified in paragraph 1 shall be attained while maintaining the fishing mortality on sole at a rate equal to or no lower than 0,2 on ages two to six years.

Article 5

Transitional arrangements

1. When the stocks of plaice and sole have been found for two years in succession to have returned to within safe biological limits the Council shall decide on the basis of a proposal from the Commission on the amendment of Articles

4(2) and 4(3) and the amendment of Articles 7, 8 and 9 that will, in the light of the latest scientific advice from the STECF, permit the exploitation of the stocks at a fishing mortality rate compatible with maximum sustainable yield.

2. The Commission's proposal for review shall be accompanied by a full impact assessment and shall take into account the opinion of the North Sea Regional Advisory Council.

CHAPTER II

TOTAL ALLOWABLE CATCHES

Article 6

Setting of total allowable catches (TACs)

Each year, the Council shall decide, by qualified majority on the basis of a proposal from the Commission, on the TACs for the following year for the plaice and sole stocks in the North Sea in accordance with Articles 7 and 8 of this Regulation.

Article 7

Procedure for setting the TAC for plaice

1. The Council shall adopt the TAC for plaice at that level of catches which, according to a scientific evaluation carried out by STECF is the higher of:

(a) that TAC the application of which will result in a 10 % reduction in the fishing mortality rate in its year of application compared to the fishing mortality rate estimated for the preceding year;

(b) that TAC the application of which will result in the level of fishing mortality rate of 0,3 on ages two to six years in its year of application.

2. Where application of paragraph 1 would result in a TAC which exceeds the TAC of the preceding year by more than 15 %, the Council shall adopt a TAC which is 15 % greater than the TAC of that year.

3. Where application of paragraph 1 would result in a TAC which is more than 15 % less than the TAC of the preceding year, the Council shall adopt a TAC which is 15 % less than the TAC of that year.

*Article 8***Procedure for setting the TAC for sole**

1. The Council shall adopt a TAC for sole at that level of catches which, according to a scientific evaluation carried out by STECF is the higher of:

- (a) that TAC the application of which will result in the level of fishing mortality rate of 0,2 on ages two to six years in its year of application;
- (b) that TAC the application of which will result in a 10 % reduction in the fishing mortality rate in its year of application compared to the fishing mortality rate estimated for the preceding year.

2. Where the application of paragraph 1 would result in a TAC which exceeds the TAC of the preceding year by more than 15 %, the Council shall adopt a TAC which is 15 % greater than the TAC of that year.

3. Where the application of paragraph 1 would result in a TAC which is more than 15 % less than the TAC of the preceding year, the Council shall adopt a TAC which is 15 % less than the TAC of that year.

CHAPTER III

FISHING EFFORT LIMITATION*Article 9***Fishing effort limitation**

1. The TACs referred to in Chapter II shall be complemented by a system of fishing effort limitation established in Community legislation.

2. Each year, the Council shall decide by a qualified majority, on the basis of a proposal from the Commission, on an adjustment to the maximum level of fishing effort available for fleets where either or both plaice and sole comprise an important part of the landings or where substantial discards are made and subject to the system of fishing effort limitation referred to in paragraph 1.

3. The Commission shall request from STECF a forecast of the maximum level of fishing effort necessary to take catches of plaice and sole equal to the European Community's share of the TACs established according to Article 6. This request shall be formulated taking account of other relevant Community legislation governing the conditions under which quotas may be fished.

4. The annual adjustment of the maximum level of fishing effort referred to in paragraph 2 shall be made with regard to the opinion of STECF provided according to paragraph 3.

5. The Commission shall each year request the STECF to report on the annual level of fishing effort deployed by vessels catching plaice and sole, and to report on the types of fishing gear used in such fisheries.

6. Notwithstanding paragraph 4, fishing effort shall not increase above the level allocated in 2006.

7. Member States whose quotas are less than 5 % of the European Community's share of the TACs of both plaice and sole shall be exempted from the effort management regime.

8. A Member State concerned by the provisions of paragraph 7 and engaging in any quota exchange of sole or plaice on the basis of Article 20(5) of Regulation (EC) No 2371/2002 that would result in the sum of the quota allocated to that Member State and the quantity of sole or plaice transferred being in excess of 5 % of the European Community's share of the TAC shall be subject to the effort management regime.

9. The fishing effort deployed by vessels in which plaice or sole are an important part of the catch and which fly the flag of a Member State concerned by the provisions of paragraph 7 shall not increase above the level authorised in 2006.

CHAPTER IV

MONITORING, INSPECTION AND SURVEILLANCE*Article 10***Fishing effort messages**

1. Articles 19b, 19c, 19d, 19e and 19k of Regulation (EEC) No 2847/93 shall apply for vessels operating in the area. Vessels equipped with monitoring systems in accordance with Articles 5 and 6 of Commission Regulation (EC) No 2244/2003 of 18 December 2003 laying down detailed provisions regarding satellite-based vessel monitoring systems ⁽¹⁾ shall be excluded from hailing requirements.

2. Member States may implement alternative control measures to ensure compliance with the obligation referred to in paragraph 1 which are as effective and transparent as these reporting obligations. Such measures shall be notified to the Commission before being implemented.

⁽¹⁾ OJ L 333, 20.12.2003, p. 17.

*Article 11***Margin of tolerance**

1. By way of derogation from Article 5(2) of Commission Regulation (EEC) No 2807/83 of 22 September 1983 laying down detailed rules for recording information on Member States' catches of fish ⁽¹⁾, the permitted margin of tolerance, in estimation of quantities in kilograms live weight of each of plaice and sole retained on board of vessels that have been present in the North Sea shall be 8 % of the logbook figure. In the event that no conversion factor is laid down in Community legislation, the conversion factor adopted by the Member State whose flag the vessel is flying shall apply.

2. Paragraph 1 shall not apply concerning a species of aquatic organism if the quantity of that species retained on board is less than 50 kg.

*Article 12***Weighing of landings**

The competent authorities of a Member State shall ensure that any quantity of sole exceeding 300 kg or of plaice exceeding 500 kg, caught in the North Sea shall be weighed before sale using scales that have been certified as accurate.

*Article 13***Prior notification**

The master of a Community fishing vessel that has been present in the North Sea and who wishes to land any quantity of plaice or sole in a port or a landing location of a third country shall inform the competent authorities of the flag Member State at least 24 hours prior to landing in a third country, of the following information:

- (a) the name of the port or landing location;
- (b) the estimated time of arrival at that port or landing location;
- (c) the quantities in kilograms live weight of all species of which more than 50 kg is retained on board.

The notification may also be made by a representative of the master of the fishing vessel.

⁽¹⁾ OJ L 276, 10.10.1983, p. 1. Regulation as last amended by Regulation (EC) No 1804/2005 (OJ L 290, 4.11.2005, p. 10).

*Article 14***Separate stowage of plaice and sole**

1. It shall be prohibited to retain on board a Community fishing vessel in any individual container any quantity of plaice or any quantity of sole mixed with any other species of marine organisms.

2. The masters of Community fishing vessels shall give inspectors of Member States such assistance as will enable the quantities declared in the logbook and the catches of plaice and of sole retained on board to be cross-checked.

*Article 15***Transport of sole and plaice**

1. The competent authorities of a Member State may require that any quantity of plaice exceeding 500 kg or any quantity of sole exceeding 300 kg caught in the geographical area referred in Article 1(2) and first landed in that Member State is weighed before being transported elsewhere from the port of first landing using scales that have been certified as accurate.

2. By way of derogation from Article 13 of Regulation (EEC) No 2847/93, quantities of plaice exceeding 500 kg and quantities of sole exceeding 300 kg which are transported to a place other than that of landing shall be accompanied by the declaration provided for in Article 8(1) of that Regulation. The exemption provided for in Article 13(4)(b) of Regulation (EEC) No 2847/93 shall not apply.

*Article 16***Prohibition of transshipments of sole and plaice**

A Community fishing vessel that is present in the North Sea shall not tranship any quantity of plaice or sole to any other vessel.

CHAPTER V

FOLLOW-UP*Article 17***Evaluation of management measures**

1. The Commission shall, on the basis of advice from STECF, evaluate the impact of the management measures on the stocks concerned and the fisheries on those stocks, in the second year of application of this Regulation and in each of the following years.

2. The Commission shall seek scientific advice from the STECF on the rate of progress towards the objectives of the multiannual plan in the third year of application of this Regulation and each third successive year of application of this Regulation. The Commission shall, if appropriate, propose relevant measures, and the Council shall decide by qualified majority on alternative measures to achieve the objectives set out in Articles 3 and 4.

*Article 18***Special circumstances**

In the event that STECF advises that the spawning stock size of either or both plaice or of sole is suffering reduced reproductive capacity, the Council shall decide by qualified majority on the basis of a proposal from the Commission on a TAC for plaice that is lower than that provided for in Article 7, on a TAC for sole that is lower than that provided for in Article 8, and on levels of fishing effort that are lower than those provided for in Article 9.

CHAPTER VI

FINAL PROVISIONS*Article 19***Assistance under the European Fisheries Fund**

1. During the first stage foreseen in Article 3 of this Regulation, the multiannual plan shall be deemed to be a recovery

plan within the meaning of Article 5 of Regulation (EC) No 2371/2002, and for the purposes of Article 21(a)(i) of Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund ⁽¹⁾.

2. During the second stage foreseen in Article 4 of this Regulation, the multiannual plan shall be deemed to be a management plan within the meaning of Article 6 of Regulation (EC) No 2371/2002, and for the purposes of Article 21(a)(iv) of Regulation (EC) No 1198/2006.

*Article 20***Entry into force**

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

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

Done at Luxembourg, 11 June 2007.

For the Council
The President
H. SEEHOFER

⁽¹⁾ OJ L 223, 15.8.2006, p. 1.