



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 18.09.1996  
COM(96) 350 final

96/0183 (CNS)

Proposal for a

COUNCIL REGULATION (EC)

amending Regulation (EEC) No 3760/92  
establishing a Community system for fisheries and aquaculture

(presented by the Commission)



## EXPLANATORY MEMORANDUM

Council Regulation (EEC) N° 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture<sup>1</sup> lays down that in order to ensure the rational and responsible exploitation of resources on a sustainable basis Community measures are to be established laying down the conditions of access to waters and resources and of the pursuit of exploitation activities relating to those resources. Under Article 4 of the Regulation, it is for the Council to establish those measures. They apply to waters and resources in which Community vessels pursue their activities, particularly the waters subject to regulations laid down by international fishery organizations to which the Community is a contracting party. It should be pointed out, in this context, that these bodies adopt measures of a technical nature which become binding on the contracting parties.

The European Community, as a contracting party to certain of these international organizations, is required to ensure that the measures of a binding nature adopted by these organizations apply to its fishermen with effect from the dates fixed. It therefore appears justified to introduce into the stated provision of Regulation (EEC) N° 3760/92 a mechanism allowing the Community to adopt such measures as the need arises. To this end, provision should be made in the aforementioned Article 4 for powers to be conferred on the Commission for incorporating in the Community legal order binding acts adopted within the framework of these international organizations. These powers are to be exercised in accordance with the procedure laid down in Article 18 of Regulation N° 3760/92 which provides for the opinion of the Management Committee for Fisheries and Aquaculture.

Furthermore, Article 8(2) of Regulation (EEC) N° 3760/92 lays down that the Council is to restrict, as far as Commission fishing vessels are concerned, the exploitation rate in a fishery in Community fishing waters or outside those waters. No provision is made, however, for exercising such powers in respect of vessels flying the flag of a third country authorized to pursue their activities in Community waters.

The same situation applied, as regards third country vessels, as far as the technical conditions are concerned under which the catches of such vessels have to be made.

It is consequently necessary to introduce a specific legal basis by means of amending paragraph 2 of Article 8 and inserting a specific provision in paragraph 4 of that Article.

---

<sup>1</sup> OJ N° L 389, 31.12.1992.

Regulation (EEC) N° 3760/92 also lays down in its Article 8(4) that the Council is to determine for each fishery or group of fisheries, on a case-by-case basis, the total allowable catch. It is as a general rule on a yearly basis that the Council determines these fishing opportunities. The regulations concerned set, in respect of each fishing year, the total allowable catches available to the Community and the quotas allocated to Member States. The provisions established by the Council in this respect include technical conservation measures which are closely associated with the determination of fishing opportunities under the total allowable catches and quotas. Provision was not made in Article 8(4) for the exercise of powers with regard to the laying down of those technical measures. It is therefore necessary to amend point (i) of that paragraph and include in it a reference to technical measures of a temporary nature or which are purely incidental to the measures for allocating resources laid down by the Council.

**Proposal for a (EC) Council Regulation amending Regulation (EEC) No 3760/92  
establishing a Community system for fisheries and aquaculture**

**THE COUNCIL OF THE EUROPEAN UNION**

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission<sup>1</sup>,

Having regard to the opinion of the European Parliament<sup>2</sup>,

Having regard to the opinion of the Economic and Social Committee<sup>3</sup>,

Whereas Article 4 of Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture<sup>4</sup>, as amended by the Act of Accession of 1994, lays down the procedure for adopting Community measures fixing the conditions under which exploitation activities are to be pursued; whereas in this regard powers should be conferred on the Commission as regards the technical measures on fishing gear and its method of use which do no more than incorporate into the Community legal order binding acts adopted within the framework of international fisheries organizations to which the Community is a contracting party and do not entail a policy adjustment in their adoption;

Whereas Article 8 of Regulation (EEC) No 3760/92 lays down that the Council is to determine for each fishery or group of fisheries the total allowable catch and to allocate a total allowable fishing effort for these fisheries between the Member States; whereas the Article does not provide for the exercise of powers by the Council as regards allocating catches in Community waters to vessels of third countries authorized to fish in those waters; whereas powers to establish the fishing opportunities for allocation to third countries and to set the technical conditions under which catches must be made should accordingly be conferred;

Whereas the temporary technical conservation measures associated with the conditions under which the quotas can be fished may be adopted using the same procedure as that laid down for establishing the total allowable catch,

---

<sup>1</sup> OJ No C

<sup>2</sup> OJ No C

<sup>3</sup> OJ No C

<sup>4</sup> OJ No L 389, 31.12.1992, p. 1.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 3760/92 is hereby amended as follows:

1. The following paragraph is added to Article 4:
  - "3. The technical measures on fishing gear and its method of use incorporating binding acts adopted by international fisheries organizations to which the Community is a contracting party shall be adopted by the Commission in accordance with the procedure laid down in Article 18."
2. Article 8(2) is replaced by the following:
  - "2. Where restrictions must be placed on the exploitation rates of a fishery within or outside Community fishing waters for Community vessels, or within Community fishing waters for vessels flying the flag of a third country, they shall be fixed in accordance with paragraphs 3 and 4."
3. In Article 8(4):
  - (a) point (i) is replaced by:
    - "(i) shall determine for each fishery or group of fisheries, on a case-by-case basis, the total allowable catch together with the specific technical conditions linked to these restrictions of catches and/or the total allowable fishing effort, , where appropriate on a multi-annual basis. They shall be based on the management objectives and strategies where they have been established in accordance with paragraph 3;"
  - (b) the following point is added:
    - "(vi) shall establish the fishing opportunities to be allocated to third countries and the specific conditions under which catches must be made."

Article 2

This Regulation shall enter into force on the seventh day following 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

For the Council



# DOCUMENTS

EN

03

---

Catalogue number : CB-CO-96-348-EN-C

ISBN 92-78-06665-6

---

Office for Official Publications of the European Communities

L-2985 Luxembourg