

Com 79

EXPLANATORY MEMORANDUM

This proposal for a Council Regulation (EEC) is intended to amalgamate into an independent regulation the substance of certain footnotes in the Commission's earlier proposal (1) as amended, (2) fixing total allowable catches (TAC's) for 1981, together with the provisions contained in a proposal (3) submitted recently to the Council concerning the level of herring by-catch in the sprat fishery ; this latter proposal is now withdrawn .

In order to further the Community's fisheries conservation policy of limiting fishing effort so as to allow exhausted or dangerously overfished stocks to recover, it is necessary not only to fix total allowable catches each year but also to define the conditions which must be observed in fishing operations when these catches are being taken.

These operating conditions relate to such matters as by-catch levels, closure of areas to fishing for certain periods and the type of gear or size of mesh used. Because these conditions are closely linked to the current TACs which may be subject to modification from year to year and even throughout the year, they are required to be flexible and they were not, therefore, included in the more permanent provisions contained in the Regulation on Technical Measures adopted by the Council last year (4). In the 1980 TAC Regulation (5) they were provided for in footnotes to the Annex of that Regulation and this method had been followed in the Commission's TAC proposals for 1981 so far.

The importance and complexity of the matters contained in the footnotes is now considerable, however, and it is considered preferable to include them in a separate proposal for a Regulation complementary to the TAC provisions proposed for 1981.

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- (1) COM (80) 722 final of 13.11.1980
 - (2) COM (80) 881 final of 16.12.1980 - COM (81) 16 final of 21.1.1981 - COM (81) 47 final of 4.2.1981 - COM (81) 57 final of 9.2.1981.
 - (3) COM (81) 43 final of 4.2.1981
 - (4) N° 2527/80 - O.J. N° L 258 of 1.10.1980
 - (5) N° 754/80 - O.J. N° L 84 of 28.3.1980 - p. 36.

It is also thought appropriate to withdraw the proposal for a Regulation concerning the level of herring by-catch in the sprat fishery which the Commission has recently submitted to the Council and to include its provisions in the new proposed Regulation. This matter was too complex to be dealt with previously in a footnote to the TAC proposal 1981. The provisions in question have been revised to the extent that the 3% maximum herring by-catch proposed earlier has been raised to a level of 7%.

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Proposal for a Council Regulation (EEC)

fixing the conditions governing fishing operations when taking the total allowable catches for 1981.

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof⁽¹⁾ *)

Having regard to Regulation (EEC) No. / of establishing a Community system for the conservation and management of fishery resources (1) and in particular Article 3 thereof ;

Having regard to the proposal from the Commission ;

⁽²⁾Having regard to the opinion of the European Parliament (2)⁽²⁾ *)

Whereas Council Regulation (EEC) No. /81 (1) fixes for each species requiring a limitation of catches, a total allowable catch (TAC) per stock or group of stocks and the share of the TACs available for the Community taking into account commitments to third countries;

Whereas in order to ensure the good management of these TACs it is necessary to fix the conditions governing fishing operations;

HAD ADOPTED THE FOLLOWING REGULATION :

(1) O.J. N°
⁽²⁾O.J. N°⁽²⁾ *)

*) The text within square brackets would be included if the Regulation establishing a Community system for the conservation and management of fishery resources were not adopted by the Council in time.

Article 1

The provisions set out in the following articles fix the conditions governing fishing operations when taking the total allowable catches (TACs) for 1981.

Article 2

Cod

1. By-catches of cod in ICES Sub-area XIV and in NAFO area 1 shall not exceed 10% by weight of catches of redfish by vessels which are trawling, 10% by weight of catches of halibut and Greenland halibut by vessels which are long-lining and 3% by weight of other fish for which a TAC has been proposed. By-catches will be measured according to the provisions of Article 10 of Council Regulation (EEC) n° 2527/80 but may not be measured until at least 48 hours after a vessel has started fishing in Greenland waters. Notwithstanding catch possibilities accorded to third countries, when the proportion available to the Community is exhausted, no further by-catches may be landed. However, if quotas are adopted for 1981, by-catches may be landed only within the quotas.

2. In order to avoid undesirably high levels of cod by-catches, fishing for redfish is prohibited in that part of NAFO area 1, bounded by a line running from the point of intersection to the West Greenland baselines by the parallel 64°30' North, westwards to the point 64°30'N, 55°00'W, then southward to the point 61°30'N, 50°30'W, then eastwards to the point of intersection of the West-Greenland baselines by the parallel 61°30' North.

Article 3

Mackerel

1. To protect the "eastern" stock, fishing for mackerel is forbidden in ICES division VI(a) north of latitude 56°00'N from 1st March 1981 to 30 April 1981.

2. Notwithstanding the provisions of Article 15, paragraph 1 of Regulation 2527/80, fishing for mackerel carried out with towed gears whose trawl doors and/or footropes or bobbins are not in contact with the sea-bed at all times in use and/or whose mesh is smaller than those specified in Annex I of Council Regulation (EEC) n° 2527/80 of 30.9.1980, or with purse seines and similar gears shall be prohibited in that part of ICES division VIIe West of 05°00'W and in that part of ICES division VIIf South of 50°30'N during the period 15 February 1981 to 14 December 1981.

Article 4

Halibut

By-catches of halibut in ICES sub-area XIV and in NAFO area 1 shall not exceed 3% by weight of catches of other species for which a TAC has been proposed. By-catches will be measured according to the provisions of Article 10 of Council Regulation (EEC) n° 2527/80 but may not be measured until at least 48 hours after a vessel has started fishing in Greenland waters. By-catches will not be counted against the TACs.

Article 5

Herring

1. When the TAC for herring is zero, it is prohibited to land by-catches of herring unless they are inextricably mixed with the catches of sprat or mackerel species in which case the maximum permissible by-catch level is 7% in the case of sprat and 5% in the case of mackerel.

2. When the herring TAC is positive, the maximum permissible by-catch of herring which is inextricably mixed with the catch of other species is as set out below by ICES divisions :

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- ICES divisions IIIa and IIIb,c,d (Community zone only) - 10% in sprat fishery and 5% in the case of catches of other species.
- ICES divisions VIIa (Manx stock) VIIb,c ; VIIj (Bantry Bay only) - 10% in sprat fishery, 5% in mackerel fishery and zero in the case of catches of other species.
- ICES divisions IVa,c ; VIId,e and VIa (Clyde stock) - 7% in sprat fishery, 5% in mackerel fishery and zero in the case of catches of other species.

Herring which have been sorted and are landed separately will be counted against the share available to the Community, notwithstanding catch possibilities accorded to third countries, or the quota if quotas have been allocated.

Once the share available to the Community has been exhausted, or if quotas have been agreed, once the quota has been exhausted, landings of herring which have been sorted are forbidden.

3. In ICES divisions IVa,c and VIId,e the use of sorting machines is prohibited.

Article 6

1. Fishing for sprat shall be prohibited as soon as the by-catch of herring taken during the sprat fishery in specified areas of ICES sub-areas IV, VIa and VIId,e is determined according to the criteria set out below in paragraphs 2, 3, 4 and 5 to have exceeded 7% by weight of the total catch.

2. Member States inspection authorities shall measure the level of by-catch with respect to ten different samples of sprat, as defined in paragraph 3, taken within a period of seven consecutive days within a specified area, as defined in subparagraph 4 below and shall submit the result of such sampling the 30th day of every month to the Commission.

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3. A sample shall consist of 100 kilogrammes. It shall be taken either from the catches of a commercial fishing vessel or from those of a vessel officially engaged in scientific research by a Member State. In the case of a commercial fishing vessel, each sample shall be taken from a different landing or fishing voyage, which is defined as the period from the time of leaving port to the time of re-entering port, by one or more vessels. In the case of a vessel engaged in scientific research, each sample shall be taken from a separate operation of the fishing gear.

4. A specified area shall be defined as one which extends half a degree of latitude, measured from either the nearest whole degree or the nearest 30 minutes of latitude, by one degree of longitude, measured from the nearest whole degree of longitude and which is otherwise known as a square or rectangle of the statistical reporting system of the International Council for the Exploration of the Sea.

5. For a commercial fishing vessel the percentage of the by-catch shall be measured as a proportion by weight of all the fish on board or of all the fish in the hold or on landing.

For a vessel engaged in scientific research the percentage of by-catch shall be measured as a proportion by weight of all the fish caught in one operation of the fishing gear.

6. On receipt of the result of the sampling referred to in paragraph 2, the Commission may adopt measures in accordance with the procedure laid down in Articles 31 (2) and 32 of Regulation (EEC) No. 100/76 providing that the fishery for sprat shall be prohibited in specified areas.

7. The prohibition adopted in accordance with paragraph 6 shall automatically lapse after a period of 30 days from the introduction of the ban unless the continued presence of herring exceeding 7% by weight of the catches of sprat has been demonstrated by scientific investigations by a Member State, in which case the prohibition may be extended for a further period of 30 days. The number of samples, the size of samples, the area in which they are taken and the period during which they are taken must be as defined in paragraphs 2, 3, 4 and 5 for the prohibition to be renewed.

Article 7

1. Fishing for herring is forbidden in the Skagerrak from 1 January to 31 March 1981 and from 1 October to 31 December 1981.
2. Fishing for herring is prohibited within 12 miles from the baselines off the East coast of Ireland and Northern Ireland between 53°00'N and 55°00'N throughout the whole year.
3. Fishing for herring is forbidden in the Irish Sea (ICES Division VIIa) throughout the whole year within 12 miles of the coasts of England, Scotland and Wales between latitude 53°20'N and 55°00'N and from 22 September to 16 November 1981 in that part of the Irish Sea (ICES VIIa) North of latitude 52°30'N.

Article 8

Trawling and purse seining is prohibited in the Skagerrak from Saturday midnight to Sunday midnight and in the Kattegat from Friday midnight to Sunday midnight in the mackerel, sprat and herring fishery.

Article 9

Salmon

The Council shall examine, before 1 July 1981, the consequences for the salmon fishery in NAFO area 1 West of 44°W which might result from any change in the traditional opening dates of the fishery in Greenland.

Article 10

This Regulation shall enter into force three days after its publication in the Official Journal of the European Communities.

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

Done at Brussels,

For the Council
The President