

Commission Regulation (EU) No 237/2010 of 22 March 2010 laying down detailed rules for the application of Council Regulation (EC) No 1342/2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks

## CHAPTER I

### SUBJECT MATTER AND DEFINITIONS

#### *Article 1*

##### **Subject matter**

This Regulation lays down detailed rules for the application of Articles 11(3), 14, 16 and 17 of Regulation (EC) No 1342/2008.

#### *Article 2*

##### **Definitions**

For the purposes of this Regulation, the following definitions shall apply in addition to the definitions laid down in Article 2 of Regulation (EC) No 1342/2008:

- (a) ‘group of vessels’ means one or more vessels belonging to an effort group which can be clearly and unambiguously distinguished from other vessels in the same effort group on the basis of activities or technical characteristics that account for their low cod catches;
- (b) ‘fishing season’ means the period running from 1 February of one year to 31 January of the following year;
- (c) ‘regulated gear’ means any gear belonging to a gear grouping referred to in point 1 of Annex I to Regulation (EC) No 1342/2008.

## CHAPTER II

### GROUPS OF VESSELS EXCLUDED FROM THE FISHING EFFORT REGIME

#### *Article 3*

##### **Request for exclusion**

1 For the purpose of excluding a group of vessels from the fishing effort regime pursuant to Article 11(2) of Regulation (EC) No 1342/2008, Member States shall send the Commission a request for exclusion supported by information demonstrating that the group of vessels concerned will comply with the condition laid down in Article 11(2)(b) of Regulation (EC) No 1342/2008 and justifying how the condition provided for in Article 11(2)(c) of that Regulation is satisfied.

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2 The request shall be sent in electronic form and in accordance with the requirements set out in Annex I. Complete requests received at least 1 month before a STECF plenary meeting will be sent to STECF for assessment in that meeting. Requests received thereafter can be sent to STECF for assessment at the subsequent meeting.

3 Where a group of vessels is excluded from the fishing effort regime pursuant to Article 11(2) of Regulation (EC) No 1342/2008, the fishing effort that can be associated with the activity or technical characteristics of this group, and which contributed to establishment of the baseline effort, shall no longer be taken into account for the purpose of establishing the maximum allowable fishing effort.

4 Where a group of vessels is re-included in the effort regime on the basis of Article 11(2) of Regulation (EC) No 1342/2008, the fishing effort allocated to the effort group concerned will be adjusted taking into account the annual effort adjustments that have taken place since the establishment of the baseline effort for that effort group.

5 Where a vessel no longer complies with the requirements specified in the decision on exclusion, in particular concerning activities or technical characteristics of the group of vessels, the Member State shall count the effort deployed by that vessel during the fishing season against the maximum allowable fishing effort.

#### *Article 4*

#### **Annual report**

1 Each Member State shall send to the Commission, by 31 March of each year, a report on the activities carried out during the preceding fishing season by the group or groups of vessels flying its flag which have been excluded from the effort regime in accordance with Article 11(2) of Regulation (EC) No 1342/2008. The report shall show that the condition set out in Article 11(2)(b) and specified in the decision on exclusion has been complied with during that season.

2 The report shall show how the activities or technical characteristics of groups of vessels which have been excluded from the fishing effort regime pursuant to Article 11(2) of Regulation (EC) No 1342/2008 are controlled and monitored to ensure that all vessels of that group comply with the condition for exclusion set out in Article 11(2)(b) and specified in the decision on exclusion.

3 The report referred to in paragraph 1 shall be sent in accordance with the requirements set out in Tables 1 and 3 of Annex I. By way of derogation from the requirements set out in that Annex, the data in the annual report shall be limited to the previous fishing season.

4 The annual report shall include the list of vessels with Community Fleet Register number that belonged to the excluded group of vessels during the previous fishing season. This information shall be included in Table 1.

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## CHAPTER III

### FISHING PERMITS

#### Article 5

#### Special fishing permits

1 The special fishing permits referred to in Article 14(2) of Regulation (EC) No 1342/2008 shall indicate the gear groupings and geographical areas for which they are issued.

2 For vessels fishing with regulated gear, in any geographical area which form part of a group of vessels that has been excluded from the application of the fishing effort regime pursuant to Article 11(2) of Regulation (EC) No 1342/2008, the special fishing permit shall indicate the activity or technical characteristics for which exclusion has been granted and the conditions applying to such exclusion.

3 The form and content of the list of vessels holding a special fishing permit, as referred to in Article 14(4) of Regulation (EC) No 1342/2008, shall comply with Annex II. Member States shall keep the list updated by recording changes to the number of vessels included in it or to the special fishing permits issued, within 20 working days from such change.

4 Member States shall provide the Commission and other Member States with the link to the relevant page of their official website on which the list of the vessels holding a special fishing permit is published. Member States shall inform the Commission and other Member States of any changes to that link within 20 working days from such change.

5 Member States shall ensure that all data concerning the lists of vessels holding special fishing permits and any changes to those lists are duly archived. The archived information shall be made available to the Commission upon its request.

#### Article 6

#### Maximum fishing capacity

1 The maximum capacity referred to in Article 14(3) of Regulation (EC) No 1342/2008 shall be calculated as a maximum capacity in kW deployed by the vessels that have been authorised to fish during the period 2006 or 2007 with a regulated gear in any of the geographical areas referred to in Annex I to Regulation (EC) No 1342/2008, and have made use of such an authorisation.

2 Within 1 month after the entry into force of this Regulation, Member States shall send to the Commission in electronic form and in accordance with the requirements set out in Annex III:

- a the list of the vessels and corresponding capacity expressed in kW, used to establish the maximum capacity in accordance with paragraph 1, for each of the geographical areas;
- b the reference year concerned.

3 The maximum capacity for each of the areas calculated in accordance with paragraph 1 shall be adjusted:

- a by deducting the capacity of vessels that were subject to the permanent cessation of fishing activities with public aid after the date of entry into force of this Regulation; and/or

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- b in accordance with any capacity transfers carried out pursuant to Article 16(3) of Regulation (EC) No 1342/2008.

4 Member States shall inform the Commission within 20 working days, of any decision to adapt the maximum capacity, by providing the Commission with an updated version of the information in accordance with Table 2 of Annex III.

## CHAPTER IV

### ADAPTATIONS TO THE MAXIMUM ALLOWABLE FISHING EFFORT

#### *Article 7*

##### **Fishing effort adaptation in relation to quota management**

1 Member States may adapt their maximum allowable fishing effort for a certain effort group through transfer of fishing effort from the same effort group of another Member State in accordance with Article 16(1)(a) of Regulation (EC) No 1342/2008. The adaptation shall be valid for one fishing season only.

2 Where a Member State discontinues a quota exchange in accordance with Article 16(2) of Regulation (EC) No 1342/2008, that Member State may increase its maximum allowable fishing effort for the effort group or effort groups to which the recovered quota will be allocated by a number of kW-days corresponding to the quota recovered. That number of kW-days shall not exceed the amount calculated on the basis of the catch per unit effort (cpue) of the effort group or groups concerned.

3 The Member State returning the quota referred to in paragraph 2 shall reduce its maximum allowable fishing effort in the effort group or groups that previously fished for that quota. The fishing effort to be deducted shall correspond to the number of the kW-days no more needed to fish the quota returned. That number of kW-days shall be calculated on the basis of cpue of the effort group or groups concerned.

4 The amount of fishing effort by which the maximum allowable fishing effort is increased or decreased in accordance with paragraph 2 or 3 shall be taken into account for the purpose of establishing the maximum allowable fishing effort in accordance with Article 12 of Regulation (EC) No 1342/2008.

#### *Article 8*

##### **Detailed rules for transferring fishing effort across effort groups**

1 The fishing effort transfers referred to in Article 17 of Regulation (EC) No 1342/2008 shall be made in accordance with paragraphs 2 to 6.

2 Where the Commission has provided Member States with standard correction factors that have been established for a certain gear grouping in accordance with Article 17(5) of Regulation (EC) No 1342/2008, Member States shall use those standard correction factors for the transfer of effort across gear groupings.

3 For effort groups for which a standard correction factor has not yet been developed, Member States shall establish the effort transfer amount by applying the following formula:

- a where Article 17(3) of Regulation (EC) No 1342/2008 applies:

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effort transfer amount = 1 × effort amount of donor effort group

b where Article 17(4) of Regulation (EC) No 1342/2008 applies:

effort transfer amount = correction factor × effort amount of donor effort group,

whereby the correction factor is calculated as follows:

correction factor =  $cpue_{donor}/cpue_{receiving}$

4 By way of derogation from paragraph 2, after having informed the Commission in electronic form in accordance with the requirements set out in Annex IV, showing that the cpue of the Member State's effort group differs by at least 15 % from the cpue used to establish the standard correction factor, the Member State concerned may apply a different correction factor.

5 Fishing effort adaptations following an effort transfer shall be valid for one fishing season only.

6 By way of derogation from paragraph 5, where a fleet segment has undergone a permanent structural change in its fishing activities, the transfer of the fishing effort may be of permanent nature. Such transfer shall be made only between the effort groups affected by the change. Without prejudice to paragraph 2 the correction factor used shall be based on the cpue of the donor and receiving gear groupings.

#### *Article 9*

#### **Calculation of the catch per unit effort**

1 For the purposes of Articles 8 and 9 the catch per unit effort shall be based on catches including discards as supported by scientific evidence. It shall be calculated by applying the following formula, whereby catches and effort shall be averaged over the last 3 years:

$cpue = \text{catch}_{\text{effort group}[1]} / \text{fishing effort}_{\text{effort group}[1]}$

2 By way of derogation from paragraph 1, for the first year of application of this Regulation, where discard data for both gear groups to be compared is only available for a certain period, the cpue shall be based on that period. For the rest of the period, landing data shall be compared.

3 By way of derogation from paragraph 1, where a reduction of catches in the receiving gear grouping can be attributed to cod-avoidance measures as referred to in Article 13(2)(a), (b) and (c) of Regulation (EC) No 1342/2008 introduced in that gear grouping in the last 3 years, the cpue may be based only on a more recent part of the 3-year period, provided that the catch data resulting from that part of the period are representative for the overall gear grouping.

#### *Article 10*

#### **Reporting obligations**

1 Member States shall inform the Commission within 20 working days, in electronic format and in accordance with the requirements set out in Annex V to this Regulation, of any adaptations to the maximum allowable fishing effort referred to in Article 16 or 17 of Regulation (EC) No 1342/2008.

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2 The Commission may request the Member States to provide additional data such as disaggregated data on cod and total catches, cod discards, the fishing effort, gear and area for donor and receiving gear and the methodology used for the calculation of cpue.

## CHAPTER V

### FINAL PROVISIONS

#### *Article 11*

#### **Entry into force**

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

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

Done at Brussels, 22 March 2010.

*For the Commission*

*The President*

José Manuel BARROSO

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