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ANNEX II

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ANNEX IIA

FISHING EFFORT FOR VESSELS IN THE CONTEXT OF THE RECOVERY OF CERTAIN STOCKS IN ICES ZONES IIIa, IV, VIa, VIIa, VIId AND EC WATERS OF ICES ZONE IIa

GENERAL PROVISIONS

1. Scope

The conditions laid down in this Annex shall apply to Community vessels of length overall equal to or greater than 10 metres, carrying on board any of the gears defined in point 4 and present in ICES zones IIIa, IV, VIa, VIIa, VIId and EC waters of ICES zone IIa. For the purposes of this Annex, a reference to the 2008 management period means the period from 1 February 2008 to 31 January 2009.

2. Definitions of geographical areas

2.1. For the purposes of this Annex the following geographical areas shall apply:

- (a) Kattegat;
- (b) (i) Skagerrak;
- (ii) that part of ICES zone IIIa not covered by the Skagerrak and the Kattegat; ICES zone IV and EC waters of ICES zone IIa;
- (iii) ICES zone VIId;
- (c) ICES zone VIIa;
- (d) ICES zone VIa.

2.2. For vessels notified to the Commission as being equipped with vessel monitoring systems in accordance with Articles 5 and 6 of Regulation (EC) No 2244/2003, the following definition of ICES zone VIa shall apply:

ICES zone VIa excluding that part of ICES zone VIa that lies to west of a line drawn by sequentially joining with rhumb lines the following positions, which shall be measured according to the WGS84 coordinate system:

60°00'N, 04°00'W
 59°45'N, 05°00'W
 59°30'N, 06°00'W
 59°00'N, 07°00'W
 58°30'N, 08°00'W
 58°00'N, 08°00'W
 58°00'N, 08°30'W
 56°00'N, 08°30'W
 56°00'N, 09°00'W
 55°00'N, 09°00'W
 55°00'N, 10°00'W
 54°30'N, 10°00'W

3. Definition of day present within an area

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For the purpose of this Annex, a day present within an area shall be any continuous period of 24 hours (or part thereof) during which a vessel is present within the geographical areas defined in point 2.1 and absent from port. The time from which the continuous period is measured is at the discretion of the Member State whose flag is flown by the vessel concerned.

4. Fishing gears

4.1. For the purpose of this Annex, the following groupings of fishing gears shall apply:

(a) Trawls, Danish seines and similar gears, except beam trawls, of mesh size:

- (i) equal to or larger than 16 mm and less than 32 mm;
- (ii) equal to or larger than 70 mm and less than 90 mm;
- (iii) equal to or larger than 90 mm and less than 100 mm;
- (iv) equal to or larger than 100 mm and less than 120 mm;
- (v) equal to or larger than 120 mm;

(b) Beam trawls of mesh size:

- (i) equal to or larger than 80 mm and less than 90 mm;
- (ii) equal to or larger than 90 mm and less than 100 mm;
- (iii) equal to or larger than 100 mm and less than 120 mm;
- (iv) equal to or larger than 120 mm;

(c) Gillnets, entangling nets with mesh size, except trammel nets:

- (i) less than 110 mm;
- (ii) equal to or larger than 110 mm and less than 150 mm;
- (iii) equal to or larger than 150 and less than 220 mm;
- (iv) equal to or larger than 220 mm;

(d) Trammel nets;

(e) Longlines.

4.2. For the purposes of this Annex and referring to the geographical areas defined in point 2.1 and the groupings of fishing gears defined in point 4.1, the following transfer groups are defined:

- (a) grouping of fishing gears 4.1.a.i within any area;
- (b) groupings of fishing gears 4.1.a.ii within any area and 4.1.a.iii in part of ICES zone IIIa not covered by the Skagerrak and the Kattegat, ICES zones IV, VIa, VIIa, VIId and EC waters of ICES zone IIa;
- (c) groupings of fishing gears 4.1.a.iii in Skagerrak and Kattegat, 4.1.a.iv and 4.1.a.v within any area;
- (d) groupings of fishing gears 4.1.b.i, 4.1.b.ii, 4.1.b.iii, and 4.1.b.iv within any area;
- (e) groupings of fishing gears 4.1.c.i, 4.1.c.ii, 4.1.c.iii, 4.1.c.iv and 4.1.d within any area;

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(f) grouping of fishing gears 4.1.e within any area.

IMPLEMENTATION OF FISHING EFFORT LIMITATIONS

5. Vessels concerned by fishing effort limitations

- 5.1. Vessels using gear types identified in point 4.1 and fishing in areas defined in point 2 shall hold a special fishing permit issued in accordance with Article 7 of Regulation (EC) No 1627/94.
- 5.2. A Member State shall not permit fishing with a gear belonging to a grouping of fishing gears defined in point 4.1 in any geographical area defined in point 2.1 by any vessels flying its flag which have no record of such fishing activity in the years 2001, 2002, 2003, 2004, 2005, 2006 or 2007 in that area, excluding the record of fishing activities as a result of transfer of days between fishing vessels, unless it ensures that equivalent capacity, measured in kilowatts, is prevented from fishing in the geographical area in question.
- 5.3. However, a vessel with a track record of using a gear belonging to any grouping of fishing gears defined in point 4.1 may be authorized to use any other fishing gear, provided that the number of days allocated to this latter gear is greater than or equal to the number of days allocated to the first gear.
- 5.4. By way of derogation from point 5.3, a vessel may be authorised to use gears belonging to groupings from points 4.1.(a)(iv) and 4.1.(a)(v) provided the special condition laid down in 8.3.(c) is met.
- 5.5. A vessel flying the flag of a Member State having no quotas in a geographical area defined in point 2.1 shall not be permitted to fish in that area with a gear belonging to a grouping of fishing gears defined in point 4.1, unless the vessel is allocated a quota after a transfer in accordance with Article 20(5) of Regulation (EC) No 2371/2002 [^{X1}and is allocated days at sea according to points 15 or 16 of this Annex.]

Editorial Information

X1 Substituted by [Corrigendum to Council Regulation \(EC\) No 40/2008 of 16 January 2008 fixing for 2008 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required \(Official Journal of the European Union L 19 of 23 January 2008\)](#).

6. Limitations in activity

Each Member State shall ensure that, when carrying on board any of the groupings of fishing gears referred to in point 4.1, fishing vessels flying its flag and registered in the Community shall be present within a geographical area defined in point 2.1 for no more than the number of days set out in point 8.

7. Exceptions

A Member State shall not count against the days present within an area allocated to any of vessels flying its flag under this Annex either any days when the vessel was present within an area but unable to fish because it was assisting another vessel in need of emergency aid or any days when a vessel has been present within an area but unable to fish because it is transporting an injured person for emergency medical aid. The Member State shall provide justification to

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the Commission within one month of any decisions taken on this basis with associated evidence of the emergency from competent authorities.

NUMBER OF DAYS ABSENT FROM PORT ALLOCATED TO FISHING VESSELS

8. Maximum number of days
 - 8.1. During the 2008 management period, the maximum number of days at sea for which a Member State may authorize a vessel flying its flag to be present within any one of the geographical areas defined as in point 2.1 having carried on board any one of the fishing gears referred to in point 4.1 is shown in Table I.
 - 8.2. When fishing in the Kattegat, a day present in the area during the period between 1 February 2008 and 30 April 2008 shall be counted as 2.5 days.
 - 8.3. For the purpose of fixing the maximum number of days at sea a fishing vessel may be authorized by its flag Member State to be present within any one of the geographical areas defined in point 2.1 of this Annex, the following special conditions shall apply during the 2008 management period in accordance with Table I.
 - (a) The vessel must comply with the conditions laid down in Appendix 1.
 - (b) The vessel must comply with the conditions laid down in Appendix 2 to Annex III and catches retained on board evaluated in live weight and consigned in the Community logbook shall consist of less than 5 % of cod and of more than 70 % of Norway lobster.
 - (c) Catches retained on board shall consist of less than 5 % of cod.
 - (d) Catches retained on board shall consist of less than 5 % of cod, sole and plaice.
 - (e) Catches retained on board shall consist of less than 5 % of cod and more than 60 % of plaice.
 - (f) Catches retained on board shall consist of less than 5 % of cod and more than 5 % of turbot and lumpsucker.
 - (g) The vessel must be equipped with a trammel net of mesh size ≤ 110 mm and must be absent from port for no more than 24 hours at a time.
 - (h) The vessel must fly the flag of, and be registered in, a Member State having developed a system, approved by the Commission, of automatic suspension of fishing licences in respect of infringements by vessels qualifying for this special condition. If a system of automatic suspension that has been approved by the Commission in the past continues to apply without changes, the Member State has only to notify the Commission on the continuation of the approved system of automatic suspension of fishing licences.
 - (i) The vessel must have been present in the area in the year 2003, 2004, 2005, 2006 or 2007 and equipped with fishing gear belonging to groupings referred to in point 4.1(b) In 2008 catches retained on board during each trip, evaluated in live weight and consigned in the Community logbook shall consist of less than 5 % of cod. During a management period when a vessel is making use of this provision the vessel may not at any time carry on board fishing gear other than that specified in points 4.1(b)(iii) or 4.1(b)(iv).
 - (j) The vessel must comply with conditions laid down in Appendix 2.
 - (k) Catches retained on board shall consist of less than 5 % of cod and more than 60 % of plaice during the May — October period. At least 55 % of the maximum number

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of days available under this special condition shall apply in the area east of 4°30'W in the months of May to October inclusive.

- (l) The vessel must comply with conditions laid down in Appendix 3.
- 8.4. To be qualified to fish in any of the geographical areas defined in point 2.1 according to special conditions in point 8.3.(c), (d), (e), (f) or (k), the vessel, or the vessel or vessels it has replaced using similar gears and qualifying for any of such special conditions in accordance with Community law, shall have track records indicating that catches retained on board evaluated in live weight and consigned in the Community logbook, complied during 2002 with conditions on catch compositions as laid down in such special conditions and for such specific geographical area.

Alternatively, the vessel shall comply during each trip of the 2008 management period with the catch composition as laid down in the relevant special condition and shall be involved in an observer's plan submitted by its flag Member State to the Commission for approval in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.

Observers shall be independent of the owner of the vessel and shall not be a member of the fishing vessel crew.

- 8.5. During the 2008 management period a Member State may manage its fishing effort allocations according to a kilowatt days system. By that system it may authorise any vessel concerned for any one of the combination of groupings of fishing gears and special conditions laid down in Table 1 to be present within any one of the geographical areas defined in point 2.1 of this Annex for a maximum number of days which is different from that set out in that Table provided that the overall amounts of kilowatt days corresponding to such a combination is respected.

For a specific combination of geographical areas, groupings of fishing gears and special condition, the overall amounts of kilowatt days shall be the sum of all individual fishing efforts allocated to the vessels flying the flag of the Member State concerned and qualified for that specific combination. Such individual fishing efforts shall be calculated in kilowatt days by multiplying the engine power of each vessel by the number of days at sea it would benefit from, according to Table I, if the provisions of this point were not applied.

- 8.6. The re-allocation of fishing days referred to in point 8.5. shall be made with a view to a more efficient use of fishing opportunities or in order to stimulate fishing practices that lead to reduced discards and lower fishing mortality of both juvenile and adult fish. These practices may take the form of fishing plans designed in collaboration with the fishing industry including, as appropriate:
- (a) a specific target to reduce cod discards to below 10 % of cod catch;
 - (b) real-time closures for juveniles and for spawners;
 - (c) Cod avoidance measures;
 - (d) trying out new selective devices;
 - (e) adequate monitoring by observers and
 - (f) arrangements for follow-up and reporting.
- 8.7. A Member State wishing to benefit from the provisions laid down in point 8.5 shall submit a request to the Commission with reports in electronic format containing

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for each combination of geographical areas, groupings of fishing gears and special conditions as laid down in Table I the details of the calculation based on

- (a) list of vessels authorized to fish by indicating their Community Fleet Register number (CFR) and their engine power;
- (b) track records of 2002 for such vessels reflecting the catch composition defined in special conditions in point 8.3(c), (d), (e), (f) or (k), if these vessels are qualified for such special conditions and if they are not involved in observers plans as foreseen in point 8.4;
- (c) the number of days at sea [^{X1}for which each vessel would have initially] been authorized to fish according to Table I and the number of days at sea which each vessel would benefit from in application of point 8.5.

On the basis of that description, the Commission may authorize that Member State to benefit from the provisions defined in point 8.5.

- 8.8. During the 2008 management period, the maximum number of days at sea for which a vessel may be authorized by its flag Member State to be present within any combination of geographical areas defined in point 2.1 may not be higher than the highest number of days allocated for one of the areas composing it.
- 8.9. A day present within a geographical area defined in point 2.1 of this Annex shall also count against the total number of days present within the area defined in point 1 of Annex IIC for a vessel operating with the same gear as defined in point 4.1 of this Annex and point 3 of Annex IIC.
- 8.10. Where a vessel crosses between two or more geographical areas defined in point 2 of this Annex on a fishing trip, the day shall be counted against the area in which the largest proportion of time was spent during that day.
9. Management periods
 - 9.1. A Member State may divide the days within an area given in Table I into management periods of durations of one or more calendar months.
 - 9.2. The number of days for which a vessel may be present within any of the geographical areas defined in point 2.1 during a management period shall be fixed at the discretion of the Member State concerned.
 - 9.3. In any given management period a vessel that has used the number of days present within the area for which it is eligible shall remain in port or out of any geographical area referred to in point 2.1 for the remainder of the management period unless using only unregulated gear as described in point 19.
10. Allocation of additional days for permanent cessation of fishing activities
 - 10.1. An additional number of days at sea on which a vessel may be authorized by its flag Member State to be present within any one of the geographical areas defined in point 2.1 when carrying on board any of the gears referred to in point 4.1 may be allocated to Member States by the Commission on the basis of permanent cessations of fishing activities that have taken place since 1 January 2002, either in accordance with Article 7 of Regulation (EC) No 2792/1999⁽¹⁾ or resulting from other circumstances duly motivated by Member States.

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The effort expended in 2001 measured in kilowatt days of the withdrawn vessels using the gear in question in the relevant geographical area shall be divided by the effort expended by all vessels using that gear during 2001.

The additional number of days at sea shall be then calculated by multiplying the ratio so obtained by the number of days that would have been allocated according to Table I. Any part of a day resulting from this calculation shall be rounded to the nearest whole day.

This point shall not apply where a vessel has been replaced in accordance with point 5.2 or when the withdrawal has already been used in previous years to obtain additional days at sea.

10.2. Member States wishing to benefit from the allocations referred to in point 10.1 shall submit a request to the Commission with reports in electronic format containing for each combination of geographical areas, groupings of fishing gears and special conditions as laid down in Table I the details of the calculation based on:

- (a) lists of withdrawn vessels with their Community Fleet Register number (CFR) and their engine power;
- (b) the fishing activity deployed by such vessels in 2001 calculated in days at sea by concerned combination of geographical area, grouping of fishing gears and if necessary special condition.

10.3. On the basis of such a request the Commission may amend the number of days defined in point 8.1 for that Member State in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.

10.4. During the 2008 management period, a Member State may re-allocate those additional numbers of days at sea to all the vessels remaining in fleet and qualified for the relevant combination of geographical areas, groupings of fishing gears and special conditions or to part of them by applying, *mutatis mutandis*, the provisions laid down in points 8.5 and 8.7.

10.5. Any additional number of days resulting from a permanent cessation of activity previously allocated by the Commission remains allocated in 2008.

11. Amendment of the number of days at sea in case of inconsistencies in the fishing opportunities on plaice and sole in geographical area 2.1(b)

11.1 The number of days at sea on which a vessel may be authorized by its flag Member State to be present within the geographical area laid down in point 2.1(b) targeting plaice and sole with any of the following combinations of groupings of fishing gears and special conditions, may be amended by the Commission in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002, when such an amendment is necessary for the Member State to be able to catch its quota:

- 4.1(a)(iv)/none;
- 4.1(b)(i)/none;
- 4.1(b)(iii)/none;
- 4.1(b)(iv)/none;
- [^{X1}4.1(d)/8.3(g)].

11.2 Member States wishing to benefit from an amendment as laid down in point 11.1 shall submit a request to the Commission including reports in electronic format containing the state on 31 July 2008 of their quota consumption of plaice and sole and the fishing effort deployed by vessels flying their flag.

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12. Allocation of additional days for enhanced observer coverage

- 12.1. Three additional days on which a vessel may be present within the area when carrying onboard any of the groupings of fishing gear referred to in point 4.1 may be allocated between 1 February 2008 and 31 January 2009 to Member States by the Commission on the basis of an enhanced programme of observer coverage in partnership between scientists and the fishing industry.

Such a programme shall focus in particular on levels of discarding and on catch composition and go beyond the requirements on data collection, as laid down in Regulation (EC) No 1543/2000⁽²⁾, Regulation (EC) No 1639/2001⁽³⁾ and Regulation (EC) No 1581/2004⁽⁴⁾ for the minimum and extended programme level.

Observers shall be independent of the owner of the vessel and shall not be a member of the fishing vessel crew.

- 12.2. Member States wishing to benefit from the allocations referred to in point 12.1 shall submit a description of their enhanced observer coverage programme to the Commission.
- 12.3. On the basis of this description, and after consultation with STECF, the Commission may amend the number of days defined in point 8.1 for that Member State and for the vessels, the area and gear concerned by the enhanced programme of observers in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.
- 12.4. If such a programme submitted by a Member State has been approved by the Commission in the past and the Member State wishes to continue its application without changes, the Member State shall inform the Commission of the continuation of its enhanced observer coverage programme four weeks before the beginning of the period for which the programme applies.
- 12.5. Six additional days on which a vessel may be present within the area referred to in point 2.1(c) when carrying on board gear referred to in point 4.1(a)(iv) and 4.1(a)(v) may be allocated between 1 February 2008 and 31 January 2009 to Member States by the Commission on the basis of an Enhanced Data Pilot Project
- 12.6. Twelve additional days on which a vessel may be present within the area referred to in point 2.1(c) when carrying on board gear referred to in point 4.1 except gear referred to in paragraphs 4.1(a)(iv) and 4.1(a)(v) may be allocated between 1 February 2008 and 31 January 2009 to Member States by the Commission on the basis of an Enhanced Data Pilot Project.
- 12.7. Member States wishing to benefit from the allocations referred to in points 12.5 and 12.6 shall submit a description of their Enhanced Data Pilot Project to the Commission, which shall go beyond the existing requirements under Community legislation. On the basis of this description the Commission may approve a Member State's proposal for an Enhanced Data Pilot Project in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.
- 12.8. If such an Enhanced Data Pilot Project submitted by a Member State has been approved by the Commission in the past and the Member State wishes to continue its application without changes, the Member State shall inform the Commission of the continuation of its enhanced observer coverage programme four weeks before the beginning of the period for which the programme applies.

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- 12.9. During the 2008 management period, the Commission may authorize a Member State after consultation with STECF, in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002, to allocate up to twelve additional days at sea to vessels flying its flag and present within any of the geographical areas defined in point 2 when carrying on board any of the groupings of fishing gears referred to in point 4.1, only if owners of these vessels sign up to a discard reduction plan.

The plan shall focus in particular on levels of discarding of Cod or other species with similar discard problems such as plaice and sole, for which either a management plan or a recovery plan is adopted, and shall include:

- (a) measures designed to encourage the avoidance of juvenile and spawning fish of the fish species concerned;
- (b) the trialling and implementation of technical measures to improve selectivity for those species;
- (c) increased rates of observation of the fleet concerned;
- (d) arrangements for regular provision of data to the Commission and for monitoring annually the outcomes delivered by the plan.

- 12.10. Member States wishing to benefit from the allocations referred to in point 12.9 shall submit a description of their discard reduction plan to the Commission and the list of fishing vessels flying their flag which will be involved in such a plan.

- 12.11. During the 2008 management period, where owners of these vessels participate in the cod avoidance reference fleet programme laid down in point 12.13, following authorisation by the Commission a Member State may allocate:

- (a) 12 additional days at sea to vessels flying its flag and present within the area laid down in point 2.1(b) when carrying on board any of the groupings of fishing gears referred to in point 4.1; or
- (b) 10 additional days at sea to vessels flying its flag and present within the area laid down in point 2.1(d) when carrying on board any of the groupings of fishing gears referred to in point 4.1.

Vessels participating in a cod avoidance reference fleet programme shall meet a specific target to reduce cod discards to below 10 % of cod catches. A cod avoidance reference fleet programme shall be subject to observation at a rate of at least 10 %.

- 12.12. The days at sea allocations referred to in point 12.11 may be allocated in addition to the allocations referred to in point 12.9.

- 12.13. Member States wishing to benefit from the allocations referred to in point 12.11 shall submit a description of their cod avoidance reference fleet programme to the Commission and a list of vessels flying their flag which will be involved in such a programme. The number of vessels participating in the cod avoidance reference fleet programme shall be such that their accumulated capacity expressed in kW does not exceed 10 % of the cumulated capacity in kW of all the vessels belonging to the same gear category.

- 12.14. On the basis of the description and the list referred to in point 12.13, and after consultation with the STECF, the Commission may in accordance with the procedure

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laid down in Article 30(2) of Regulation (EC) No 2371/2002 authorise Member States to apply the provisions set out in point 12.11.

13. Special conditions for the allocation of days
- 13.1. The special fishing permit referred to in point 5.1 for any vessel benefiting of any special conditions listed in point 8.3 shall identify such conditions.
- 13.2. If a number of days is allocated to a vessel resulting from compliance with any of the special conditions listed in points 8.3(b), (c), (d), (e), (f), (k) or (i), the catches taken by that vessel and retained on board shall consist of no more than the percentage of those species referred to in these points. The vessel shall not tranship any fish to another vessel. When either of these conditions is not met by a vessel, that vessel shall with immediate effect no longer be entitled to the allocation of days corresponding to the given special conditions.
- 14.

Table I

Maximum days a vessel may be present in 2008 within an area by fishing gear

Gear Point	Special condition Point	Denomination	Areas as defined in point:				2.1.cVIIa	2.1.dVIa
			2.1.aKattegat	2.1.b(i) — Skagerrak ^{X1} (ii) — part of ICES zone IIIa not covered by Skagerrak and Kattegat; ICES zone IV and EC waters of ICES zone IIa (iii) — VII d				
				(i)	(ii)	(iii)		
a.i		Trawls or Danish seines with mesh size ≥ 16 and < 32 mm	228	228 ^b			228	228
a.ii		Trawls or Danish seines with mesh size ≥ 70 and < 90 mm	n.r.	n.r.	184	199	184	204

a Only the denominations in points 4.1 and 8.3 are used.

b Application of Title V of Regulation (EC) No 850/98 where restrictions exist.

c For Member States whose quotas are less than 5 % of the Community share of the TACs of both plaice and sole, the number of days at sea shall be 205.

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Table I

Maximum days a vessel may be present in 2008 within an area by fishing gear

a.iii		Trawls or Danish seines with mesh size \geq 90 and $<$ 100 mm	71	86	188	227	227
a.iv		Trawls or Danish seines with mesh size \geq 100 and $<$ 120 mm	103	86		86	69
a.v		Trawls or Danish seines with mesh size \geq 120 mm	103	86		114	70
a.iii	8.3(a)	Trawls or Danish seines with mesh size \geq 90 and $<$ 100 mm with a 120 mm square mesh window (Appendix 1)	126	126	227	227	227

a Only the denominations in points 4.1 and 8.3 are used.

b Application of Title V of Regulation (EC) No 850/98 where restrictions exist.

c For Member States whose quotas are less than 5 % of the Community share of the TACs of both plaice and sole, the number of days at sea shall be 205.

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Table I

Maximum days a vessel may be present in 2008 within an area by fishing gear

a.iv	8.3(a)	Trawls or Danish seines with mesh size \geq 100 and $<$ 120 mm with a 120 mm square mesh window (Appendix 1)	137	137	103	114	91
a.v	8.3(a)	Trawls or Danish seines with mesh size \geq 120 mm with a 120 mm square mesh window (Appendix 1)	137	137	103	114	91
a.v.	8.3(j)	Trawls or Danish seines with mesh size \geq 120 mm with a 140 mm square mesh	149	149	115	126	103

a Only the denominations in points 4.1 and 8.3 are used.

b Application of Title V of Regulation (EC) No 850/98 where restrictions exist.

c For Member States whose quotas are less than 5 % of the Community share of the TACs of both plaice and sole, the number of days at sea shall be 205.

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Table I

Maximum days a vessel may be present in 2008 within an area by fishing gear

		window (Appendix 2)						
a.ii	8.3(b)	Trawls or Danish seines with mesh size \geq 70 and $<$ 90 mm complying with the conditions laid down in Appendix 2 to Annex III	Unl.	Unlimited			Unl.	Unl.
a.ii	8.3(c)	Trawls or Danish seines with mesh size \geq 70 and $<$ 90 mm track records shall represent less than 5 % of cod	n.r	n.r	215	227	204	227
a.iii	8.3(1)	Trawls or Danish seines with mesh	132	132	238		238	238

a Only the denominations in points 4.1 and 8.3 are used.

b Application of Title V of Regulation (EC) No 850/98 where restrictions exist.

c For Member States whose quotas are less than 5 % of the Community share of the TACs of both plaice and sole, the number of days at sea shall be 205.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 40/2008. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Table I

Maximum days a vessel may be present in 2008 within an area by fishing gear

		size \geq 90 and < 100 mm complying with the conditions laid down in Appendix 3					
a.iv	8.3(c)	Trawls or Danish seines with mesh size \geq 100 and < 120 mm track records shall represent less than 5 % of cod	148	148		148	148
a.v	8.3(c)	Trawls or Danish seines with mesh size \geq 120 mm track records shall represent less than 5 % of cod	160	160		160	160

a Only the denominations in points 4.1 and 8.3 are used.

b Application of Title V of Regulation (EC) No 850/98 where restrictions exist.

c For Member States whose quotas are less than 5 % of the Community share of the TACs of both plaice and sole, the number of days at sea shall be 205.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 40/2008. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Table I

Maximum days a vessel may be present in 2008 within an area by fishing gear

a.iv	8.3(k)	Trawls or Danish seines with mesh size \geq 100 and $<$ 120 mm track records shall represent less than 5 % of cod and more than 60 % of plaice	n.r.	n.r.	166	n.r.
a.v	8.3(k)	Trawls or Danish seines with mesh size \geq 120 mm track records shall represent less than 5 % of cod and more than 60 % of plaice	n.r.	n.r.	178	n.r.
a.v	8.3(h)	Trawls or Danish seines	115	115	126	103

a Only the denominations in points 4.1 and 8.3 are used.

b Application of Title V of Regulation (EC) No 850/98 where restrictions exist.

c For Member States whose quotas are less than 5 % of the Community share of the TACs of both plaice and sole, the number of days at sea shall be 205.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 40/2008. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Table I

Maximum days a vessel may be present in 2008 within an area by fishing gear

		with mesh size \geq 120 mm operating under a system of automatic suspension of fishing licences					
a.ii	8.3(d)	Trawls or Danish seines with mesh size \geq 70 and $<$ 90 mm track records represent less than 5 % of cod, sole and plaice	280	280		280	252
a.iii	8.3(d)	Trawls or Danish seines with mesh size \geq 90 and $<$ 100 mm track records represent less than 5 % of	Unl.	Unl.	280	280	280

a Only the denominations in points 4.1 and 8.3 are used.

b Application of Title V of Regulation (EC) No 850/98 where restrictions exist.

c For Member States whose quotas are less than 5 % of the Community share of the TACs of both plaice and sole, the number of days at sea shall be 205.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 40/2008. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Table I

Maximum days a vessel may be present in 2008 within an area by fishing gear

		cod, sole and plaice					
a.iv	8.3(d)	Trawls or Danish seines with mesh size \geq 100 and < 120 mm track records represent less than 5 % of cod, sole and plaice	Unl.	Unlimited		276	276
a.v	8.3(d)	Trawls or Danish seines with mesh size >120 mm track records represent less than 5 % of cod, sole and plaice	Unl.	Unlimited		Unl.	279
a.v	8.3(h) 8.3(j)	Trawls or Danish seines with	n.r.	n.r.	127	138	115

a Only the denominations in points 4.1 and 8.3 are used.

b Application of Title V of Regulation (EC) No 850/98 where restrictions exist.

c For Member States whose quotas are less than 5 % of the Community share of the TACs of both plaice and sole, the number of days at sea shall be 205.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 40/2008. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Table I

Maximum days a vessel may be present in 2008 within an area by fishing gear

		mesh size >120 mm with a 140 mm square mesh window (Appendix 2) and operating under a system of automatic suspension of fishing licenses					
b.i		Beam trawls with mesh size ≥ 80 and < 90 mm	n.r.	119 ^b	Unl.	132	143 ^b
b.ii		Beam trawls with mesh size ≥ 90 and < 100 mm	n.r.	143 ^b	Unl.	143	143 ^b
b.iii		Beam trawls with mesh size ≥ 100 and < 120 mm	n.r.	129	Unl.	143	143

a Only the denominations in points 4.1 and 8.3 are used.

b Application of Title V of Regulation (EC) No 850/98 where restrictions exist.

c For Member States whose quotas are less than 5 % of the Community share of the TACs of both plaice and sole, the number of days at sea shall be 205.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 40/2008. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Table I

Maximum days a vessel may be present in 2008 within an area by fishing gear

b.iv		Beam trawls with mesh size \geq 120 mm	n.r.	129	Unl.	143	143
b.iii	8.3(c)	Beam trawls with mesh size \geq 100 and $<$ 120 mm track records shall represent less than 5 % of cod	n.r.	155	Unl.	155	155
b.iii	8.3(i)	Beam trawls with mesh size \geq 100 and $<$ 120 mm for vessels having used beam trawls in 2003, 2004, 2005 or 2006.	n.r.	155	Unl.	155	155
b.iv	8.3(c)	Beam trawls with mesh size \geq	n.r.	155	Unl.	155	155

a Only the denominations in points 4.1 and 8.3 are used.

b Application of Title V of Regulation (EC) No 850/98 where restrictions exist.

c For Member States whose quotas are less than 5 % of the Community share of the TACs of both plaice and sole, the number of days at sea shall be 205.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 40/2008. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Table I

Maximum days a vessel may be present in 2008 within an area by fishing gear

		120 mm track records shall represent less than 5 % of cod					
b.iv	8.3(i)	Beam trawls with mesh size \geq 120 mm for vessels having used beam trawls in 2003, 2004, 2005 or 2006.	n.r.	155	Unl.	155	155
b.iv	8.3(e)	Beam trawls with mesh size \geq 120 mm track records shall represent less than 5 % of cod and more than 60 % of plaice	n.r.	155	Unl.	155	155
c.i		Gillnets and	140	140		140	140

a Only the denominations in points 4.1 and 8.3 are used.

b Application of Title V of Regulation (EC) No 850/98 where restrictions exist.

c For Member States whose quotas are less than 5 % of the Community share of the TACs of both plaice and sole, the number of days at sea shall be 205.

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Table I

Maximum days a vessel may be present in 2008 within an area by fishing gear

		entangling nets with mesh sizes < 110 mm						
c.ii		Gillnets and entangling nets with mesh sizes \geq 110 mm and < 150 mm	140	126			140	140
c.iii		Gillnets and entangling nets with mesh sizes \geq 150 mm and < 220 mm	140	117			115	140
c.iv		Gillnets and entangling nets with mesh sizes \geq 220 mm	140	140			140	140
d		Trammel nets	140	140			140	140
c.iii	8.3(f)	Gillnets and entangling nets with mesh	162	140	162	140	140	140

a Only the denominations in points 4.1 and 8.3 are used.

b Application of Title V of Regulation (EC) No 850/98 where restrictions exist.

c For Member States whose quotas are less than 5 % of the Community share of the TACs of both plaice and sole, the number of days at sea shall be 205.

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Table I

Maximum days a vessel may be present in 2008 within an area by fishing gear

		size \geq 220 mm trammel nets shall represent less than 5 % of cod and more than 5 % of turbot and lumpsucker						
d	8.3(g)	Trammel nets with mesh size < 110 mm. The vessel shall be absent from the port no more than 24 h.	140	140	185 ^c		140	140
e		Long- lines	173	173			173	173

a Only the denominations in points 4.1 and 8.3 are used.

b Application of Title V of Regulation (EC) No 850/98 where restrictions exist.

c For Member States whose quotas are less than 5 % of the Community share of the TACs of both plaice and sole, the number of days at sea shall be 205.

n.r. means 'non relevant'

EXCHANGES OF FISHING EFFORT ALLOCATIONS

15. Transfer of days between fishing vessels flying the flag of a member state

15.1. A Member State may permit any fishing vessel flying its flag to transfer days present within a geographical area referred to in point 2.1 for which it has been authorised to another vessel flying its flag provided that the product of the days received by a vessel and its engine power in kilowatts (kilowatt days) is equal to or less than the product of the days transferred by the donor vessel and the engine power in kilowatts of that vessel. The engine power in kilowatts of the vessels shall be that recorded for each vessel in the Community fishing fleet register.

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- 15.2. The total number of days present within an area under point 15.1. multiplied by the engine power in kilowatts of the donor vessel shall not be higher than the donor vessel's average annual days track record excluding transfers from other vessels in that area as verified by the Community logbook in the years 2001, 2002, 2003, 2004 and 2005 multiplied by the engine power in kilowatts of that vessel. When a donor vessel uses the area definition of West of Scotland as defined in point 2.2 its track record calculation will be based on this area definition.

For the purposes of this point, the recipient vessel is deemed to use its own allocated days before any days transferred to it. Transferred days used by the recipient vessel are counted towards the track record of the donor vessel.

- 15.3. The transfer of days as described in point 15.1 shall only be permitted between vessels operating within the same transfer group as defined in point 4.2 and during the same management period. A Member State may allow a transfer of days when a licensed donor vessel has ceased its activity.
- 15.4. Transfer of days is only permitted for vessels benefiting from an allocation of fishing days without the special conditions laid down in point 8.3.

By way of derogation from this point, vessels benefiting from the allocation of fishing days under the special condition referred to in point 8.3(h), when this condition is not combined with any other special condition as laid down in point 8.3, may transfer days.

- 15.5. On request from the Commission, Member States shall provide information on the transfers that have taken place. With the purpose of making this information available to the Commission, a detailed format of spreadsheet may be adopted, in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.

16. Transfer of days between fishing vessels flying the flag of different Member States

Member States may permit transfer of days present within an area for the same management period and within the same area between any fishing vessels flying their flags provided the same provisions as laid down in points 5.2, 5.5, 7 and 15 apply. Where Member States decide to authorise such a transfer, they shall notify the Commission before such transfers take place the details of the transfer, including the number of days transferred, the fishing effort and, where applicable, the quotas relating thereto.

USE OF FISHING GEAR

17. Notification of fishing gear

Before the first day of each management period the master of a vessel or his representative shall notify to the authorities of the flag Member State which gear or gears he intends to use during the forthcoming management period. Until such notification is provided the vessel shall not be entitled to fish within the geographical areas defined in point 2.1 with any of the fishing gear referred to in point 4.1.

18. Use of more than one grouping of fishing gear

- 18.1. A vessel may use gears belonging to more than one of the groupings of fishing gears defined under point 4.1 during one management period.
- 18.2. Whenever the master of a vessel or his representative notifies the use of more than one fishing gear, the vessel may at any moment use one of the gears notified provided that the total number of days spent fishing with whichever gear since the beginning of the year is:

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- (a) no more than total number of days available during the year which represents the arithmetic mean of the days corresponding to each gear in accordance with Table I, rounded down to the nearest whole day, and
 - (b) no more than the number of days that would be allocated in accordance with Table I if that gear was used in isolation.
- 18.3. If one of the gears notified has no limitation in number of days, then the total number of days available during the year for this particular gear shall remain unlimited.
- 18.4. Whenever a Member State chooses to divide the days into management periods in accordance with point 9, the conditions of points 18.2, 18.3 and 18.4 shall apply *mutatis mutandis* for each management period.
- 18.5. The option to use more than one gear shall only be available if the following additional monitoring arrangements are met:
- (a) during a given trip the fishing vessel may carry on board or use only one of the groupings of fishing gear referred to in point 4.1, except as provided for in point 20.2;
 - (b) before any trip the master of a vessel or his representative shall give prior notice to the competent authorities of the type of fishing gear that is to be carried on board or used unless the type of fishing gear has not changed from the one notified for the previous trip.
- 18.6. Inspection and surveillance at sea and in port by the competent authorities shall be undertaken for verification of compliance with the above two requirements. Any vessel found not to be complying with these requirements shall with immediate effect no longer be permitted to use more than one grouping of fishing gears.
19. Combined use of regulated and unregulated fishing gear

A vessel wishing to combine the use of one or more of the fishing gears referred to in point 4.1 (regulated gears) with any other fishing gears not referred to in point 4.1 (unregulated gears) shall not be restricted in their use of the unregulated gear. Such vessels must pre-notify when the regulated gear is to be used. When no such notification has been given, none of the fishing gear referred to in point 4.1 may be carried on board. Such vessels must be authorised and equipped to undertake the alternative fishing activity with unregulated gears.

20. Prohibition of carrying on board more than one regulated fishing gear
- 20.1. A vessel which is present within any of the geographical areas defined in point 2 and carrying on board a fishing gear belonging to one of the groupings of fishing gears referred to in point 4.1 may not simultaneously carry on board any gear belonging to one of the other groupings of fishing gears referred to in point 4.1.
- 20.2. By way of derogation from point 20.1 a vessel may carry on board and use during a trip in a geographical area referred to in point 2.1 fishing gears belonging to different groupings of fishing gears. In that case the number of days at sea spent by the vessel during that trip shall be counted for as fishing with the gear and special condition for which the lowest number of days apply in accordance with Table I.

NON-FISHING RELATED ACTIVITIES AND TRANSIT

21. Non-fishing related activities

In any given management period a vessel may undertake non-fishing related activities, without that time being counted against its days allocated under point 8, provided that the vessel first

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notifies its flag Member State of its intention to do so, the nature of its activity and that it surrenders its fishing licence for this time. Such vessels shall not carry any fishing gear or fish on board during that time.

22. Transit

A vessel is allowed to transit across the area provided that it has no fishing permit to operate in the area or that it has first notified its authorities of its intention to do so. While that vessel is within the area any fishing gears carried on board must be lashed and stowed in accordance with conditions laid down in Article 20(1) of Regulation (EEC) No 2847/93.

MONITORING, INSPECTION AND SURVEILLANCE

23. Fishing effort messages

By way of derogation from Article 9 of Regulation (EC) No 423/2004, vessels equipped with vessel monitoring systems in accordance with Article 5 and 6 of Regulation (EC) No 2244/2003 shall be excluded from the hailing requirements set out in Article 19(c) of Council Regulation (EEC) No 2847/93.

VESSEL MONITORING SYSTEMS OBLIGATIONS

24. Recording of relevant data

Member States shall ensure that the following data received pursuant to Articles 8, 10(1) and 11(1) of Regulation (EC) No 2244/2003 are recorded in a computer-readable form:

- (a) entry into, and exit from port;
- (b) each entry into, and exit from maritime areas where specific rules on access to waters and resources apply.

25. Cross-checks

Member States shall verify the submission of logbooks and relevant information recorded in the logbook by using VMS data. Such cross-checks shall be recorded and made available to the Commission on request.

REPORTING OBLIGATIONS

26. Collection of relevant data

Member States, on the basis of information used for the management of fishing days absent from port and present within the areas as set out in this Annex, shall collect for each annual quarter the information about total fishing effort deployed in the areas defined in point 2.1 for towed gears, static gears and demersal longlines and effort deployed by vessels using different types of gear in the areas concerned by this Annex.

27. Communication of relevant data

27.1. On request of the Commission, Member States shall make available to the Commission a spreadsheet with the data referred to in point 26 in the format specified in Tables II and III by sending it to the appropriate electronic mailbox address, which shall be communicated to the Member States by the Commission.

27.2. A new format of spreadsheet for making the data referred to in point 26 available to the Commission may be adopted in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.

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TABLE II

Reporting format

(1)	(2)	(3)	(4)	(5)	Gear(s) notified				Special condition applying to notified gear(s)				Days eligible using notified gear(s)				Days spent with notified gear(s)				(10)
					(6)	(6)	(6)	(6)	(7)	(7)	(7)	(7)	(8)	(8)	(8)	(8)	(9)	(9)	(9)	(9)	
					N °1	N °2	N °3	...	N °1	N °2	N °3	...	N °1	N °2	N °3	...	N °1	N °2	N °3	...	

TABLE III

Data format

(1)	Name of field	Maximum number of characters/digits	Alignment ^a L(ef)/R(ight)	Definition and Comments
(1)	Country	3	n/r	Member State (Alpha-3 ISO code) in which vessel is registered for fishing under Council Regulation (EC) No 2371/2002. In the case of the donor Vessel, it is always the reporting country
(2)	CFR	12	n/r	Community Fleet Register number Unique identification number of a fishing vessel. Member State (Alpha-3 ISO code) followed by an identifying series (9 characters). Where a series has fewer than 9 characters additional zeros must be inserted on the left hand side.
(3)	External marking	14	L	Under Commission Regulation (EEC) No 1381/87

^a relevant information for transmission of data by fixed-length formatting.

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(4)	Length of management period	2	L	Length of the management period measured in months.
(5)	Area fished	1	L	Indicate if vessel has been fishing in area a, b, c or d of point 2.1 of Annex IIA.
(6)	gear(s) notified	5	L	Indication of gear grouping notified in accordance with point 4.1 to Annex IIA (e.g a.i, a.ii, a.iii, a.iv, a.v, b.i, b.ii, b.iii, b.iv, c.i, c.ii, c.iii, d or e).
(7)	Special condition applying to notified gear(s)	2	L	Indication of which, if any, of the special condition a-1 referred to in point 8.3 of Annex IIA apply.
(8)	Days eligible using notified gear(s)	3	L	Number of days for which the vessel is eligible under Annex IIA for the choice of gears and length of management period notified
(9)	Days spent with notified gear(s)	3	L	Number of days the vessel actually spent present within the area and using the gear notified during the notified management period according to Annex IIA
(10)	Transfers of days	4	L	For days transferred indicate ‘– number of days transferred’ and for days received indicate ‘+ number of days transferred’

a relevant information for transmission of data by fixed-length formatting.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 40/2008. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Appendix 1 to Annex IIA

A copy of the special permits referred to in point 13.1 of this Annex shall be kept on board the fishing vessel.

1. When holding the special fishing permit the vessel shall only keep on board and use a towed net with an escape window as specified in point 2 of this Appendix. The gear shall be approved by the national inspectors before commencing fishing.
2. Escape window
 - 2.1. The window shall be inserted in the untapered section with a minimum of 80 open meshes in the circumference. The window shall be inserted into the top panel. There shall be no more than two open diamond meshes between the posterior row of meshes in the side of the window and the adjacent selvedge. The window shall terminate no more than six metres from cod-line. The joining rate shall be two diamond meshes to one square mesh when codend mesh size is equal or more than 120 mm, five diamond meshes to two square meshes when codend mesh size is equal or more than 100 mm and less than 120 mm and three diamond meshes to one square mesh when codend mesh size is equal or more than 90 mm and less than 100 mm.
 - 2.2. The window shall be at least three meters in length. The meshes shall have a minimum opening of 120 mm. The meshes shall be square meshes, i.e. all four sides of the window netting will be cut bars. The netting shall be mounted such that the bars run parallel and perpendicular to the length of the cod-end.
 - 2.3. The netting of square-meshed panel shall be knotless single twine. The window shall be inserted in such a way that the meshes remain fully open at all times when fishing. The window shall not be obstructed in any way by either internal or external attachments.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 40/2008. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Appendix 2 to Annex IIA

A copy of the special permits referred to in point 13.1. of this Annex shall be kept on board the fishing vessel.

1. When holding the special fishing permit the vessel shall only keep on board and use a towed net with an escape window as specified in point 2 of this Appendix. The gear shall be approved by the national inspectors before commencing fishing.
2. Escape window
 - 2.1. The window shall be inserted in the untapered section with a minimum of 80 open meshes in the circumference. The window shall be inserted into the top panel. There shall be no more than two open diamond meshes between the posterior row of meshes in the side of the window and the adjacent selvedge. The window shall terminate no more than 6 metres from cod-line. The joining rate shall be five diamond meshes to two square meshes.
 - 2.2. The window shall be at least three meters in length. The meshes shall have a minimum opening of 140 mm. The meshes shall be square meshes i.e. all four sides of the window netting will be cut bars. The netting shall be mounted such that the bars run parallel and perpendicular to the length of the codend.
 - 2.3. The netting of square-meshed panel shall be knotless single twine. The window shall be inserted in such a way that the meshes remain fully open at all times when fishing. The window shall not be obstructed in any way by either internal or external attachments.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 40/2008. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Appendix 3 to Annex IIA

1. A copy of the special permits referred to in point 13.1 of this Annex shall be kept on board the fishing vessel.
2. When holding the special fishing permit the vessel shall only keep on board and use a towed net with an escape window as specified in point 3 of this Appendix inserted in a codend with a mesh size equal or larger than 95 mm and with a minimum of 80 open meshes and a maximum of 100 meshes in the circumference. The gear shall be approved by the national inspectors before commencing fishing.
3. Escape window
 - 3.1. The window shall be inserted in the top panel. There shall be no more than two open diamond meshes between the posterior row of meshes in the side of the window and the adjacent selvedge. The window shall terminate no more than 4 metres from cod-line. The joining rate shall be three diamond meshes to one square mesh.
 - 3.2. The window shall be at least five meters in length. The meshes shall have a minimum opening of 120 mm. The meshes shall be square meshes i.e. all four sides of the window netting will be cut bars. The netting shall be mounted such that the bars run parallel and perpendicular to the length of the codend.
 - 3.3. The netting of square-meshed panel shall be knotless single twine. The window shall be inserted in such a way that the meshes remain fully open at all times when fishing. The window shall not be obstructed in any way by either internal or external attachments.

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ANNEX IIB

FISHING EFFORT FOR VESSELS IN THE CONTEXT OF THE RECOVERY OF CERTAIN SOUTHERN HAKE AND NORWAY LOBSTER STOCKS IN ICES ZONES VIIIc AND IXa EXCLUDING THE GULF OF CADIZ

1. Scope

The conditions laid down in this Annex shall apply to Community vessels of length overall equal to or greater than 10 metres, carrying on board towed and static gears defined in point 3 and present in zones VIIIc and IXa excluding the Gulf of Cadiz. For the purposes of this Annex, a reference to the 2008 management period means the period from 1 February 2008 to 31 January 2009.

2. Definition of day present within the area

For the purpose of this Annex, a day present within an area shall be any continuous period of 24 hours (or part thereof) during which a vessel is present within the geographical area defined in point 1 and absent from port. The time from which the continuous period is measured is at the discretion of the Member State whose flag is flown by the vessel concerned.

3. Fishing gear

For the purpose of this Annex, the following grouping of fishing gears shall apply:

- Trawls, Danish seines and similar gears of mesh size equal to or larger than 32 mm and gill-nets of mesh size equal to or larger than 60 mm and bottom long-lines.

IMPLEMENTATION OF FISHING EFFORT LIMITATIONS

4. Vessels concerned by fishing effort limitations

- 4.1. Vessels using gears belonging to the grouping of fishing gear referred to in point 3 and fishing in areas defined in point 1 shall hold a special fishing permit issued in accordance with Article 7 of Regulation (EC) No 1627/94.
- 4.2. A Member State shall not permit fishing with any gear belonging to the grouping of fishing gear defined in point 3 in the area by any of its vessels which have no record of such fishing activity in the years 2002, 2003, 2004, 2005, 2006 or 2007 in the area, excluding the record of fishing activities as a result of transfer of days between fishing vessels, unless it ensures that equivalent capacity, measured in kilowatts, is prevented from fishing in the regulated area.
- 4.3. A vessel flying the flag of a Member State having no quotas in the area defined in point 1 shall not be permitted to fish in that area with a gear belonging to the grouping of fishing gear defined in point 3, unless the vessel is allocated a quota after a transfer as permitted according to the Article 20(5) of Regulation (EC) No 2371/2002 [^{XI}and is allocated days at sea according to point 12 or 13 of this Annex].

5. Limitations in activity

Each Member State shall ensure that, when carrying on board any gear belonging to the grouping of fishing gear referred to in point 3, fishing vessels flying its flag and registered in the Community shall be present within the area for no more than the number of days specified in point 7.

6. Exceptions

A Member State shall not count against the days allocated to any of its vessels under this Annex either any days when the vessel has been present within the area but unable to fish

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because it was assisting another vessel in need of emergency aid or any days when a vessel has been present within the area but unable to fish because it is transporting an injured person for emergency medical aid. The Member State shall provide justification to the Commission within one month of any decisions taken on this basis with associated evidence of the emergency from the competent authorities.

NUMBER OF DAYS PRESENT WITHIN THE AREA ALLOCATED TO FISHING VESSELS

7. Maximum number of days
 - 7.1. During the 2008 management period, the maximum number of days at sea for which a Member State may authorize a vessel flying its flag to be present within the area having carried on board any gear belonging to the grouping of fishing gear referred to in point 3 is shown in Table I.
 - 7.2. For the purposes of fixing the maximum number of days at sea a fishing vessel may be authorized by its flag Member State to be present within the area, the following special conditions shall apply during the 2008 management period in accordance with Table I:
 - (a) The total landings of hake in the years 2001, 2002 and 2003 made by the vessel, or by the vessel or vessels using similar gears and qualifying for this special condition, *mutatis mutandis*, that it has replaced in accordance with Community law, shall represent less than 5 tonnes according to the landings in live weight consigned in the Community logbook, and;
 - (b) The total landings of Norway lobster in the years 2001, 2002 and 2003 made by the vessel, or by the vessel or vessels using similar gears and qualifying for this special condition, *mutatis mutandis*, that it has replaced in accordance with Community law, shall represent less than 2,5 tonnes according to the landings in live weight consigned in the Community logbook.
 - 7.3. During the 2008 management period, a Member State may manage its fishing effort allocations according to a kilowatt days system. By that system it may authorise any vessel concerned for any gear of the grouping of fishing gears and special conditions laid down in Table I to be present within the area for a maximum number of days which is different from that set out in that Table, provided that the overall amount of kilowatt days corresponding to the grouping and special condition is respected.

This overall amount of kilowatt days shall be the sum of all individual fishing efforts allocated to the vessels flying the flag of that Member State and qualified for the grouping of fishing gears referred to in point 3 and special condition. Such individual fishing efforts shall be calculated in kilowatt days by multiplying the engine power of each vessel by the number of days at sea it would benefit from, according to table I, if the provisions of this point were not applied.
 - 7.4. A Member State wishing to benefit from the provisions laid down in point 7.3 shall submit a request to the Commission with reports in electronic format containing for the grouping of fishing gears and special condition as laid down in Table I the details of the calculation based on
 - list of vessels authorized to fish by indicating their Community Fleet Register number (CFR) and their engine power;
 - track records of 2001, 2002 and 2003 for such vessels reflecting the catch composition defined in special conditions 7.2(a) or (b), if these vessels are qualified for such special conditions;

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- the number of days at sea for which each vessel would have initially been authorized to fish according to Table I and the number of days at sea which each vessel would benefit from in application of point 7.3.

On the basis of that description, the Commission may authorize that Member State to benefit from the provisions defined in point 7.3.

8. Management periods

- 8.1. A Member State may divide the days present within the area given in Table I into management periods of durations of one or more calendar months.
- 8.2. The number of days for which a vessel may be present within the area during a management period shall be fixed at the discretion of the Member State concerned.
- 8.3. In any given management period a vessel may undertake non-fishing related activities, without that time being counted against its days allocated under point 7, provided that the vessel first notifies its flag Member State of its intention to do so, the nature of its activity and that it surrenders its fishing licence for this time. Such vessels shall not carry any fishing gear or fish on board during that time.

9. Allocation of additional days for permanent cessation of fishing activities

- 9.1. An additional number of days at sea on which a vessel may be authorized by its flag Member State to be present within the geographical area when carrying on board any gear belonging to the grouping of fishing gears referred to in point 3 may be allocated to Member States by the Commission on the basis of permanent cessations of fishing activities that have taken place since 1 January 2004 either in accordance with Article 7 of Regulation (EC) No 2792/1999 or resulting from other circumstances duly motivated by Member States. Any vessels that can be shown to have been definitively withdrawn from the area may also be considered. The effort expended in 2003 measured in kilowatt days of the withdrawn vessels using the gears in question shall be divided by the effort expended by all vessels using those gears during 2003.

The additional number of days at sea shall be then calculated by multiplying the ratio so obtained by the number of days that would have been allocated according to Table I. Any part of a day resulting from this calculation shall be rounded to the nearest whole day.

This point shall not apply where a vessel has been replaced in accordance with point 4.1 or when the withdrawal has already been used in previous years to obtain additional days at sea.

- 9.2. Member States wishing to benefit from the allocations referred to in point 9.1 shall submit a request to the Commission with reports in electronic format containing for the grouping of fishing gears and special condition as laid down in Table I the details of the calculation based on
 - lists of withdrawn vessels with their Community Fleet Register number (CFR) and their engine power;
 - the fishing activity deployed by such vessels in 2003 calculated in days at sea according to the grouping of fishing gears and if necessary special condition.
- 9.3. On the basis of such a request the Commission may amend the number of days defined in point 7.1 for that Member State in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.
- 9.4. During the 2008 management period, a Member State may re-allocate those additional numbers of days at sea to all the vessels remaining in fleet and qualified for the gears

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belonging to the grouping of fishing gears and special condition or to part of them by applying, *mutatis mutandis*, the provisions laid down in points 7.3 and 7.4.

9.5. Any additional number of days resulting from a permanent cessation of activity previously allocated by the Commission on the basis of previous definitions of groupings of fishing gears shall be reassessed on the basis of the grouping of fishing gears laid down in point 3. Any additional days so obtained shall remain allocated in 2008.

10. Allocation of additional days for enhanced observer coverage

10.1. Three additional days on which a vessel may be present within the area when carrying onboard any gears belonging to the grouping of fishing gear referred to in point 3 may be allocated between 1 February 2008 and 31 January 2009 to Member States by the Commission on the basis of an enhanced programme of observer coverage in partnership between scientists and the fishing industry. Such a programme shall focus in particular on levels of discarding and on catch composition and go beyond the requirements on data collection, as laid down in Regulation (EC) No 1543/2000, Regulation (EC) No 1639/2001 and Regulation (EC) No 1581/2004 for the minimum and extended programme levels.

Observers shall be independent from the owner of the vessel and shall not be a member of the fishing vessel crew.

10.2. Member States wishing to benefit from the allocations referred to in point 10.1 shall submit a description of their enhanced observer coverage programme to the Commission.

10.3. On the basis of this description, and after consultation with STECF, the Commission may amend the number of days defined in point 7.1 for that Member State and for the vessels, the area and gear concerned by the enhanced programme of observers in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.

10.4. If such a programme submitted by a Member State has been approved by the Commission in the past and the Member State wishes to continue its application without changes, the Member State shall inform the Commission of the continuation of its enhanced observer coverage programme four weeks before the beginning of the period for which the programme applies.

11. Special conditions for the allocation of days

11.1. If a vessel has received an unlimited number of days resulting from compliance with the special conditions listed in points 7.2(a) and 7.2(b), the vessel's landings in 2008 shall not exceed 5 tonnes live weight of hake and 2,5 tonnes live weight of Norway lobster.

11.2. The vessel shall not tranship any fish at sea to another vessel.

11.3. When either of these conditions is not met by a vessel, that vessel shall with immediate effect no longer be entitled to the allocation of days corresponding to the given special conditions.

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Table I

Maximum number of days a vessel may be present within the area by fishing gear per year

Gear point 3	Special conditions point 7	Denomination Only the gear groupings as defined in point 3 and the special conditions as defined in point 7 are used.	Maximum number of days
3		Bottom trawls of mesh size ≥ 32 mm, gill-nets of mesh size ≥ 60 mm and bottom long-lines	194
3	7.2(a) and 7.2(b)	Bottom trawls of mesh size ≥ 32 mm, gill-nets of mesh size ≥ 60 mm and bottom long-lines	Unlimited

EXCHANGES OF FISHING EFFORT ALLOCATIONS

12. Transfer of days between vessels flying the flag of a member state
 - 12.1. A Member State may permit any fishing vessel flying its flag to transfer days present within the area for which it has been authorised to another vessel flying its flag within the area provided that the product of the days received by a vessel multiplied by its engine in kilowatts (kilowatt days) is equal to or less than the product of the days transferred by the donor vessel and the engine power in kilowatts of that vessel. The engine power in kilowatts of the vessels shall be that recorded for each vessel in the Community fishing fleet register.
 - 12.2. The total number of days present within the area transferred under point 12.1 multiplied by the engine power in kilowatts of the donor vessel shall not be higher than the donor vessel's average annual days track record in the area as verified by the Community logbook in the years 2001, 2002, 2003, 2004 and 2005 multiplied by the engine power in kilowatts of that vessel.
 - 12.3. The transfer of days as described in point 12.1 shall be permitted only between vessels operating within the any gear belonging to the grouping of fishing gear and during the same management period.
 - 12.4. Transfer of days is only permitted for vessels benefiting from an allocation of fishing days without special condition, as laid down in point 7.2.
 - 12.5. On request from the Commission, Member States shall provide information on the transfers that have taken place. Formats of spreadsheet for the collection and transmission of information referred to in the present point may be adopted in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.
13. Transfer of days between fishing vessels flying the flag of different member states

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 40/2008. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Member States may permit transfer of days present within the area for the same management period and within the area between any fishing vessels flying their flags provided [^{X1}the same provisions as laid down in points 4.2, 4.3, 6 and 12 apply.] Where Member States decide to authorize such a transfer, they shall notify the Commission, before such transfers take place, the details of the transfer, including the number of days, the fishing effort and, where applicable, the fishing quotas relating thereto.

USE OF FISHING GEAR

14. Notification of fishing gear

Before the first day of each management period the master of a vessel or his representative shall notify to the authorities of the flag Member State which gear or gears he intends to use during the forthcoming management period. Until such notification is provided the vessel shall not be entitled to fish within the area defined in point 1 with any gear belonging to the grouping of fishing gear referred to in point 3.

15. Combined used of regulated and unregulated fishing gear

A vessel wishing to combine the use of one or more of the fishing gear belonging to the grouping of fishing gear referred to in point 3 (regulated gears) with any other grouping of fishing gear not referred to in point 3 (unregulated gears) will not be restricted in their use of the unregulated gear. Such vessels must pre-notify when the regulated gear is to be used. When no such notification has been given, none of the fishing gear belonging to the grouping of fishing gear referred to in point 3 may be carried on board. Such vessels must be authorised and equipped to undertake the alternative fishing activity with the unregulated gears.

TRANSIT

16. Transit

A vessel is allowed to transit across the area provided that it has no fishing permit to operate in the area or it has first notified its authorities of its intention to do so. While that vessel is within the area any fishing gears carried on board must be lashed and stowed in accordance with conditions laid down in Article 20(1) of Regulation (EEC) No 2847/93.

MONITORING, INSPECTION AND SURVEILLANCE

17. Fishing effort messages

Articles 19b, 19c, 19d, 19e and 19k of Regulation (EEC) No 2847/93 shall apply to vessels carrying on board gears belonging to the grouping of fishing gear defined in point 3 of this Annex and operating in the area defined in point 1 of this Annex. Vessels equipped with vessel monitoring systems in accordance with Article 5 and 6 of Regulation (EC) No 2244/2003 shall be excluded from these hailing requirements set out in Article 19(c) of Council Regulation (EEC) No 2847/93.

18. Recording of relevant data

Member States shall ensure that the following data received pursuant to Articles 8, 10(1) and 11(1) of Regulation (EC) No 2244/2003 are recorded in a computer-readable form:

- (a) entry into, and exit from port;
- (b) each entry into, and exit from maritime areas where specific rules on access to waters and resources apply.

19. Cross-checks

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Member States shall verify the submission of logbooks and relevant information recorded in the logbook by using VMS data. Such cross-checks shall be recorded and made available to the Commission on request.

REPORTING OBLIGATIONS

20. Collection of relevant data

Member States, on the basis of information used for the management of fishing days present within the area as set out in this Annex, shall collect for each annual quarter the information about total fishing effort deployed within the area for towed gears and static gears and effort deployed by vessels using different types of gear in the area concerned by this Annex.

21. Communication of relevant data

21.1. On request of the Commission, Member States shall make available to the Commission a spreadsheet with the data referred to in point 20 in the format specified in Tables II and III by sending it to the appropriate electronic mailbox address, which shall be communicated to the Member States by the Commission.

21.2. A new format of spreadsheet for making the data referred to in point 20 available to the Commission may be adopted in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.

TABLE II

Reporting format

(1)	(2)	(3)	(4)	(5)	Special condition applying to notified gear(s)				Days eligible using notified gear(s)				Days spent with notified gear(s)				(9)
					N°1	N°2	N°3	...	N°1	N°2	N°3	...	N°1	N°2	N°3	...	
(1)	(2)	(3)	(4)	(5)	(6)	(6)	(6)	(6)	(7)	(7)	(7)	(7)	(8)	(8)	(8)	(8)	(9)

TABLE III

Data format

(1)	Name of field	Maximum number of characters/digits	Alignment ^a L(ef)/R(ight)	Definition and Comments
(1)	Country	3	n/r	Member State (Alpha-3 ISO code) in which vessel is registered for fishing under Council Regulation (EC) No 2371/2002. In the case of the donor Vessel, it is always the reporting country

^a relevant information for transmission of data by fixed-length formatting.

ANNEX II

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Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 40/2008. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(2)	CFR	12	n/r	Community Fleet Register number Unique identification number of a fishing vessel. Member State (Alpha-3 ISO code) followed by an identifying series (9 characters). Where a series has fewer than 9 characters additional zeros must be inserted on the left hand side.
(3)	External marking	14	L	Under Commission Regulation (EEC) No 1381/87
(4)	Length of management period	2	L	Length of the management period measured in months.
(5)	Area fished	1	L	Non relevant information in the case of Annex IIB.
(6)	Special condition applying to notified gear(s)	2	L	Indication of which, if any, of the special condition a-b referred to in point 7.2 of Annex IIB that apply.
(7)	Days eligible using notified gear(s)	3	L	Number of days for which the vessel is eligible under Annex IIB for the choice of gears and length of management period notified
(8)	Days spent with notified gear(s)	3	L	Number of days the vessel actually spent present within the area and using a gear corresponding to gear notified during the notified management period according to Annex IIB.

a relevant information for transmission of data by fixed-length formatting.

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(9)	Transfers of days	4	L	For days transferred indicate ‘– number of days transferred’ and for days received indicate ‘+ number of days transferred’
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a relevant information for transmission of data by fixed-length formatting.

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ANNEX IIC

FISHING EFFORT FOR VESSELS IN THE CONTEXT OF THE RECOVERY OF WESTERN CHANNEL SOLE STOCKS ICES ZONE VIIe

GENERAL PROVISIONS

1. Scope

- 1.1. The conditions laid down in this Annex shall apply to Community vessels of length overall equal to or greater than 10 metres carrying on board any of the gears defined in point 3, and present in zone VIIe. For the purposes of this Annex, a reference to the 2008 management period means the period from 1 February 2008 to 31 January 2009.
- 1.2. Vessels fishing with static nets with mesh size equal to or larger than 120 mm and with track records of less than 300 kg live weight of sole according to the EC logbook in 2004 shall be exempt from the provisions of this Annex on the conditions that:
 - (a) such vessels catch less than 300 kg live weight of sole during the 2008 management period, and
 - (b) such vessels shall not tranship any fish at sea to another vessel, and
 - (c) each Member State concerned makes a report to the Commission by 31 July 2008 and 31 January 2009 on these vessels' track records for sole in 2004 and catches of sole in 2008.

When either of these conditions is not met, the concerned vessels shall with immediate effect no longer be exempted from the provisions of this Annex.

2. Definition of day present with the area

For the purpose of this Annex, a day present within an area shall be any continuous period of 24 hours (or part thereof) during which a vessel is present within zone VIIe and absent from port. The time from which the continuous period is measured is at the discretion of the Member State whose flag is flown by the vessel concerned.

3. Fishing gear

For the purposes of this Annex, the following groupings of fishing gears shall apply:

- (a) Beam trawls of mesh size equal to or greater than 80 mm;
- (b) Static nets including gill-nets, trammel-nets and tangle-nets with mesh size less than 220 mm.

IMPLEMENTATION OF FISHING EFFORT LIMITATIONS

4. Vessels concerned by fishing effort limitations

- 4.1. Vessels using gear types identified in point 3 and fishing in areas defined in point 1 shall hold a special fishing permit issued in accordance with Article 7 of Regulation (EC) No 1627/94.
- 4.2. A Member State shall not permit fishing with a gear belonging to a grouping of fishing gear defined in point 3 in the area by any of its vessels which have no record of such fishing activity in the years 2002, 2003, 2004, 2005, 2006 or 2007 in that area unless it ensures that equivalent capacity, measured in kilowatts, is prevented from fishing in the regulated area.

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- 4.3. However, a vessel with a track record of using a gear belonging to a grouping of fishing gear defined in point 3 may be authorised to use a different fishing gear, provided that the number of days allocated to this latter gear is greater than or equal to the number of days allocated to the first gear.
- 4.4. A vessel flying the flag of a Member State having no quotas in the area defined in point 1 shall not be permitted to fish in that area with a gear belonging to a grouping of fishing gear defined in point 3, unless the vessel is allocated a quota after a transfer as permitted according to the Article 20(5) of Regulation (EC) No 2371/2002 [^{X1}and is allocated days at sea according to points 11 or 12 of this Annex.]

5. Limitations in activity

Each Member State shall ensure that, when carrying on board any of the groupings of fishing gear referred to in point 3, fishing vessels flying its flag and registered in the Community shall be present within the area for no more than the number of days set out in point 7.

6. Exceptions

A Member State shall not count against the days allocated to any of its vessels under this Annex either any days when the vessel has been present within the area but unable to fish because it was assisting another vessel in need of emergency aid or any days when a vessel has been present within the area but unable to fish because it is transporting an injured person for emergency medical aid. The Member State shall provide justification to the Commission within one month of any decisions taken on this basis with associated evidence of the emergency from the competent authorities.

NUMBER OF DAYS PRESENT WITHIN THE AREA ALLOCATED TO FISHING VESSELS

7. Maximum number of days

- 7.1. During the 2008 management period, the maximum number of days at sea for which a Member State may authorize a vessel flying its flag to be present within the area having carried on board and used any one of the fishing gears referred to in point 3 is shown in Table I.
- 7.2. During the 2008 management period, the number of days at sea for which a vessel is present within the total area covered by this Annex and Annex IIA shall not exceed the number shown in Table I of this Annex. However the number of days in which the vessel is present in the areas covered in Annex IIA shall comply with the maximum number fixed in accordance with Annex IIA.
- 7.3. During the 2008 management period, a Member State may manage its fishing effort allocation according to a kilowatt days system. By that system it may authorise any vessel concerned to be present within the area for a maximum number of days which is different from that set out in Table I for any one of the groupings of fishing gears laid down in that Table, provided that the overall amount of kilowatt days corresponding to such a grouping is respected.

For a specific grouping of fishing gears, the overall amount of kilowatt days shall be the sum of all individual fishing efforts allocated to the vessels flying the flag of the Member State concerned and qualified for that specific grouping. Such individual fishing efforts shall be calculated in kilowatt days by multiplying the engine power of each vessel by the number of days at sea it would benefit from, according to Table I, if the provisions of this point were not applied.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 40/2008. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- 7.4. A Member State wishing to benefit from the provisions laid down in point 7.3 shall submit a request to the Commission with reports in electronic format containing for each grouping of fishing gears the details of the calculation based on
- list of vessels authorized to fish by indicating their Community Fleet Register number (CFR) and their engine power;
 - the number of days at sea for which each vessel would had initially been authorized to fish according to Table I and the number of days at sea which each vessel would benefit from in application of point 7.3.

On the basis of that description, the Commission may authorize that Member State to benefit from the provisions defined in point 7.3.

8. Management periods

- 8.1. Member States may divide the days present within the area given in Table I into management periods of durations of one or more calendar months.
- 8.2. The number of days for which a vessel may be present within the area during a management period shall be fixed at the discretion of Member States concerned.
- 8.3. In any given management period a vessel that has used the number of days present within the area for which it is eligible shall remain in port or out of the area for the remainder of the management period unless it is using a gear for which no maximum number of days has been fixed.

9. Allocation of additional days for permanent cessations of fishing activities

- 9.1. An additional number of days at sea on which a vessel may be authorized by its flag Member State to be present within the geographical area when carrying on board any of the gears referred to in point 3 may be allocated to Member States by the Commission on the basis of permanent cessations of fishing activities that have taken place since 1 January 2004 either in accordance with Article 7 of Regulation (EC) No 2792/1999 or resulting from other circumstances duly motivated by Member States. The effort expended in 2003 measured in kilowatt days of the withdrawn vessels using the gear in question shall be divided by the effort expended by all vessels using that gear during 2003.

The additional number of days at sea shall be then calculated by multiplying the ratio so obtained by the number of days that would have been allocated according to Table I. Any part of a day resulting from this calculation shall be rounded to the nearest whole day.

This point shall not apply where a vessel has been replaced in accordance with point 4.2 or when the withdrawal has already been used in previous years to obtain additional days at sea.

- 9.2. Member States wishing to benefit from the allocations referred to in point 9.1 shall submit a request to the Commission with reports in electronic format containing for each grouping of fishing gears the details of the calculation based on
- lists of withdrawn vessels with their Community Fleet Register number (CFR) and their engine power;
 - the fishing activity deployed by such vessels in 2003 calculated in days at sea by concerned grouping of fishing gears.
- 9.3. On the basis of such a request the Commission may amend the number of days defined in point 7.2 for that Member State in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 40/2008. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- 9.4. During the 2008 management period, a Member State may re-allocate those additional numbers of days at sea to all the vessels remaining in fleet and qualified for the relevant grouping of fishing gears or to part of them by applying, *mutatis mutandis*, the provisions laid down in points 7.3 and 7.4.
- 9.5. Any additional number of days resulting from a permanent cessation of activity previously allocated by the Commission remains allocated in 2008.
10. Allocation of additional days for enhanced observer coverage
- 10.1. Three additional days on which a vessel may be present within the area when carrying onboard any of the groupings of fishing gear referred to in point 3 may be allocated between 1 February 2008 and 31 January 2009 to Member States by the Commission on the basis of an enhanced programme of observer coverage in partnership between scientists and the fishing industry. Such a programme shall focus in particular on levels of discarding and on catch composition and go beyond the requirements on data collection, as laid down in Regulation (EC) No 1543/2000, Regulation (EC) No 1639/2001 and Regulation (EC) No 1581/2004 for the minimum and extended programme levels.

Observers shall be independent from the owner of the vessel and shall not be a member of the fishing vessel crew.

- 10.2. Member States wishing to benefit from the allocations referred to in point 10.1 shall submit a description of their enhanced observer coverage programme to the Commission for approval.
- 10.3. On the basis of this description, and after consultation with STECF, the Commission may amend the number of days defined in point 7.1 for that Member State and for the vessels, the area and gear concerned by the enhanced programme of observers in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.
- 10.4. If such a programme submitted by a Member State has been approved by the Commission in the past and the Member State wishes to continue its application without changes, the Member State shall inform the Commission of the continuation of its enhanced observer coverage programme four weeks before the beginning of the period for which the programme applies.

TABLE I

Maximum number of days a vessel may be present within the area by fishing gear per year

Gearpoint 3	Denomination Only the gear groupings as defined in point 3 are used	Western Channel
3.a.	Beam trawls of mesh size \geq 80 mm	192
3.b.	Static nets with mesh size < 220 mm	192

EXCHANGES OF FISHING EFFORT ALLOCATIONS

11. Transfer of days between fishing vessels flying the flag of a Member State

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 40/2008. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- 11.1. A Member State may permit any of its fishing vessels flying its flag to transfer days present within the area for which it has been authorised to another of its vessels flying its flag within the area provided that the product of the days received by a vessel and its engine power in kilowatts (kilowatt days) is equal to or less than the product of the days transferred by the donor vessel and the engine power in kilowatts of that vessel. The engine power in kilowatts of the vessels shall be that recorded for each vessel in the Community fishing fleet register.
- 11.2. The total number of days present within the area, multiplied by the engine power in kilowatts of the donor vessel, shall not be higher than the donor vessel's average annual days track record in the area as verified by the Community logbook in the years 2001, 2002, 2003, 2004 and 2005 multiplied by the engine power in kilowatts of that vessel.
- 11.3. The transfer of days as described in point 11.1 shall be permitted only between vessels operating within the same gear grouping referred to in point 3 and during the same management period.
- 11.4. On request from the Commission, Member States shall provide reports on the transfers that have taken place. A detailed format of spreadsheet for making these reports available to the Commission may be adopted in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.

12. Transfer of days between fishing vessels flying the flag of different Member States

Member States may permit transfer of days present within the area for the same management period and within the area between any fishing vessels flying their flags provided the same provisions as laid down in points 4.2, 4.4, 6 and 11 apply. Where Member States decide to authorize such a transfer, as a preliminary they shall notify the Commission before such transfers take place, the details of the transfer, including the number of days transferred, the fishing effort and, where applicable, the fishing quotas relating thereto, as agreed between them.

USE OF FISHING GEAR

13. Notification of fishing gear

Before the first day of each management period the master of a vessel or his representative shall notify to the authorities of the flag Member State which gear or gears he intends to use during the forthcoming management period. Until such notification is provided the vessel shall not be entitled to fish within the area defined in point 1 with any of the groupings of fishing gear referred to in point 3.

14. Non-fishing related activities

In any given management period a vessel may undertake non-fishing related activities, without that time being counted against its days allocated under point 7, provided that the vessel first notifies its flag Member State of its intention to do so, the nature of its activity and that it surrenders its fishing licence for that time. Such vessels shall not carry any fishing gear or fish on board during that time.

TRANSIT

15. Transit

A vessel shall be allowed to transit across the area provided that it has no fishing permit to operate in the area or it has first notified its authorities of its intention to do so. While that vessel is within the area any fishing gears carried on board must be lashed and stowed in accordance with conditions laid down in Article 20(1) of Regulation (EEC) No 2847/93.

MONITORING, INSPECTION AND SURVEILLANCE

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 40/2008. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

16. Fishing effort messages

Articles 19b, 19c, 19d, 19e and 19k of Regulation (EEC) No 2847/93 shall apply to vessels carrying on board the groupings of fishing gear defined in point 3 of this Annex and operating in the area defined in point 1 of this Annex. Vessels equipped with vessel monitoring systems in accordance with Articles 5 and 6 of Regulation (EC) No 2244/2003 shall be excluded from these hailing requirements set out in Article 19(c) of Regulation (EEC) No 2847/93.

17. Recording of relevant data

Member States shall ensure that the following data received pursuant to Articles 8, 10(1) and 11(1) of Regulation (EC) No 2244/2003 are recorded in a computer-readable form:

- (a) entry into, and exit from port;
- (b) each entry into, and exit from maritime areas where specific rules on access to waters and resources apply.

18. Cross-checks

Member States shall verify the submission of logbooks and relevant information recorded in the logbook by using VMS data. Such cross-checks shall be recorded and made available to the Commission on request.

19. Alternative control measures

Member States may implement alternative control measures to ensure compliance with the obligations referred to in point 16 which are as effective and transparent as these reporting obligations. Such alternative measures shall be notified to the Commission before being implemented.

20. Prior notification of transshipments and landings

The master of a Community vessel or his representative wishing to tranship any quantity retained on board or to land in a port or landing location of a third-country shall inform the competent authorities of the flag Member State at least 24 hours prior to transshipping or to landing in a third-country the information referred to in Article 19b of Regulation (EEC) No 2847/93.

21. Margin of tolerance in the estimation of quantities reported in the logbook

By way of derogation from Article 5(2) of Regulation (EEC) No 2807/83, the permitted margin of tolerance, when estimating quantities, in kilograms retained on board of vessels referred to in point 16 shall be 8 % of the logbook figure. Where no conversion factors are laid down in Community legislation, the conversion factors adopted by the Member states whose flag the vessel is flying shall apply.

22. Separate stowage

When quantities of sole greater than 50 kg are stowed on board a vessel, it shall be prohibited to retain on board a fishing vessel in any container any quantity of Sole mixed with any other species of marine organism. The masters of Community vessels shall give inspectors of Member States such assistance as will enable the quantities declared in the logbook and the catches of sole retained on board to be cross checked.

23. Weighing

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 40/2008. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

23.1. The competent authorities of a Member State shall ensure that any quantity of sole exceeding 300 kg caught in the area shall be weighed using auction room scales before sale.

23.2. The competent authorities of a Member State may require that any quantity of sole exceeding 300 kg caught in the area and first landed in that Member State is weighed in the presence of controllers before being transported from the port of first landing.

24. Transport

By way of derogation from Article 13 of Regulation (EEC) No 2847/93, quantities greater than 50 kg of any species in fisheries referred to in Article 8 of this Regulation 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 Regulation (EEC) No 2847/93 pertaining to the quantities of these species transported. The exemption provided for in Article 13(4)(b) of Regulation (EEC) No 2847/93 shall not apply.

25. Specific monitoring programme

By way of derogation from Article 34c(1) of Regulation (EEC) No 2847/93, the specific monitoring programme for any of the stocks in fisheries referred to in Article 8 of this Regulation may last more than two years from their date of entry into force.

REPORTING OBLIGATIONS

26. Collection of relevant data

Member States, on the basis of information used for the management of fishing days present within the area as set out in this Annex, shall collect for each annual quarter the information about total fishing effort deployed within the area for towed gears and static gears and effort deployed by vessels using different types of gear in the area concerned by this Annex.

27. Communication of relevant data

27.1. On request of the Commission, Member States shall make available to the Commission a spreadsheet with the data referred to in point 26 in the format specified in Tables II and III by sending it to the appropriate electronic mailbox address, which shall be communicated to the Member States by the Commission.

27.2. A new format of spreadsheet for the purpose of making the data referred to in point 26 available to the Commission may be adopted in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.

TABLE II

Reporting format

Country	Code	Extension	Length	Management period	Gear(s) notified				Special condition applying to notified gear(s)				Days eligible using notified gear(s)				Days spent with notified gear(s)				Transfer of days
					N ^o 1	N ^o 2	N ^o 3	...	N ^o 1	N ^o 2	N ^o 3	...	N ^o 1	N ^o 2	N ^o 3	...	N ^o 1	N ^o 2	N ^o 3	...	
(1)	(2)	(3)	(4)	(5)	(6)	(6)	(6)	(6)	(7)	(7)	(7)	(7)	(8)	(8)	(8)	(8)	(9)	(9)	(9)	(9)	(10)

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TABLE III

Data format

Name of field	Maximum number of characters/digits	Alignment ^a L(eft)/R(ight)	Definition and Comments
(1) Country	3	n/r	Member State (Alpha-3 ISO code) in which vessel is registered for fishing under Council Regulation (EC) No 2371/2002. In the case of the donor Vessel, it is always the reporting country
(2) CFR	12	n/r	Community Fleet Register number Unique identification number of a fishing vessel. Member State (Alpha-3 ISO code) followed by an identifying series (9 characters). Where a series has fewer than 9 characters additional zeros must be inserted on the left hand side.
(3) External marking	14	L	Under Commission Regulation (EEC) No 1381/87
(4) Length of management period	2	L	Length of the management period measured in months.
(5) Area fished	1	L	Non relevant information in the case of Annex IIC.
(6) gear(s) notified	5	L	Indication of gear grouping notified in accordance with point 3 to Annex IIC (a or b)

^a relevant information for transmission of data by fixed-length formatting.

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(7)	Special condition applying to notified gear(s)	2	L	Non relevant information in the case of Annex IIC.
(8)	Days eligible using notified gear(s)	3	L	Number of days for which the vessel is eligible under Annex IIC for the choice of gear groupings and length of management period notified.
(9)	Days spent with notified gear(s)	3	L	Number of days the vessel actually spent present within the area and using a gear corresponding to grouping gear notified during the notified management period according to Annex IIC.
(10)	Transfers of days	4	L	For days transferred indicate ‘– number of days transferred’ and for days received indicate ‘+ number of days transferred’

a relevant information for transmission of data by fixed-length formatting.

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ANNEX IID

FISHING OPPORTUNITIES AND FISHING EFFORT FOR VESSELS FISHING FOR SANDEEL IN ICES ZONES IIIa AND IV AND IN EC WATERS OF ICES ZONE IIa

1. The conditions laid down in this Annex shall apply to Community vessels fishing in ICES zones IIIa and IV and in EC waters of ICES zone IIa with demersal trawl, seine or similar towed gears with a mesh size of less than 16 mm.
2. The conditions laid down in this Annex shall apply to third country vessels authorized to fish for sandeel in EC waters of ICES zone IV unless otherwise specified, or as a consequence of consultations between the Community and Norway as set out in point 7.3 of the Agreed Record of conclusions between the European Community and Norway of 26 November 2007.
3. For the purposes of this Annex a day present within the area shall be:
 - (a) the 24-hour period between 00:00 hours of a calendar day and 24:00 hours of the same calendar day or any part of such a period or;
 - (b) any continuous period of 24 hours as recorded in the Community logbook between the date and time of departure and the date and time of arrival or any part of any such time period.
4. Each Member State concerned shall maintain a data base containing for ICES zones IIIa and IV and for each vessel flying its flag or registered within the Community which have been fishing with demersal trawl, seine or similar towed gears with a mesh size of less than 16 mm, the following information:
 - (a) the name and internal registration number of the vessel;
 - (b) the installed engine power of the vessel in kilowatts measured in accordance with Article 5 of Regulation (EEC) No 2930/86;
 - (c) the number of days present within the area when fishing with demersal trawl, seine or similar towed gear with a mesh size of less than 16 mm;
 - (d) the kilowatt-days as the product of the number of days present within the area and the installed engine power in kilowatts.
5. Exploratory fishery relating to sandeel abundance shall start no earlier than 1 April 2008 and end no later than 6 May 2008.

The total ceiling of fishing effort allowed in the exploratory fishery relating to sandeel abundance in 2008 shall be determined on the basis of the total fishing effort deployed by Community fishing vessels in 2007 established in accordance with point 4 and shall be divided among Member States in accordance with the quota allocations for this TAC.

For the unallocated quota for this TAC, the fishing effort allowed in the exploratory fishery relating to sandeel abundance in 2008 shall be distributed to Member States whose vessels have a record of fishing activity in the years 2002, 2003, 2004, 2005 and 2006 in that area. This will correspond to a share of fishing effort of 96 % for Sweden and a share of 4 % for Germany.

6. The TAC and quotas for sandeel in ICES zone IIIa and IV and in EC waters of ICES zones IIa as laid down in Annex I shall be revised by the Commission as early as possible based on advice from ICES and the STECF on the size of the 2007 year class

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of North Sea sandeel, taking into account the following principles as well as other relevant elements contained in the scientific advice:

The TAC for EC waters of ICES zones IIa and IV shall be established according to the following function:

$$\text{TAC}_{2008} = -138 + 3,77 \times N_1 \times \text{Wobs}/\text{Wm}$$

N_1 is the real-time estimate of age group 1 in billions derived from the exploratory fishery in 2008; the TAC is expressed in 1,0 tonnes; Wobs is the observed mean weight of age group 1 during the exploratory fishery; and Wm (4,75 g) is the long-term mean weight of age group 1.

7. If the TAC calculated in point 6 exceeds 400 000 tonnes, the TAC shall be set at 400 000 tonnes.
8. Commercial fishing with demersal trawl, seine or similar towed gears with a mesh size of less than 16 mm, shall be prohibited from 1 August 2008 until 31 December 2008.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 40/2008. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (1) 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 ([OJ L 337, 30.12.1999, p. 10](#)). Regulation as repealed by Regulation (EC) No 1198/2006 ([OJ L 223, 15.8.2006, p. 1](#)).
- (2) Council Regulation (EC) No 1543/2000 of 29 June 2000 establishing a Community framework for the collection and management of the data needed to conduct the common fisheries policy ([OJ L 176, 15.7.2000, p. 1](#)). Regulation as amended by Regulation (EC) No 1343/2007 ([OJ L 300, 17.11.2007, p. 24](#)).
- (3) Commission Regulation (EC) No 1639/2001 of 25 July 2001 establishing the minimum and extended Community programmes for the collection of data in the fisheries sector and laying down detailed rules for the application of Council Regulation (EC) No 1543/2000 ([OJ L 222, 17.8.2001, p. 53](#)). Regulation as amended by Regulation (EC) No 1581/2004 ([OJ L 289, 10.9.2004, p. 6](#)).
- (4) Commission Regulation (EC) No 1581/2004 of 27 August 2004 amending Regulation (EC) No 1639/2001 establishing the minimum and extended Community programmes for the collection of data in the fisheries sector and laying down detailed rules for the application of Council Regulation (EC) No 1543/2000 ([OJ L 289, 10.9.2004, p. 6](#)).

Changes to legislation:

There are outstanding changes not yet made to Council Regulation (EC) No 40/2008. Any changes that have already been made to the legislation appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to :

- Regulation revoked by [2023 c. 28 Sch. 1 Pt. 2](#)