

Council Regulation (EC) No 2371/2002 of 20 December 2002  
on the conservation and sustainable exploitation of fisheries  
resources under the Common Fisheries Policy (repealed)

CHAPTER I

**SCOPE AND OBJECTIVES**

*Article 1*

**Scope**

1 The Common Fisheries Policy shall cover conservation, management and exploitation of living aquatic resources, aquaculture, and the processing and marketing of fishery and aquaculture products where such activities are practised on the territory of Member States or in Community waters or by Community fishing vessels or, without prejudice to the primary responsibility of the flag State, nationals of Member States.

2 The Common Fisheries Policy shall provide for coherent measures concerning:

- a conservation, management and exploitation of living aquatic resources,
- b limitation of the environmental impact of fishing,
- c conditions of access to waters and resources,
- d structural policy and the management of the fleet capacity,
- e control and enforcement,
- f aquaculture,
- g common organisation of the markets, and
- h international relations.

*Article 2*

**Objectives**

1 The Common Fisheries Policy shall ensure exploitation of living aquatic resources that provides sustainable economic, environmental and social conditions.

For this purpose, the Community shall apply the precautionary approach in taking measures designed to protect and conserve living aquatic resources, to provide for their sustainable exploitation and to minimise the impact of fishing activities on marine ecosystems. It shall aim at a progressive implementation of an eco-system-based approach to fisheries management. It shall aim to contribute to efficient fishing activities within an economically viable and competitive fisheries and aquaculture industry, providing a fair standard of living for those who depend on fishing activities and taking into account the interests of consumers.

2 The Common Fisheries Policy shall be guided by the following principles of good governance:

- a clear definition of responsibilities at the Community, national and local levels;
- b a decision-making process based on sound scientific advice which delivers timely results;

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- c broad involvement of stakeholders at all stages of the policy from conception to implementation;
- d consistence with other Community policies, in particular with environmental, social, regional, development, health and consumer protection policies.

### Article 3

#### Definitions

For the purpose of this Regulation the following definitions shall apply:

- (a) ‘Community waters’ means the waters under the sovereignty or jurisdiction of the Member States with the exception of waters adjacent to the territories mentioned in Annex II to the Treaty;
- (b) ‘living aquatic resources’ means available and accessible living marine aquatic species, including anadromous and catadromous species during their marine life;
- (c) ‘fishing vessel’ means any vessel equipped for commercial exploitation of living aquatic resources;
- (d) ‘Community fishing vessel’ means a fishing vessel flying the flag of a Member State and registered in the Community;
- (e) ‘sustainable exploitation’ means the exploitation of a stock in such a way that the future exploitation of the stock will not be prejudiced and that it does not have a negative impact on the marine eco-systems;
- (f) ‘fishing mortality rate’ means the catches of a stock over a given period as a proportion of the average stock available to the fishery in that period;
- (g) ‘stock’ means a living aquatic resource that occurs in a given management area;
- (h) ‘fishing effort’ means the product of the capacity and the activity of a fishing vessel; for a group of vessels it is the sum of the fishing effort of all vessels in the group;
- (i) ‘precautionary approach to fisheries management’ means that the absence of adequate scientific information should not be used as a reason for postponing or failing to take management measures to conserve target species, associated or dependent species and non-target species and their environment;
- (j) ‘limit reference points’ means values of fish stock population parameters (such as biomass or fishing mortality rate), which should be avoided because they are associated with unknown population dynamics, stock collapse or impaired recruitment;
- (k) ‘conservation reference points’ means values of fish stock population parameters (such as biomass or fishing mortality rate) used in fisheries management, for example with respect to an acceptable level of biological risk or a desired level of yield;
- (l) ‘safe biological limits’ means indicators of the state of a stock or of its exploitation inside which there is a low risk of transgressing certain limit reference points;
- (m) ‘catch limit’ means a quantitative limit on landings of a stock or group of stocks over a given period unless otherwise provided for in Community law;

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- (n) 'fishing capacity' means a vessel's tonnage in GT and its power in kW, as defined in Articles 4 and 5 of Council Regulation (EEC) No 2930/86<sup>(1)</sup>. For certain types of fishing activity, capacity may be defined by the Council using for example the amount and/or the size of a vessel's fishing gear;
- (o) 'exit from the fleet' means the removal of a fishing vessel from the fishing fleet register of a Member State, provided that Article 15(1) is complied with;
- (p) 'entry into the fleet' means the registration in the fishing fleet register of a Member State of a fishing vessel;
- (q) 'fishing opportunity' means a quantified legal entitlement to fish, expressed in terms of catches and/or fishing effort;
- (r) 'Community fishing opportunity' means the fishing opportunities available to the Community in Community waters, plus the total Community fishing opportunities outside Community waters, less the Community fishing opportunities allocated to third countries.

## CHAPTER II

### CONSERVATION AND SUSTAINABILITY

#### *Article 4*

#### **Types of measures**

1 To achieve the objectives mentioned in Article 2(1), the Council shall establish Community measures governing access to waters and resources and the sustainable pursuit of fishing activities.

2 The measures referred to in paragraph 1 shall be established taking into account available scientific, technical and economic advice and in particular of the reports drawn up by the Scientific, Technical and Economic Committee for Fisheries (STECF) established under Article 33(1) as well as in the light of any advice received from Regional Advisory Councils established under Article 31. They may, in particular, include measures for each stock or group of stocks to limit fishing mortality and the environmental impact of fishing activities by:

- a adopting recovery plans under Article 5;
- b adopting management plans under Article 6;
- c establishing targets for the sustainable exploitation of stocks;
- d limiting catches;
- e fixing the number and type of fishing vessels authorised to fish;
- f limiting fishing effort;
- g adopting technical measures, including:
  - (i) measures regarding the structure of fishing gear, the number and size of fishing gear on board, their methods of use and the composition of catches that may be retained on board when fishing with such gear;
  - (ii) zones and/or periods in which fishing activities are prohibited or restricted including for the protection of spawning and nursery areas;
  - (iii) minimum size of individuals that may be retained on board and/or landed;

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- (iv) specific measures to reduce the impact of fishing activities on marine ecosystems and non target species;
- h establishing incentives, including those of an economic nature, to promote more selective or low impact fishing;
- i conducting pilot projects on alternative types of fishing management techniques.

### *Article 5*

#### **Recovery plans**

1 The Council shall adopt, as a priority, recovery plans for fisheries exploiting stocks which are outside safe biological limits.

2 The objective of recovery plans shall be to ensure the recovery of stocks to within safe biological limits.

They shall include conservation reference points such as targets against which the recovery of the stocks to within safe biological limits shall be assessed.

Targets shall be expressed in terms of:

- a population size and/or
- b long-term yields and/or
- c fishing mortality rate and/or
- d stability of catches.

Recovery plans may include targets relating to other living aquatic resources and the maintenance or improvement of the conservation status of marine eco-systems.

Where more than one target is set, recovery plans shall specify the order of priority of these targets.

3 Recovery plans shall be drawn up on the basis of the precautionary approach to fisheries management and take account of limit reference points recommended by relevant scientific bodies. They shall ensure the sustainable exploitation of stocks and that the impact of fishing activities on marine eco-systems is kept at sustainable levels.

They may cover either fisheries for single stocks or fisheries exploiting a mixture of stocks, and shall take due account of interactions between stocks and fisheries.

The recovery plans shall be multi-annual and indicate the expected time frame for reaching the targets established.

4 Recovery plans may include any measure referred to in points (c) to (h) of Article 4(2) as well as harvesting rules which consist of a predetermined set of biological parameters to govern catch limits.

Recovery plans shall include limitations on fishing effort unless this is not necessary to achieve the objective of the plan. The measures to be included in the recovery plans shall be proportionate to the objectives, the targets and the expected time frame, and shall be decided by the Council having regard to:

- a the conservation status of the stock or stocks;
- b the biological characteristics of the stock or stocks;
- c the characteristics of the fisheries in which the stocks are caught;

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d the economic impact of the measures on the fisheries concerned.

5 The Commission shall report on the effectiveness of the recovery plans in achieving the targets.

### *Article 6*

#### **Management plans**

1 The Council shall adopt management plans as far as necessary to maintain stocks within safe biological limits for fisheries exploiting stocks at/or within safe biological limits.

2 Management plans shall include conservation reference points such as targets against which the maintenance of stocks within such limits shall be assessed. Points (a) to (d) of Article 5(2) shall apply.

Management plans may include targets relating to other living aquatic resources and the maintenance or improvement of the conservation status of marine eco-systems.

Where more than one target is set, management plans shall specify the order of priority of these targets.

3 Management plans shall be drawn up on the basis of the precautionary approach to fisheries management and take account of limit reference points recommended by relevant scientific bodies. They shall ensure the sustainable exploitation of stocks and that the impact of fishing activities on marine eco-systems is kept at sustainable levels.

They may cover either fisheries for single stocks or fisheries exploiting a mixture of stocks, and shall take due account of interactions between stocks and fisheries.

The management plans shall be multi-annual and indicate the expected time frame for reaching the targets established.

4 The management plans may include any measure referred to in points (d) to (i) of Article 4(2) as well as harvesting rules which consist of a predetermined set of biological parameters to govern catch limits.

The measures to be included in the management plans shall be proportionate to the objectives, the targets and the expected time frame, and shall be decided by the Council having regard to:

- a the conservation status of the stock or stocks;
- b the biological characteristics of the stock or stocks;
- c the characteristics of the fisheries in which the stocks are caught;
- d the economic impact of the measures on the fisheries concerned.

5 The Commission shall report on the effectiveness of the management plans in achieving the targets.

### *Article 7*

#### **Commission emergency measures**

1 If there is evidence of a serious threat to the conservation of living aquatic resources, or to the marine eco-system resulting from fishing activities and requiring immediate action, the

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Commission, at the substantiated request of a Member State or on its own initiative, may decide on emergency measures which shall last not more than six months. The Commission may take a new decision to extend the emergency measures for no more than six months.

2 The Member State shall communicate the request simultaneously to the Commission, to the other Member States and to the Regional Advisory Councils concerned. They may submit their written comments to the Commission within five working days of receipt of the request.

The Commission shall take a decision within 15 working days of receipt of the request referred to in paragraph 1.

3 The emergency measures shall have immediate effect. They shall be notified to the Member States concerned, and published in the Official Journal.

4 The Member States concerned may refer the Commission decision to the Council within 10 working days of receipt of the notification.

5 The Council, acting by qualified majority, may take a different decision within one month of the date of receipt of the referral.

#### *Article 8*

#### **Member State emergency measures**

1 If there is evidence of a serious and unforeseen threat to the conservation of living aquatic resources, or to the marine ecosystem resulting from fishing activities, in waters falling under the sovereignty or jurisdiction of a Member State where any undue delay would result in damage that would be difficult to repair, that Member State may take emergency measures, the duration of which shall not exceed three months.

2 Member States intending to take emergency measures shall notify their intention to the Commission, the other Member States and the Regional Advisory Councils concerned by sending a draft of those measures, together with an explanatory memorandum, before adopting them.

3 The Member States and Regional Advisory Councils concerned may submit their written comments to the Commission within five working days of the date of notification. The Commission shall confirm, cancel or amend the measure within 15 working days of the date of notification.

4 The Commission decision shall be notified to the Member States concerned. It shall be published in the *Official Journal of the European Communities*.

5 The Member States concerned may refer the Commission decision to the Council within 10 working days of notification of the decision.

6 The Council, acting by qualified majority, may take a different decision within one month of the date of receipt of the referral.

#### *Article 9*

#### **Member State measures within the 12 nautical mile zone**

1 A Member State may take non-discriminatory measures for the conservation and management of fisheries resources and to minimise the effect of fishing on the conservation of

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marine eco-systems within 12 nautical miles of its baselines provided that the Community has not adopted measures addressing conservation and management specifically for this area. The Member State measures shall be compatible with the objectives set out in Article 2 and no less stringent than existing Community legislation.

Where measures to be adopted by a Member State are liable to affect the vessels of another Member State, such measures shall be adopted only after the Commission, the Member State and the Regional Advisory Councils concerned have been consulted on a draft of the measures accompanied by an explanatory memorandum.

2 Measures applying to fishing vessels from other Member States shall be subject to the procedures laid down in Article 8(3) to (6).

#### *Article 10*

### **Member State measures applicable solely to fishing vessels flying their flag**

Member States may take measures for the conservation and management of stocks in waters under their sovereignty or jurisdiction provided that:

- (a) they apply solely to fishing vessels flying the flag of the Member State concerned and registered in the Community or, in the case of fishing activities which are not conducted by a fishing vessel, to persons established in the Member State concerned and
- (b) they are compatible with the objectives set out in Article 2(1) and no less stringent than existing Community legislation.

## CHAPTER III

### **ADJUSTMENT OF FISHING CAPACITY**

#### *Article 11*

### **Adjustment of fishing capacity**

1 Member States shall put in place measures to adjust the fishing capacity of their fleets in order to achieve a stable and enduring balance between such fishing capacity and their fishing opportunities.

2 Member States shall ensure that the reference levels expressed in GT and kW for fishing capacity referred to in Article 12 and paragraph 4 of this Article are not exceeded.

3 No exit from the fleet supported by public aid shall be permitted unless preceded by the withdrawal of the fishing licence as defined in Council Regulation (EC) No 3690/93<sup>(2)</sup> and, where provided for, the fishing authorisations as defined in the relevant regulations. The capacity corresponding to the licence, and where necessary to the fishing authorisations for the fisheries concerned, cannot be replaced.

4 Where public aid is granted for the withdrawal of fishing capacity that goes beyond the capacity reduction necessary to comply with the reference levels under Article 12(1), the amount of the capacity withdrawn shall be automatically deducted from the reference levels. The reference levels thus obtained shall become the new reference levels.

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5 On fishing vessels of 5 years of age or more, modernisation over the main deck to improve safety on board, working conditions, hygiene and product quality may increase the tonnage of the vessel, provided that such modernisation does not increase the ability of the vessel to catch fish. The reference levels under this Article and Article 12 shall be adapted accordingly. The corresponding capacity need not be taken into account for the establishment of the balance of entries and exits by Member States under Article 13.

The detailed rules and conditions for such measures may be adopted in accordance with the procedure laid down in Article 30(2).

#### *Article 12*

### **Reference levels for fishing fleets**

1 The Commission shall establish for each Member State reference levels expressed in GT and kW for the total fishing capacity of the Community fishing vessels flying the flag of that Member State in accordance with the procedure laid down in Article 30(2).

The reference levels shall be the sum of the objectives of the Multi-annual Guidance Programme 1997-2002 for each segment as fixed for 31 December 2002 pursuant to Council Decision 97/413/EC<sup>(3)</sup>.

2 Implementing rules for the application of this Article may be adopted in accordance with the procedure laid down in Article 30(2).

#### *Article 13*

### **Entry/Exit scheme and overall capacity reduction**

1 Member States shall manage entries into the fleet and exits from the fleet in such a way that, from 1 January 2003:

- a the entry of new capacity into the fleet without public aid is compensated by the previous withdrawal without public aid of at least the same amount of capacity,
- b the entry of new capacity into the fleet with public aid granted after 1 January 2003 is compensated by the previous withdrawal without public aid of:
  - (i) at least the same amount of capacity, for the entry of new vessels equal or less than 100 GT, or
  - (ii) at least 1,35 times that amount of capacity, for the entry of new vessels of more than 100 GT.

2 From 1 January 2003 until 31 December 2004 each Member State which chooses to enter into new public aid commitments for fleet renewal after 31 December 2002 shall achieve a reduction in the overall capacity of its fleet of 3 % for the whole period in comparison to the reference levels referred to in Article 12.

3 Implementing rules for the application of this Article may be adopted in accordance with the procedure laid down in Article 30(2).



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## Article 14

### Exchange of information

1 Each year the Commission shall present a summary of the results of Member States' efforts to achieve a sustainable balance between fishing capacity and fishing opportunities. This summary shall be based on a yearly report from each Member State to be sent to the Commission not later than 30 April of the following year.

The Commission's summary with the Member States' reports attached, shall be sent before the end of the year to the European Parliament and the Council accompanied by the opinions of the STECF and the Committee for Fisheries and Aquaculture established under Article 30(1).

2 Implementing rules for these exchanges may be adopted in accordance with the procedure laid down in Article 30(2).

## Article 15

### Fishing fleet registers

1 Each Member State shall keep a register of the Community fishing vessels flying its flag which shall include the minimum information on vessel characteristics and activity that is necessary for the management of measures established at Community level.

2 Each Member State shall make available to the Commission the information referred to in paragraph 1.

3 The Commission shall set up a Community fishing fleet register containing the information that it receives under paragraph 2 and shall make it available to Member States. It shall comply with Community provisions regarding the protection of personal data.

4 The information referred to in paragraph 1 and the procedures for its transmission referred to in paragraphs 2 and 3 may be determined in accordance with the procedure laid down in Article 30(2).

## Article 16

### Conditionality of Community financial assistance and reduction of fishing effort

1 Financial assistance under Council Regulation (EC) No 2792/1999 of 17 December 1999 laying down the detailed rules and arrangements regarding Community structural assistance in the fisheries sector<sup>(4)</sup>, with the exception of funds for the scrapping of fishing vessels, can be granted only as far as a Member State has complied with Articles 11, 13 and 15 of this Regulation and has provided the information required under Council Regulation (EC) No 2792/99 and Commission Regulation (EC) No 366/2001<sup>(5)</sup>.

In this context, the Commission shall, after having afforded the Member State concerned the possibility of being heard and as far as proportionate to the degree of non compliance, suspend financial assistance under Council Regulation (EC) No 2792/1999 for the Member State concerned.

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2 If, on the basis of the information available, the Commission deems that the capacity of the fleet of a Member State exceeds the capacity which it is bound to respect under Articles 11, 13 and 15, it shall inform the Member State concerned thereof. This Member State shall immediately reduce its fishing effort to the level which would have existed had Articles 11, 13 and 15 been complied with, without prejudice to the obligations resulting from these Articles. The Member State concerned shall communicate its reduction plan to the Commission for verification, in conformity with the procedure laid down in Article 30(2), whether or not the reduction is equivalent to the exceeded capacity.

## CHAPTER IV

### RULES ON ACCESS TO WATERS AND RESOURCES

#### *Article 17*

##### **General rules**

1 Community fishing vessels shall have equal access to waters and resources in all Community waters other than those referred to in paragraph 2, subject to the measures adopted under Chapter II.

2 In the waters up to 12 nautical miles from baselines under their sovereignty or jurisdiction, Member States shall be authorised from 1 January 2003 to 31 December 2012 to restrict fishing to fishing vessels that traditionally fish in those waters from ports on the adjacent coast, without prejudice to the arrangements for Community fishing vessels flying the flag of other Member States under existing neighbourhood relations between Member States and the arrangements contained in Annex I, fixing for each Member State the geographical zones within the coastal bands of other Member States where fishing activities are pursued and the species concerned.

By 31 December 2011 the Commission shall present to the European Parliament and the Council a report on the arrangements set out in this paragraph. The Council shall decide before 31 December 2012 on the provisions which will follow the abovementioned arrangements.

#### *Article 18*

##### **Shetland Box**

1 For species of special importance in the region defined in Annex II which are biologically sensitive by reason of their exploitation characteristics, fishing activity by Community fishing vessels of a length between the perpendiculars of not less than 26 metres, for demersal species other than Norway pout and blue whiting, shall be governed by a system of prior authorisation in accordance with the conditions laid down in this Regulation and, in particular, in Annex II.

2 Detailed rules of application and procedures for implementing paragraph 1 may be adopted in accordance with the procedure laid down in Article 30(2).

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### *Article 19*

#### **Review of access rules**

1 By 31 December 2003 the Commission shall present to the European Parliament and the Council a report on the rules concerning access to waters and resources laid down in Community legislation other than those referred to in Article 17(2), assessing the justification for these rules in terms of conservation and sustainable exploitation objectives.

2 On the basis of the report referred to in paragraph 1 and having regard to the principle established in Article 17(1), the Council shall decide by 31 December 2004 on any necessary adjustments to be made to these rules.

### *Article 20*

#### **Allocation of fishing opportunities**

1 The Council, acting by qualified majority on a proposal from the Commission, shall decide on catch and/or fishing effort limits and on the allocation of fishing opportunities among Member States as well as the conditions associated with those limits. Fishing opportunities shall be distributed among Member States in such a way as to assure each Member State relative stability of fishing activities for each stock or fishery.

2 When the Community establishes new fishing opportunities the Council shall decide on the allocation for those opportunities, taking into account the interests of each Member State.

3 Each Member State shall decide, for vessels flying its flag, on the method of allocating the fishing opportunities assigned to that Member State in accordance with Community law. It shall inform the Commission of the allocation method.

4 The Council shall establish the fishing opportunities available to third countries in Community waters and allocate those opportunities to each third country.

5 Member States may, after notifying the Commission, exchange all or part of the fishing opportunities allocated to them.

## CHAPTER V

### **COMMUNITY CONTROL AND ENFORCEMENT SYSTEM**

#### *Article 21*

##### **Objectives**

Under the Community control and enforcement system, access to waters and resources and the pursuit of activities as set out in Article 1 shall be controlled and compliance with the rules of the Common Fisheries Policy enforced.

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## Article 22

### Conditions for access to waters and resources and for marketing of fisheries products

1 Activities within the scope of the Common Fisheries Policy shall be prohibited, unless the following requirements are met:

- a a fishing vessel shall carry on board its licence and, where provided for, its authorisations for fishing;
- b a fishing vessel shall have installed on board a functioning system which allows detection and identification of that vessel by remote monitoring systems. This requirement applies to vessels exceeding 18 metres length overall as from 1 January 2004 and to vessels exceeding 15 metres length overall as from 1 January 2005;
- c the master shall without undue delay record and report information on fishing activities, including landings and transshipments. Copies of the records shall be made available to the authorities. The Council shall decide in 2004 on the obligation to transmit such records electronically. In order to assess the technology to be used, Member States, in cooperation with the Commission, shall carry out pilot projects before 1 June 2004;
- d the master shall accept inspectors on board and cooperate with them; and where an observer scheme applies, the master shall also accept observers on board and cooperate with them;
- e the master shall respect conditions and restrictions relating to landings, transshipments, joint fishing operations, fishing gear, nets and the marking and identification of vessels.

2 The marketing of fisheries products shall be subject to the following requirements:

- a fisheries products shall only be sold from a fishing vessel to registered buyers or at registered auctions;
- b the buyer of fisheries products from a fishing vessel at first sale shall be registered with the authorities;
- c the buyer of fisheries products at first sale shall submit invoices or sales notes to the authorities, unless the sale takes place at a registered auction which is itself obliged to submit invoices or sales notes to the authorities;
- d all fisheries products landed in or imported into the Community for which neither invoices nor sales notes have been submitted to the authorities and which are transported to a place other than that of landing or import shall be accompanied by a document drawn up by the transporter until the first sale has taken place;
- e the persons responsible for premises or transport vehicles shall accept inspectors and cooperate with them;
- f where a minimum size has been fixed for a given species, operators responsible for selling, stocking or transporting must be able to prove the geographical origin of the products.

A buyer acquiring products which are not thereafter placed on the market but used only for private consumption shall be exempt from the requirements of this paragraph.

3 For the implementation of paragraphs 1 and 2, detailed rules may be adopted in accordance with the procedure laid down in Article 30(2).

These rules may cover, in particular, documentation, recording, reporting and information obligations of Member States, masters, and any other legal and natural persons engaged in activities falling within the scope of Article 1.

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The rules may also provide exemptions from the obligations in paragraphs 1 and 2, where they may be justified by the negligible impact on living aquatic resources or by the disproportionate burden the obligations would create compared to the economic importance of the activity.

### *Article 23*

#### **Responsibilities of Member States**

1 Unless otherwise provided for in Community law, Member States shall ensure effective control, inspection and enforcement of the rules of the Common Fisheries Policy.

2 Member States shall control the activities carried out within the scope of the Common Fisheries Policy on their territory or in the waters subject to their sovereignty or jurisdiction. They shall also control access to waters and resources and fishing activities outside Community waters by Community fishing vessels flying their flag and, without prejudice to the primary responsibility of the flag State of their nationals. They shall be responsible for placing observers on board fishing vessels and for taking appropriate decisions, including the prohibition of fishing activities.

3 Member States shall adopt the measures, allocate the financial and human resources and set up the administrative and technical structure necessary for ensuring effective control, inspection and enforcement, including satellite based monitoring systems. The Council shall decide in 2004 on the obligation to set up a means of remote sensing. In order to assess the technology to be used, Member States in cooperation with the Commission shall carry out pilot projects before 1 June 2004. In each Member State, a single authority shall be responsible for coordinating the collection and verification of information on fishing activities and for reporting to and cooperating with the Commission.

4 When the Commission has established that a Member State has exceeded the fishing opportunities which have been allocated to it, the Commission shall operate deductions from future fishing opportunities of that Member State.

If, as a direct result of a Member State having exceeded the fishing opportunities which had been allocated to it, another Member State has not been able to exhaust its own fishing opportunities, fishing opportunities equivalent to those deducted under paragraph 1 may, totally or partly, be reallocated to this Member State. Such reallocation shall be decided taking into account the interest to conserve resources, as well as the interest in compensation of both Member States concerned.

Decisions shall be taken by the Commission in accordance with the procedure laid down in Article 30(2).

5 Implementing rules for this article may be adopted in accordance with the procedure laid down in Article 30(2), including for the designation by the Member States of the authority referred to in paragraph 3 of this Article, and the rules for the deployment of observers, their responsibilities, tasks and costs.

### *Article 24*

#### **Inspection and enforcement**

Member States shall take the inspection and enforcement measures necessary to ensure compliance with the rules of the Common Fisheries Policy on their territory or in the

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waters subject to their sovereignty or jurisdiction. They shall also take enforcement measures relating to the fishing activities outside Community waters of Community fishing vessels flying their flag and of their nationals.

Such measures shall include:

- (a) spot checks and inspections on fishing vessels, the premises of businesses and other bodies with activities relating to the Common Fisheries Policy;
- (b) sightings of fishing vessels;
- (c) investigation, legal pursuit of infringements and sanctions in accordance with Article 25;
- (d) preventive measures in accordance with Article 25(5);
- (e) measures to prevent the involvement of their nationals in fisheries activities that do not respect the applicable conservation and management measures, without prejudice to the primary responsibility of the flag State.

The measures taken shall be properly documented. They shall be effective, dissuasive and proportionate.

Implementing rules, including benchmarks, for this Article may be adopted in accordance with the procedure laid down in Article 30(3).

#### *Article 25*

#### **Follow-up of infringements**

1 Member States shall ensure that appropriate measures are taken, including administrative action or criminal proceedings in conformity with their national law, against the natural or legal persons responsible where the rules of the Common Fisheries Policy have not been respected.

2 The proceedings initiated pursuant to paragraph 1 shall be capable, in accordance with the relevant provisions of national law, of effectively depriving those responsible of the economic benefit of the infringements and of producing results proportionate to the seriousness of such infringements, effectively discouraging further offences of the same kind.

3 The sanctions arising from the proceedings referred to in paragraph 2 may include, in particular, depending on the gravity of the offence:

- a fines;
- b seizure of prohibited fishing gear and catches;
- c sequestration of the vessel;
- d temporary immobilisation of the vessel;
- e suspension of the licence;
- f withdrawal of the licence.

4 Notwithstanding the obligations referred to in paragraphs 1, 2 and 3, the Council shall establish, on the basis of the list set out in paragraph 3, a catalogue of measures to be applied by Member States relating to serious infringements, as defined in Regulation (EC) No 1447/1999. The catalogue shall be without prejudice to the choice of Member States to implement these measures by way of administrative action or criminal proceedings in conformity with their national law, as referred to in paragraph 1.

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*Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 2371/2002 (repealed). (See end of Document for details)*

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5 Member States shall take immediate measures to prevent vessels, natural or legal persons found *in flagrante delicto* while committing a serious infringement, as defined in Regulation (EC) No 1447/1999, from continuing to do so.

## Article 26

### Responsibilities of the Commission

1 Without prejudice to the responsibilities of the Commission under the Treaty, the Commission shall evaluate and control the application of the rules of the Common Fisheries Policy by the Member States, and facilitate coordination and cooperation between them.

2 If there is evidence that rules on conservation, control, inspection or enforcement under the Common Fisheries Policy are not being complied with and that this may lead to a serious threat to the conservation of living aquatic resources or the effective operation of the Community control and enforcement system necessitating urgent action, the Commission shall inform in writing the Member State concerned of its findings and set a deadline of no less than 15 working days to demonstrate compliance and to give its comments. The Commission shall take account of Member States' comments in any action it may take under paragraph 3.

3 If there is evidence of a risk that fishing activities carried out in a given geographical area could lead to a serious threat to the conservation of living aquatic resources, the Commission may take preventive measures.

These measures shall be proportionate to the risk of a serious threat to the conservation of living aquatic resources.

They shall not exceed three weeks in duration. They may be prolonged up to a maximum of six months, as far as necessary for the conservation of living aquatic resources, by a decision taken in accordance with the procedure laid down in Article 30(2).

The measures shall be lifted immediately when the Commission finds that the risk no longer exists.

4 In the event of a Member State's quota, allocation or available share being deemed to be exhausted, the Commission may, on the basis of the information available, immediately stop fishing activities.

5 Notwithstanding Article 23(2) the Commission shall control fishing activities in Community waters by fishing vessels flying the flag of a third country where this is provided for in Community law. To this end, the Commission and the relevant Member States shall cooperate and coordinate their actions.

6 Detailed rules for the application of this Article may be adopted in accordance with the procedure laid down in Article 30(2).

## Article 27

### Evaluation and control by the Commission

1 For the purpose of evaluating and controlling the application of the rules of the Common Fisheries Policy by Member States, the Commission may, of its own accord and by its own means, initiate and carry out audits, inquiries, verifications and inspections concerning

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the application of the rules of the Common Fisheries Policy by the Member States. It may in particular verify:

- a the implementation and application of those rules by Member States and their competent authorities;
- b the conformity of national administrative practices and inspection and surveillance activities with the rules;
- c the existence of the required documents and their concordance with the applicable rules;
- d the circumstances in which control and enforcement activities are carried out by Member States.

For these purposes, the Commission may carry out inspections on fishing vessels as well as on the premises of businesses and other bodies with activities relating to the Common Fisheries Policy and shall have access to all information and documents needed to exercise its responsibility. Inspections by the Commission carried out of its own accord and without the assistance of inspectors of the Member State concerned shall take place only on fishing vessels and places of first landing or first sales, and shall be limited to areas or stocks subject to a specific monitoring programme decided under Article 34c of Regulation (EEC) No 2847/93.

Commission inspectors shall produce written authority stating their identity and capacity. Commission inspectors shall have no powers going beyond those of national inspectors and they shall have no police and enforcement powers. In particular, a Commission inspection without assistance of inspectors of the Member State concerned may not be carried out if the inspected party objects.

Member States shall afford the Commission such assistance as it needs to fulfil these tasks.

2 Inspection reports shall be made available to the Member State concerned.

The Commission shall provide the Member State concerned with the possibility to comment on the findings in the report. It shall comply with Community provisions regarding the protection of personal data.

When the Commission carries out an inspection on its own accord and not accompanied by national inspectors of the Member State concerned, it shall inform that Member State thereof within one day of the end of the inspection and make available, within one month, a report on the findings.

Member States shall not be obliged to act against individuals on the basis of the findings in the abovementioned report.

3 Detailed rules for the application of this Article may be adopted in accordance with the procedure laid down in Article 30(2).

4 Every three years the Commission shall draw up an evaluation report to be submitted to the European Parliament and the Council on its action under paragraph 1 and on the application of the Common Fisheries Policy rules by the Member States. Each year Member States shall be informed of the number of inspections under paragraph 1 carried out by the Commission in each Member State, broken down by type of inspection.



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## Article 28

### Cooperation and coordination

1 Member States shall cooperate with each other and with third countries to ensure compliance with the rules of the Common Fisheries Policy. To this end, Member States shall afford other Member States and third countries the assistance needed to ensure compliance with those rules.

2 In the case of control and inspection of transboundary fishing activities, Member States shall ensure that their actions under this Chapter are coordinated. To this end, Member States shall exchange inspectors.

3 Without prejudice to the primary responsibility of the coastal Member State, Member States shall be authorised to inspect Community fishing vessels flying their flag in all Community waters outside waters under the sovereignty of another Member State.

Member States shall also be authorised to carry out inspections in accordance with the rules of the Common Fisheries Policy relating to fishing activities in all Community waters outside waters under their sovereignty on fishing vessels, only:

- a after authorisation by the coastal Member State concerned, or
- b where a specific monitoring programme has been adopted in accordance with Article 34c of Regulation (EEC) No 2847/93.

Member States shall be authorised to inspect Community fishing vessels flying the flag of another Member State in international waters.

In cases other than those provided for in this paragraph, Member States may authorise each other to carry out inspections in accordance with the rules of the Common Fisheries Policy.

4 On the basis of appointments by Member States communicated to the Commission, the Commission shall establish, in accordance with the procedure laid down in Article 30(2), a list of Community inspectors, inspection vessels and inspection aircraft and other means of inspection authorised to carry out inspections under this Chapter in Community waters and on Community fishing vessels.

5 Inspection and surveillance reports drawn up by Community inspectors or inspectors of another Member State or Commission inspectors shall constitute admissible evidence in administrative or judicial proceedings of any Member State. For establishing facts they shall be treated equally to inspection and surveillance reports of the Member States.

6 Detailed rules for the application of this Article may be drawn up in accordance with the procedure laid down in Article 30(2).

Paragraphs 3 and 4 of this Article shall only apply once implementing rules have been laid down.

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## CHAPTER VI

### DECISION-MAKING AND CONSULTATION

#### *Article 29*

##### **Decision-making procedure**

Except where otherwise provided for in this Regulation, the Council shall act in accordance with the procedure laid down in Article 37 of the Treaty.

#### *Article 30*

##### **Committee for fisheries and aquaculture**

1 The Commission shall be assisted by a Committee for Fisheries and Aquaculture.

2 Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at 20 working days.

3 Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at 60 working days.

4 The Committee shall adopt its rules of procedure.

#### *Article 31*

##### **Regional Advisory Councils**

1 Regional Advisory Councils shall be established to contribute to the achievement of the objectives of Article 2(1) and in particular to advise the Commission on matters of fisheries management in respect of certain sea areas or fishing zones.

2 Regional Advisory Councils shall be composed principally of fishermen and other representatives of interests affected by the Common Fisheries Policy, such as representatives of the fisheries and aquaculture sectors, environment and consumer interests and scientific experts from all Member States having fisheries interests in the sea area or fishing zone concerned.

3 Representatives of national and regional administrations having fisheries interests in the sea area or fishing zone concerned shall have the right to participate in the Regional Advisory Councils as members or observers. The Commission may be present at their meetings.

4 Regional Advisory Councils may be consulted by the Commission in respect of proposals for measures, such as multi-annual recovery or management plans, to be adopted on the basis of Article 37 of the Treaty that it intends to present and that relate specifically to fisheries in the area concerned. They may also be consulted by the Commission and by the Member States in respect of other measures. These consultations shall be without prejudice to the consultation of the STECF and of the Committee for Fisheries and Aquaculture.

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- 5 Regional Advisory Councils may:
- a submit recommendations and suggestions, of their own accord or at the request of the Commission or a Member State, on matters relating to fisheries management to the Commission or the Member State concerned;
  - b inform the Commission or the Member State concerned of problems relating to the implementation of Community rules and submit recommendations and suggestions addressing such problems to the Commission or the Member State concerned;
  - c conduct any other activities necessary to fulfil their functions.

Regional Advisory Councils shall inform the Committee for Fisheries and Aquaculture of their activities.

#### *Article 32*

### **Procedure for the establishment of Regional Advisory Councils**

The Council shall decide on the establishment of a Regional Advisory Council. A Regional Advisory Council shall cover sea areas falling under the jurisdiction of at least two Member States. A Regional Advisory Council shall adopt its rules of procedure.

#### *Article 33*

### **Scientific, Technical and Economic Committee for Fisheries**

1 A Scientific, Technical and Economic Committee for Fisheries (STECF) shall be established. The STECF shall be consulted at regular intervals on matters pertaining to the conservation and management of living aquatic resources, including biological, economic, environmental, social and technical considerations.

2 The Commission shall take into account the advice from the STECF when presenting proposals on fisheries management under this Regulation.

## CHAPTER VII

### **FINAL PROVISIONS**

#### *Article 34*

### **Repeal**

- 1 Regulations (EEC) No 3760/92 and (EEC) No 101/76 are hereby repealed.
- 2 References to the provisions of the Regulations repealed under paragraph 1 shall be construed as references to the corresponding provisions of this Regulation.

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### *Article 35*

#### **Review**

The Commission shall report to the European Parliament and the Council on the operation of the Common Fisheries Policy with respect to Chapters II and III before the end of 2012.

### *Article 36*

#### **Entry into force**

This Regulation shall enter into force on 1 January 2003.

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

Done at Brussels, 20 December 2002.

*For the Council*

*The President*

M. FISCHER BOEL

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- (1) OJ L 274, 25.9.1986, p. 1. Regulation as amended by Regulation (EC) No 3259/94 (OJ L 339, 29.12.1994, p. 11).
- (2) OJ L 341, 31.12.1993, p. 93.
- (3) OJ L 175, 3.7.1997, p. 27. Decision as amended by Decision 2002/70/EC (OJ L 31, 1.2.2002, p. 77).
- (4) OJ L 337, 30.12.1999, p. 10. Regulation as last amended by Regulation (EC) No 179/2002 (OJ L 31, 1.2.2002, p. 25).
- (5) OJ L 55, 24.2.2001, p. 3.

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