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COVER NOTE

from : Mr Bernhard ZEPTER, Deputy Secretary-General of the European
Commission

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to : Mr Javier SOLANA, Secretary-General/High Representative

Subject : Proposal for a Council Regulation establishing measures for the recovery of
cod and hake stocks

Delegations will find attached Commission document COM(2001) 724 final.

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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 11.12.2001
COM(2001) 724 final

2001/0299 (CNS)

Proposal for a

COUNCIL REGULATION

establishing measures for the recovery of cod and hake stocks

(presented by the Commission)

EXPLANATORY MEMORANDUM

In November 2000 the International Council for the Exploration of the Sea indicated that the cod stock in the North Sea and west of Scotland and the northern hake stock are at serious risk of collapse. In December 2000 the Council of Fisheries Ministers agreed that it is necessary for the Community to establish a recovery plan for these stocks and the Commission was invited to present proposals as soon as possible.

In February, June and October 2001 the Commission has adopted various emergency measures to restrict fishing of these species, including a temporary closure of fishing in the North Sea and increased mesh sizes for the fishing of cod, increased mesh sizes areas closed to certain types of fishing and stricter control measures for the fishing of hake.

The Commission is now proposing a Council Regulation establishing measures for the recovery of fish stocks threatened with collapse, which provides for a multi-annual recovery plan for these stocks. In addition to the northern hake and cod in the North Sea and to the west of Scotland the proposal also refers to cod in the Kattegat and in the Irish Sea where these stocks are equally imperilled.

These proposals do not prejudice the forthcoming reform of the Common Fisheries Policy referred to in the recent Green Paper.

The proposed Regulation contains the following elements:

(i) the setting of biological targets for the recovery of the stocks concerned

The Council is invited to set quantitative targets for the adult populations of cod and hake of each of the stocks concerned. When these targets are reached, the stock concerned will be removed from the recovery plan.

(ii) a procedure for setting annual total allowable catches (TACs) for these stocks

It is proposed that each year the TAC be set at a level that will give a high probability that the biomass will increase by 30% in the case of cod and 15% in the case of hake. The difference in the rates is due to differences in the characteristics of the fisheries, such as different levels of fishing mortality, different growth rates and different levels of responsiveness to a reduction in fishing.

(iii) a system for limiting fishing effort (that is, the time spent by a fishing vessel at sea) in respect of all fishing vessels likely to catch cod and/or hake

This system is based on the idea of reducing fishing effort, compared to the recent levels (1998-2000), in relation to the reduction in fishing mortality required to achieve (i.e. not exceed) the TAC for the year concerned. An average level of reduction of fishing mortality required for all the recovery stocks is computed and then applied to the historic level of fishing effort. The resulting total of "available kilowatt-days" is then distributed by each Member State among the fishing vessels concerned.

All fishing vessels that are authorised to land cod and/or hake will be subject to fishing effort limits. Vessels that on average have landed over 100 tonnes a year will be subject to the full reduction of effort to be decided each year; vessels landing less than that amount are subject to a lesser reduction of effort, in proportion to their average catch of cod and/or hake.

(iv) the establishment of special conditions for the monitoring and control of vessels engaged in these fisheries

Among the monitoring conditions proposed are the obligation for vessels over 15m in length to carry satellite monitoring systems, special reporting requirements for other vessels, an obligation to land catches over a certain quantity in designated ports and conditions for the weighing and transport of landed cod and/or hake.

(v) amendment of the rules for Community financial aid to the fisheries sector

The Commission proposes a number of changes in order to stimulate structural change in the fishing fleets concerned. It proposes that an additional incentive be provided to scrap fishing vessels engaged in fishing these stocks, by increasing the maximum level of the premium for scrapping under the Financial Instrument for Fisheries Guidance by 20 per cent. In addition, the conditions for granting Community co-financing of national aid for temporary laying-up of fishing vessels are relaxed in order to provide Community financial support during the first year of implementation of the recovery plan, in which it may be difficult to implement decommissioning. The conditions for granting aid to vessel modernisation are made more restrictive. This proposal implies a redistribution of the Community financial support already available to Member States under Council Regulation No 2792/99 but no overall increase.

Member States are invited to adapt the distribution of their public aid programmes for the fisheries sector in the light of these changes. Following the mid-term review in 2003, Member States will have an opportunity to make any adjustments to the programmes supported by the Structural Funds which they consider necessary in order to take account of the impact of this proposal on the areas affected.

(vi) a procedure by which the Commission, upon request of a Member State, may decide to close fishing grounds temporarily

This procedure is necessary to allow rapid temporary closure of areas where there are unpredictable accumulations of juvenile cod or hake. The maximum duration of any closure would be two months and the geographical area would be limited.

(vii) an adjustment to the rules for the common organisation of the market

This measure extends the responsibility of Producer Organisations to draw up fishing plans for the species concerned.

This proposal for a multi-annual recovery plan for stocks threatened with collapse will be accompanied by a separate proposal replacing Council Regulation 850/98 laying down technical measures for fishing to protect juvenile fish in which all recent improvements in selectivity currently contained in Commission Regulations and a number of new elements of relevance to cod and/or hake recovery will be included.

The Commission will, in co-operation with the Member States, carry out an impact assessment for the fleets of Member States and the fisheries sector overall of the measures contained in this proposal within 18 months of its adoption by Council.

Proposal for a

COUNCIL REGULATION

establishing measures for the recovery of cod and hake stocks

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Whereas:

- (1) Recent scientific advice from the International Council for the Exploration of the Sea has indicated that a number of fish stocks in Community waters have been subjected to levels of mortality by fishing which have eroded the quantities of mature fish in the sea to the point at which the stocks may not be able to replenish themselves by reproduction and that these stocks are therefore threatened with collapse.
- (2) Among these stocks are those of cod in the Kattegat, the North Sea, Skagerrak and eastern Channel, to the west of Scotland and in the Irish Sea and hake in waters of the Bay of Biscay, around Ireland, the Channel, to the west of Scotland, the North Sea, the Skagerrak and the Kattegat.
- (3) Measures need to be taken to establish multi-annual programmes for the recovery of these stocks.
- (4) The objectives of these programmes should be defined so that it can be determined when the measures can be terminated.
- (5) In order to achieve the objectives the level of fishing mortality rate needs to be controlled in such a way that increase from year to year of the quantities of mature fish in the sea is highly probable.
- (6) Such control of fishing mortality rate can be achieved by establishing an appropriate method for the establishment of the level of the Total Allowable Catches of the fish stocks concerned and a system whereby fishing effort on the stocks concerned is constrained to levels such that the Total Allowable Catches are unlikely to be exceeded.

¹ OJ C , , p. .

² OJ C , , p. .

- (7) Control measures additional to those laid down in Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy³, as last amended by Council Regulation (EC) No 2846/98⁴ are required to ensure compliance with the measures laid down in this Regulation.
- (8) The forced reduction in activity of a significant number of Community fishing vessels will require derogations from existing financial measures for the permanent withdrawal of vessels and for the compensation to fishermen and vessel owners for losses brought about by the immediate reduction in activities.
- (9) The conditions for granting public aid for the renewal and modernisation of the vessels concerned should be made more restrictive.
- (10) To ensure a planned uptake of fish from the stocks concerned, producer organisations should draw up detailed catch plans.
- (11) To reduce fishing on dense accumulations of juvenile fish of the threatened stocks, a system for the rapid closure to fishing of areas of limited geographical extent and temporal duration needs to be established,

HAS ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

1. The purpose of this Regulation is to establish a recovery programme for the fish stocks indentified below to rebuild the quantities in tonnes of mature fish to values equal to or greater than those specified for each stock:

Stocks concerned	Target Levels
Cod in the Kattegat	10500
Cod in the North Sea, Skagerrak and Eastern Channel	150000
Cod to the west of Scotland	22000
Cod in the Irish Sea	10000
Hake – northern area	165000

³ OJ L 261, 20.10.1993, p.1

⁴ OJ L 358, 31.12.1998, p.5

2. When the Commission finds, on the basis of advice from ICES and following agreement on that advice by STECF, that for two consecutive years the target level for a stock concerned has been reached, the Council shall decide on a proposal from the Commission to remove that stock from the scope of this Regulation.

3. This Regulation shall apply to fishing vessels flying the flag of or registered in a Member State.

- This Chapter and Chapters IV and VII shall apply to all other fishing vessels operating in waters under the sovereignty or jurisdiction of a Member State.

Article 2

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

(a) “Kattegat” means that part of ICES Division IIa 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 Hasenore to Gnibens Spibs, from Korshage to Spodsbjerg and from Gilbjerg Hoved to Kullen.

(b) “North Sea” means ICES Sub-area IV and that part of ICES Division IIIa not covered by the Skagerrak and that part of ICES Division IIa which lies within waters under the sovereignty or jurisdiction of Member States.

(c) “Skagerrak” means that part of ICES Division IIIa 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.

(d) “Eastern Channel” means ICES Division VIId.

(e) “Irish Sea” means ICES Division VIIa.

(f) “West of Scotland” means ICES Division VIa and that part of ICES Division Vb which lies within waters under the sovereignty or jurisdiction of Member States.

(g) “Northern area” means ICES Division IIIa, the North Sea, the west of Scotland, the Irish Sea, ICES Sub-area VII and ICES Divisions VIIIabde.

CHAPTER II

SELECTION OF TOTAL ALLOWABLE CATCHES

Article 3

1. Each year, following receipt of a scientific evaluation from the STECF (Scientific Technical and Economic Committee for Fisheries) in the light of the most recent report of the ICES (International Council for the Exploration of the Sea), the Council shall decide on the basis of a proposal from the Commission on a TAC (Total Allowable Catch) for the following year for each of the stocks concerned.
2. The TAC's shall not exceed a level for which a scientific evaluation has indicated that they will result in an increase in the quantities of mature fish in the sea at the end of the year of their application compared to the quantities estimated to have been in the sea at the start of that year, of
 - (a) 30% in the case of the stocks of cod and
 - (b) 15% in the case of the hake stockcompared to the quantities estimated to have been in the sea at the start of that year.
3. In the event that the process indicated in paragraph 2 would lead to a Total Allowable Catch year which is more than 50% greater than the Total Allowable Catch of the current year the Council shall adopt a Total Allowable Catch which is no more than 50% greater than that of the current year.
4. In the event that the process indicated in paragraph 2 would lead to a Total Allowable Catch which is more than 50% less than the Total Allowable Catch of the current year the Council shall adopt a Total Allowable Catch which is no more than 50% less than that of the current year.
5. The Council shall in no circumstances adopt a Total Allowable Catch whose uptake is predicted by the STECF in the light of the most recent report of the ICES to generate in its year of application a fishing mortality rate greater than the following values:

Cod in the Kattegat	0.60
Cod in the North Sea, Skagerrak and eastern Channel	0.65
Cod to the west of Scotland	0.60
Cod in the Irish Sea	0.72
Hake - northern area	0.20

CHAPTER III

FISHING EFFORT LIMITATION

Article 4

1. Each year, the Council shall decide on the basis of a proposal from the Commission on the maximum level of fishing effort in the forthcoming year for relevant fishing vessels of each Member State.
2. This fishing effort shall be calculated in kilowatt-days defined in accordance with Annex II, part 2, subparagraph (a) on the basis of a proportion of the annual average fishing effort of relevant fishing vessels of each Member State in the period 1998 to 2000.
3. The proportion referred to in paragraph 2 shall be calculated on the basis of:
 - (a) The value of fishing mortality rate which will be generated on each of the threatened stocks by taking the Total Allowable Catch for the forthcoming year.
 - (b) The value of the average fishing mortality rate for each of the threatened stocks in the period 1998 to 2000.
 - (c) The quantities of mature fish specified in Article 2.

The computational method to derive this proportion is laid down in Annex I.

For 2002, the proportion shall be 0.5.

Article 5

1. Each Member State shall establish a list indicating the fishing vessels flying its flag or registered therein which had at any time during the period 1998 to 2000 landed any quantity of the species referred to in Article 1 caught in the areas indicated in Article 2 and/or which had landed any quantity of sandeel and/or Norway pout caught in these areas.
2. For each vessel on the list referred to in paragraph 1, the Member State concerned shall indicate:
 - (a) The internal number of the vessel as communicated to the Fishing Vessel Register of the Community in accordance with Commission Regulation (EC) No 2090/1998⁵.
 - (b) The engine power of the vessel in kilowatts.

⁵ OJ L 266, 01.10.1998, p.27

(c) The annual average landings of the species referred to in Article 1 from the areas indicated in Article 2 for the period 1998 to 2000 or for the years during that period when the vessel was operational.

(d) The annual average number of days at sea in the areas indicated in Article 2 for the period 1998 to 2000 or for the years during that period when the vessel was operational.

(e) The landings in tons of each of the species referred to in Article 1 and from the areas indicated in Article 2 and for each year of the period 1998 to 2000 and

(f) The number of days at sea in the areas indicated in Article 2 for each year of the period 1998 to 2000.

3. For any vessel of a Member State for which the number of days at sea is unknown, this number shall be set at 150.

Article 6

1. Each Member state shall allocate to each vessel on the list specified in Article 5(1) a number of days at sea which shall be determined in accordance with paragraphs 2,3 and 4 and the procedure laid down in Annex II, part 1.

2. Each vessel whose average annual landings of the species indicated in conformity with Article 5(2)(c) exceeded 100 tonnes shall be reduced in its fishing effort by the proportion calculated by the procedure laid down in Annex I.

3. Each vessels whose average annual landings of the species indicated in conformity with Article 5(2)(c) were more than zero but less than 100 tons shall be proportionately reduced in its fishing effort by a quantity less than the proportion calculated by the procedure laid down in Annex I.

4. Each vessel involved in industrial fishing for sandeels and/or Norway pout which has an average annual landings of the species indicated in conformity with Article 5(2)(c) of zero tons shall be reduced in its fishing effort by 5%.

5. Each Member State shall calculate separately by the procedure laid down in Annex II, part 2;

(a) the sum of the kilowatt-days for those vessels listed in accordance with Article 5(1) which have landed sandeels and/or Norway pout and

(b) the sum of the kilowatt-days for those vessels listed in accordance with Article 5(1) which have not landed sandeels and/or Norway pout.

Article 7

1. Each year, each Member State shall establish two separate lists of vessels flying its flag or registered therein permitted to land in the forthcoming year catches taken in the areas defined in Article 2;

(a) of the species referred to in Article 1

(b) of sandeels and/or Norway pout.

2. A Member State may redistribute the sum of the kilowatt-days calculated in accordance with Article 6 among vessels flying its flag or registered therein included in either of the lists referred to in paragraph 1.

However, a Member State shall not redistribute kilowatt-days

(a) from the sum indicated in Article 6(5)(b) to vessels permitted to land sandeels and/or Norway pout or

(b) from the sum indicated in Article 6(5)(a) to vessels permitted to land the species referred to in Article 1.

3. Any redistribution of kilowatt-days shall not result in a total of kilowatt-days in excess of those calculated in accordance with Article 6(5).
4. Member States may exchange kilowatt-days in accordance with Article 9 of Regulation (EEC) No 3760/92⁶.

Article 8

Each Member State shall provide to the Commission, in printed form and in computer-accessible form, full details of the data and computations carried out in accordance with Articles 5, 6 and 7.

⁶ OJ L 389, 31.12.1992, p.1

CHAPTER IV

MONITORING, INSPECTION AND SURVEILLANCE

Article 9

Any vessel which is not included in a list indicated in Article 7 shall not land or tranship the species referred to in Article 1 which have been caught in the areas defined in Article 3 except in landings taken with nets of mesh size less than 32mm and provided that such landings are unsorted.

Article 10

1. By way of derogation from the provisions of Article 3(2) of Council Regulation (EEC) N° 2847/93, the provisions on the satellite-based Vessel Monitoring System (VMS) laid down under Article 3 of that Regulation shall apply no later than 30 June 2003 to the fishing vessels listed in accordance with Article 7(1) and exceeding 15 metres in length overall.
2. By way of derogation from the provisions of Article 28c second indent of Council Regulation (EEC) N° 2847/93, third-country fishing vessels operating in the areas defined in Article 2 and exceeding 15 metres in length overall shall be equipped, no later than 30 June 2003, with a fully operational satellite-tracking device that shall ensure the automatic transmission of position monitoring information which shall be reported to the Fisheries Monitoring Centre (FMC) of the coastal Member States.
3. For the purpose of this Regulation, the provisions of Article 3(3) of Council Regulation (EEC) N° 2847/93 shall not apply.

Article 11

1. Whenever a fishing vessel exceeding 10 metres in length overall enters or exits any of the geographical areas defined in paragraph 2, its master or his representative shall communicate simultaneously to the flag State and the coastal Member States responsible for monitoring where the vessels will carry out or has carried out its fishing activities in waters under the sovereignty or jurisdiction of those Member States.

The communication shall comprise:

- the name of the vessel,
- the name of the master,
- the geographical location of the vessel,
- the date and time of:

- each entry into, and exit from, a port located inside the area,
- each entry into an area,
- each exit from an area.

2. For the purposes of paragraph 1, the following geographical areas are defined

(a) The area enclosed by;

- (i) the coast of Ireland to the south of 53°30'N and to the west of 07°00'W and
- (ii) straight lines sequentially joining the following geographical coordinates;

A point on the west coast of Ireland at 53°30'N

53°30'N, 12°00'W

53°00'N, 12°00'W

51°00'N, 11°00'W

49°30'N, 11°00'W

49°00'N, 07°00'W

A point on the south coast of Ireland at 07°00'W

(b) The area enclosed by;

- (i) the west coast of France between 48°00'N and 44°00'N and
- (ii) straight lines sequentially joining the following geographical coordinates;

A point on the west coast of France at 48°00'N

48°00'N, 07°00'W

45°00'N, 02°00'W

44°00'N, 02°00'W

A point on the west coast of France at 44°00'N

3. The following fishing vessels shall be exempted from the obligation provided for in paragraph 1:

- (a) vessels to which VMS applies and which transmit data via VMS pursuant to Article 10(1) and 10(2) or
- (b) vessels which enter any of the areas defined in paragraph 2 from any port or other location on
 - (i) that part of the coast of Ireland defined in paragraph 2(a)(i) or
 - (ii) that part of the coast of France defined in paragraph 2(b)(i) and

- (iii) which remain within this area during the course of any current fishing voyage
- 4. The master of the fishing vessel shall record the information referred to in paragraph 1 and the time of transmission of such a communication in the logbook.

Article 12

1. The master of a fishing vessel, or his representative, who wishes to land more than 250 kg of hake or more than 1 tonne of cod in any Member State shall inform, at least four hours in advance of landing, the competent authorities of that Member State of:
 - the landing location,
 - the estimated time of arrival at that location,
 - the quantities of hake or cod retained on board,
 - the quantities of hake or cod to be landed.
2. The competent authorities of a Member State in which a landing of more than 250 kg of hake or more than 1 tonne of cod is to be made, may require that the discharge does not commence until authorised by those authorities.

Article 13

1. Whenever more than 500 kg of hake or more than 2 tonnes of cod are to be landed from a fishing vessel, the master of the vessel shall ensure that such landings are made only at designated ports.
2. Each Member State shall designate ports into which any landing of hake in excess of 500 kg or of cod in excess of 2 tonnes shall take place.
3. Each Member State shall transmit to the Commission within 15 days of the date of entry into force of this Regulation the list of designated ports and, within 30 days thereafter, associated inspection and surveillance procedures including the terms and conditions for recording and reporting the quantities of hake or cod within each landing. The Commission shall transmit this information to all Member States.

Article 14

1. It shall be prohibited to retain on board a fishing vessel in any individual box or other container any quantity of the species referred to in Article 1 mixed with any other species of marine organism.
2. The masters of the fishing vessels shall provide the necessary assistance to inspectors of Member States to enable the quantities declared in the logbook and the catches of species referred to in Article 1 retained on board to be cross-checked for verification purposes.

Article 15

1. The competent authorities of a Member State may require that any quantity of the species referred to in Article 1 first landed in that Member State is weighed before being transported elsewhere.
2. By way of derogation from the conditions laid down in Article 13 of Council Regulation (EEC) No 2847/93, all quantities of the species referred to in Article 1 which are transported to a place other than that 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 pertaining to the quantities of these species transported. The exemption foreseen in Article 13(4)(b) of Council Regulation (EEC) No 2847/93 shall not apply.

Article 16

By way of derogation from the provisions of the Article 34c(1) of Council Regulation (EEC) N° 2847/93, the specific monitoring programmes for the fish stocks concerned may last more than two years.

CHAPTER V
ACCOMPANYING STRUCTURAL MEASURES

Article 17

1. By way of derogation from the provisions of Regulation (EC) No 2792/1999⁷, the following rules shall apply to the vessels referred to in Article 7(1)(a):
2. The provisions of Article 6(1) of Council Regulation (EC) No 2792/99 are extended to include non-trawlers of less than 12 metres overall length;
3. Where public aid is granted for the scrapping of a vessel, the scales referred to in Article 7(5)(a) of Regulation (EC) No 2792/99 are increased by 20%, on condition that the application for the grant is made within two years of the date of entry into force of the present regulation.
4. Public aid shall not be granted for renewal of the vessels, except in the case of vessels of less than 12 metres overall length and only in order to bring such vessels into conformity with safety requirements.
5. Community co-financing of compensation to fishermen and owners of the vessels for the temporary cessation of activities as provided for in Article 16(1)(c) of Council Regulation (EC) No 2792/99, may be granted for a period of up to one year after the entry into force of this Regulation.
6. The amounts granted to fishermen and vessel owners under paragraph (5) shall not be taken into account with respect to the limits imposed by Article 16(3) of Regulation (EC) No 2792/99.
7. Vessel owners shall no longer be eligible for the compensation for temporary cessation of activity as of the date of an administrative decision granting a premium for scrapping. In the case of advance payment of this compensation, any amount overpaid shall be deducted from the premium for scrapping granted for the vessel concerned.

⁷ OJ L 337, 30.12.1999, p.10

CHAPTER VI

MARKET MEASURES

Article 18

By way of derogation from Article 9(1)(b) first indent of Regulation (EC) No 104/2000⁸, each producer organisation shall draw up a detailed catch plan for the species referred to in Article 1, even if those species do not represent a significant share of the landings of its members.

⁸ OJ L 17, 21.01.2000, p.22

CHAPTER VII
ESTABLISHMENT OF TEMPORARILY CLOSED AREAS

Article 19

1. When a Member State becomes aware that dense accumulations of juvenile fish from any of the fish stocks concerned are being fished in waters under its sovereignty or jurisdiction, that Member State may request the Commission to take urgent measures to prevent such fishing. Member States may make a joint request to the Commission when they consider that measures applying to the waters under the sovereignty or jurisdiction of all of these Member States are required.
2. Within five working days of its receipt, the Commission will decide whether to accept or reject the request and in the case of acceptance, it will immediately take the necessary measures. It shall immediately inform the Member States and the third countries whose vessels are entitled to fish in the waters under the sovereignty or jurisdiction of the Member State or Member States concerned.
3. These measures shall comprise a prohibition on fishing with specified fishing gears within a specified geographical area. They shall have a maximum duration of 60 days and shall apply to a geographical area of no more than 4000 square nautical miles.

Article 20

Each request of a Member State or Member States under Article 19(1) shall be accompanied by documentation indicating:

- (a) the source of information which stimulated the request,
- (b) the procedure by which the information was verified,
- (c) an estimate of the quantities by weight and/or number of juvenile fish caught per day,
- (d) the fishing methods used to take these catches,
- (e) the geographical coordinates within which the catches are being taken,
- (f) the geographical coordinates of the area for prohibition of fishing considered desirable by the Member State(s),
- (g) the duration of the prohibition of fishing considered desirable,
- (h) the name and contact address of the official or officials responsible for coordination with the Commission.

Article 21

The measures referred to in Article 19 shall not apply to fishing vessels flying the flag of or registered in a Member State which fish:

- (a) for no more than 5 days
- (b) with a specific authorisation of the Member State or Member States in whose waters they are fishing
- (c) in the presence of at least one fishery inspector of the flag Member State and/or of the Commission.

The fishery inspectors shall record the quantities of juvenile fish caught by each deployment of the fishing gears concerned.

Article 22

A Member State may request the Commission to withdraw or modify the measures taken under Article 19 on the basis of information collected in accordance with Article 21 or any other relevant information.

The Commission shall accept or reject such a request within five working days of its receipt.

Article 23

This Regulation shall enter into force on the seventh day following its publication in the *Official Journal of the European Communities*

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

Done at Brussels,

For the Council
The President

ANNEX I

Calculation of the proportion by which fishing effort should be reduced compared to the average level of the period 1998 to 2000.

This Annex provides additional detail on the computation of the proportion referred to in Article 4.

General approach⁹

The proportion by which fishing effort is to be reduced compared to the average level in the period 1998 to 2000 is computed as a weighted average across all stocks concerned of the proportion by which fishing mortality rate should be reduced. The weighting factors are the ratios of the quantities of mature fish indicated in Article 2 for each stock to the total of all such quantities.

Computational procedure

This proportion is calculated according to the following procedure;

- (a) Calculate from the most recently available relevant report of ICES the average fishing mortality rate for each fish stock concerned for the period 1998 to 2000,
- (b) Determine from the same report the fishing mortality rate implied for the forthcoming year for each of the fish stocks concerned by application of the process for selection of TAC's laid down in Chapter II,
- (c) Divide each value of fishing mortality rate resulting from (b) by the corresponding value resulting from (a),
- (d) Multiply each value resulting from (c) by the corresponding quantity of mature fish in the sea indicated in Article 2,
- (e) Calculate the sum of the results obtained in (d)
- (f) Calculate the sum of the quantities of mature fish in the sea indicated in Article 2
- (g) Divide the result obtained in (e) by the result obtained in (f),
- (h) Subtract the result obtained in (g) from unity.

⁹ The process described in this Annex is in accordance with the following equation:

$$1 - \frac{\sum \{B_i (f_i/F_i)\}}{\sum B_i}$$

Where:

$i = 1, 2$ n (n = number of stocks concerned)

B_i is the weight of mature fish in the sea for each stock indicated in Article 1(3)

f_i is the fishing mortality rate implied by uptake of the TAC for each stock

F_i is the annual average fishing mortality rate for each stock during the period 1998 to 2000

ANNEX II

This Annex provides additional detail on the computation of the kilowatt-days referred to in Article 6.

Part 1

Calculation of the number of days for which each vessel may be at sea.

Computational procedure¹⁰

The number of days at seas for each vessel included in the list referred to in Article 5(1) is calculated according to the following procedure:

(a) Divide by 100 the annual average landings in tons calculated in conformity with Article 5(2)(c).

If the result is greater than unity, set the result at unity and continue the calculation from (b)¹¹

If the result is zero, set the result at 0.05 and continue the calculation from (c)¹².

(b) Multiply the result obtained in (a) by the proportion calculated under the conditions laid down in Annex I¹³

(c) Multiply the annual average number of days at sea indicated in conformity with Article 5(2)(d) by the result obtained either in (a) or in (b).

(d) Subtract the result obtained in (c) from the annual average number of days at sea indicated in conformity with Article 5(2)(d).

(e) Ignore decimal or other fractions in the result obtained in (d).

¹⁰ The process described in this Annex is in accordance with the following equation:

$$D_2 = D_1(1-LP/100)$$

Where:

D_2 is adjusted days

D_1 is annual average days at sea for the vessel in the period 1998 to 2000

L is annual average landings from the stocks concerned for the vessel in the period 1998 to 2000

P is the proportion evaluated by application of the procedure defined in Annex I

If $L/100 = 0$ then $D_2 = 0.95 D_1$

If $L/100 > 1$ then $D_2 = P D_1$

¹¹ This condition ensures that each vessel on the list which has annual average landings of more than 100 tons of the species indicated in Article 1(3) in the period 1998 to 2000 has its fishing effort reduced by the proportion calculated under the conditions laid down in Annex I.

¹² This condition ensures that each vessel which has landed sandeels and/or Norway pout but has landed none of the species indicated in Article 1(3) during the period 1998 to 2000 has its fishing effort reduced by 5% in recognition of the fact that vessels catching sandeels and/or Norway pout land small tonnages of cod as unsorted by-catch.

¹³ This condition ensures that each vessel on the list which has annual average landings of the species indicated in Article 1(3) of between 0 and 100 tonnes during the period 1998 to 2000 has its fishing effort reduced by proportionately less than the value calculated under the conditions laid down in Annex I.

Part 2

Accumulation of kilowatt-days

(a) For each of the vessels on the list, the number of days for which the vessel may be at sea as calculated in accordance with the conditions laid down in part 1 of this Annex shall be multiplied by the engine power in kilowatts for that vessel.

(b) The sum of the results obtained in (a) shall be calculated separately for those vessels

(i) which landed sandeels and/or Norway pout and

(ii) which did not land sandeels and/or Norway pout.