

Council Regulation (EC) No 1342/2008 of 18 December 2008
establishing a long-term plan for cod stocks and the fisheries exploiting
those stocks and repealing Regulation (EC) No 423/2004 (repealed)

CHAPTER III

FISHING EFFORT LIMITATION

Article 11

Fishing effort regime

1 The TACs set out in Articles 7, 8 and 9 shall be complemented by a fishing effort regime whereby fishing opportunities in terms of fishing effort are allocated to Member States on an annual basis.

2 The Council may, acting on a Commission proposal and on the basis of the information provided by Member States and the advice of STECF referred to in paragraph 3, exclude certain groups of vessels from the application of the effort regime provided that:

- a appropriate data on cod catches and discards are available to allow STECF to assess the percentage of cod catches made by each group of vessels concerned;
- b the percentage of cod catches as assessed by STECF does not exceed 1,5 % of the total catches for each group of vessels concerned; and
- c the inclusion of these groups of vessels in the effort regime would constitute an administrative burden disproportionate to their overall impact on cod stocks.

If STECF is not in position to assess that these conditions remain fulfilled, the Council shall include each group of vessels concerned in the effort regime.

3 Member States shall provide annually appropriate information to the Commission and STECF to establish that the above conditions are and remain fulfilled in accordance with detailed rules to be adopted by the Commission.

Article 12

Fishing effort allocations

1 Each year, the Council shall decide on the maximum allowable fishing effort for each effort group by Member State.

2 The maximum allowable fishing effort shall be calculated by means of a baseline established as follows:

- a for the first year of application of this Regulation the baseline shall be established for each effort group as the average effort in kW-days spent during the years 2004-2006 or 2005-2007, according to the preference of the Member State concerned, based on the advice of STECF;
- b for the subsequent years of application of this Regulation the baseline shall be equal to the maximum allowable fishing effort of the previous year.

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3 The effort groups for which an annual adjustment in the maximum allowable fishing effort shall be applied shall be decided on the following basis:

- a the catches of cod taken by vessels in each of the effort groups shall be evaluated on the basis of data submitted by Member States in accordance with Articles 18, 19 and 20 of Council Regulation (EC) No 199/2008 of 25 February 2008 concerning the establishment of a Community framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the common fisheries policy⁽¹⁾;
- b a list shall be compiled for each of the areas defined in Annex I to this Regulation of the aggregated effort groups and their corresponding cod catches, including discards. This list shall be arranged in ascending order of cod catch in each effort group;
- c the cumulative catches of cod in the lists established according to point (b) shall be calculated in following way. For each aggregated effort group, the sum shall be calculated of the cod catch by that effort group and the cod catches made by all aggregated effort groups in the preceding entries in the list;
- d the cumulative catches calculated according to point (c) shall be calculated as a percentage of the total cod catch by all aggregated effort groups in the same area.

[^{X1}4. For aggregated effort groups where the percentage cumulative catch calculated according to paragraph 3(d) is equal to or exceeds 20 %, annual adjustments shall apply to the effort groups concerned. The maximum allowable fishing effort of the groups concerned shall be calculated as follows:]

- a where Articles 7 or 8 applies, by applying to the baseline the same percentage adjustment as that set out in those Articles for fishing mortality;
- b where Article 9 applies, by applying to the baseline the same percentage adjustment in fishing effort as the reduction of the TAC.

5 For effort groups other than those referred to in paragraph 4, the maximum allowable fishing effort shall be maintained at the level of the baseline.

Editorial Information

- X1** Substituted by [Corrigendum to Council Regulation \(EC\) No 1342/2008 of 18 December 2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks and repealing Regulation \(EC\) No 423/2004 \(Official Journal of the European Union L 348 of 24 December 2008\)](#).

Article 13

Allocation of additional fishing effort for highly selective gear and cod-avoiding fishing trips

1 Member States may increase the maximum allowable fishing effort for effort groups for which the effort has been adjusted in accordance with Article 12(4) and subject to the conditions set out in paragraphs 2 to 7.

2 The maximum allowable fishing effort may be increased within effort groups in which the fishing activity of one or more vessels:

- a is carried out having on board only one regulated gear the technical attributes of which result, according to a scientific study evaluated by STECF, in catching less than 1 % cod (highly selective gear);

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- b results in a catch composition of less than 5 % cod per fishing trip (cod-avoiding fishing trips);
- c is conducted in accordance with a cod avoidance or discard reduction plan which reduces fishing mortality for cod among participating vessels by at least as much as the effort adjustment referred to in Article 12(4); or
- d is carried out in the west of Scotland area to the west of a line drawn by sequentially joining with rhumb lines the positions laid down in Annex IV measured according to the WGS84 coordinate system, provided that the participating vessels are equipped with satellite-based vessel monitoring systems (VMS).

3 Vessels referred to in paragraph 2 shall be subject to increased frequency of monitoring, concerning in particular:

- a the exclusive use of the highly selective gear during the fishing trips concerned in accordance with paragraph 2(a);
- b the amount of discards in compliance with paragraph 2(b);
- c the reduction in fishing mortality in accordance with paragraph 2(c);
- d the amount of catches and discards occurring to the west of the line specified in paragraph 2(d);

and subject to arrangements for the regular provision of data to the Member State concerning the respect of the special conditions laid down in those points.

4 The increase of fishing effort under this Article shall be calculated for each of the vessels in the effort groups concerned that operate under special conditions referred to in paragraph 2, points (a), (b), (c) and (d), and shall be no more than the amount needed to compensate the effort adjustment referred to in Article 12(4) for the gears involved in those actions.

5 Any increases of the fishing effort allocation carried out by the Member States shall be notified to the Commission, by April 30 of the year during which the compensation for the effort adjustment shall take place. The notification shall include details of the vessels operating under the special conditions referred to in points (a), (b), (c) and (d) of paragraph 2, the fishing effort per effort group that the Member State expects to be carried out by those vessels during that year, and the conditions under which the effort of the vessels is being monitored, including control arrangements.

6 Member States shall report to the Commission by 1 March each year at the latest about the amounts of effort used within the actions during the previous year.

7 The Commission shall request STECF to compare annually the reduction in cod mortality which would result from the application of point (c) of paragraph 2 with the reduction it would have expected to occur as a result of the effort adjustment referred to in Article 12(4). In light of this advice the Commission may propose adjustments in effort that may be applied for the relevant gear grouping the following year.

Article 14

Member States' obligations

1 For the vessels flying its flag, each Member State shall decide on a method for allocating the maximum allowable fishing effort to individual vessels or a group of vessels, in the light of a number of criteria, including, for example:

- a promotion of good fishing practices, including data collection enhancement, discard reduction and minimisation of the impact on juvenile fish;

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- b participation in cooperative programmes to avoid unnecessary by-catches of cod;
- c low impact on the environment, including fuel consumption and greenhouse gas emissions;
- d proportionality with respect to allocation of fishing opportunities in terms of fish quota.

2 For each of the areas set out in Annex I to this Regulation, each Member State shall issue special fishing permits in accordance with Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing permits⁽²⁾ for vessels flying its flag which engage in fishing activities in that area and using a gear belonging to one of the gear groupings set out in Annex I to this Regulation.

3 For each of the areas set out in Annex I, the total capacity expressed in kW of the vessels having special fishing permits issued in accordance with paragraph 2 shall not be greater than the maximum capacity of the vessels that have been active in 2006 or 2007 using a regulated gear and fishing in the geographical area concerned.

4 Each Member State shall establish and maintain a list of vessels holding the special permit referred to in paragraph 2 and make it available on its official website to the Commission and other Member States.

Article 15

Regulation of fishing effort

Member States shall monitor the capacity and activity of their fleet by effort groups and shall take appropriate action if the maximum allowable fishing effort established in accordance with Article 12 is about to be reached, in order to ensure that the effort will not exceed the set limits.

Article 16

Exchange of maximum allowable fishing effort between Member States and reconstitution of effort

1 The maximum allowable fishing effort established in accordance with Article 11 may be adapted by the Member States concerned in view of:

- a the exchange of quotas carried out pursuant to Article 20(5) of Regulation (EC) No 2371/2002; and
- b reallocations and/or deductions made pursuant to Article 23(4) of Regulation (EC) No 2371/2002 and Articles 21(4), 23(1) and 32(2) of Regulation (EEC) No 2847/93.

2 The maximum allowable fishing effort established in accordance with Article 12 may be adapted by a Member State which discontinues the exchange of quotas in any of the areas mentioned in Article 3, to the extent that this Member State used to execute these exchanges during the reference period for establishing the baselines as specified in Article 12(2), and needs to exert additional effort in any of the effort groups concerned in order to use the quota recovered. This reconstitution of effort shall be accompanied by a reduction in total allowable fishing effort by the Member State that has returned the quota to the quota recovering Member State, reflecting the extent to which its effort groups have less quota available for fishing, unless the Member State returning the quota did not use the corresponding effort for establishing the abovementioned baselines.

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3 Notwithstanding Article 17(2), in 2009, Member States may modify their effort allocations by transferring fishing effort and capacity between the geographical areas referred to in Article 3, provided that this transfer involves fishing activities referred to in Article 13(2) (a) and (b). Such transfers shall be notified to the Commission. The maximum allowable fishing effort referred to in Article 12(2)(a) shall be modified accordingly.

Article 17

Exchange of maximum allowable fishing effort across effort groups

1 A Member State may amend its effort allocations by transferring fishing capacity across effort groups, under the conditions set out in paragraphs 2 to 5.

2 The transfer shall be allowed between gear groupings but not between geographical areas, provided that the Member State concerned provides the Commission with information on the catch per unit effort (cpue) of its donor and receiving gear group, averaged over the last three years.

3 Where the cpue of the donor gear group is higher than the cpue of the receiving gear group, the transfer shall in general be made on a 1 kW-day to 1 kW-day basis.

4 Where the cpue of the donor gear group is lower than the cpue of the receiving gear group, the Member State shall apply a correction factor to the amount of effort in the receiving gear group so that the latter's higher cpue is compensated for.

5 The Commission shall request STECF to develop standard correction factors that might be used to facilitate the transfer of effort across gear groups with different cpue.

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- (1) OJ L 60, 5.2.2008, p. 1.
- (2) OJ L 171, 6.7.1994, p. 7.

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