

**EXPLANATORY MEMORANDUM TO
THE SOUTH-WEST TERRITORIAL WATERS (PROHIBITION OF PAIR
TRAWLING) (AMENDMENT) ORDER 2005**

2005 No.49

1. 1.1 This explanatory memorandum has been prepared by the Department for Environment, Food and Rural Affairs and is laid before Parliament by Command of Her Majesty.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

2.1 This Statutory Instrument amends the South-west Territorial Waters (Prohibition of Pair Trawling) Order 2004 (SI no 3397/2004) to ensure smaller pair trawlers may continue to participate in a fishery for which no dolphin bycatch had been identified.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 Because of the unrestricted nature of the pair trawling and the immediate resulting damage to common dolphins from this activity, the Department is of a view that the specified form of pair trawling needs to be prohibited urgently, but that other forms of fishing not implicated in dolphin bycatch should be allowed to continue. It is necessary therefore to bring the amendment into force as soon as possible. In the circumstances we regret that compliance with the 21 day convention was not possible.

4. Legislative Background

4.1 The Statutory Instrument has been made to comply with commitments set out in the Ministerial Declaration of the Fifth International Conference on the Protection of the North Sea (the "Bergen Declaration) in 2002 to minimise incidental catches and/or damage of non-target organisms, and in line with ASCOBANS' (the Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas) general aim, agreed at the 2nd Meeting of the Parties, to ultimately reduce to zero all anthropogenic removals.

5. Extent

5.1 This instrument applies to England.

5.2 This instrument only affects British fishing boats in the south west territorial sea as defined at article 2 (2).

6. European Convention on Human Rights

6.1 Not applicable

7. Policy background

7.1 The Department for Environment, Food and Rural Affairs' objective to protect and improve the rural, urban, marine and global environment is being met by introducing measures to reduce bycatch in a fishery identified as having high levels of cetacean bycatch.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this amendment Order.

8.2 There will be no impact on the public sector.

9. Contact

Anthony Hynes at the Department for Environment, Food and Rural Affairs Tel: 0207 270 8307 or e-mail: Anthony.Hynes@defra.gsi.gov.uk can answer any queries regarding the instrument.