

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(94) 308 final

Brussels, 13.07.1994

94/0172 (CNS)

Proposal for a  
COUNCIL REGULATION (EC)  
establishing the rules for access to certain  
Community fishing areas and resources  
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(presented by the Commission)

## EXPLANATORY MEMORANDUM

### I. THE FRAMEWORK FOR THE PROPOSED ADJUSTMENTS

In accordance with the Act of Accession of Spain and Portugal (AA 1986), and in particular Articles 162 and 350, the Council has adopted a Regulation on adjustments to the arrangements in the fisheries chapters of the AA<sup>(1)</sup>, in the light of the Report drawn up by the Commission<sup>(2)</sup>, on a proposal from the Commission<sup>(3)</sup> and after obtaining the opinion of the European Parliament<sup>(4)</sup>.

The Council has decided that the arrangements regarding access to waters and resources laid down in Articles 156 to 166 and 347 to 353 of AA 1986 are to be adjusted in order to incorporate them into the general scheme of the common fisheries policy (CFP).

The incorporation must:

- comply fully with the acquis communautaire, particularly with regard to the principle of relative stability and the exceptions to the principle of free access to waters and resources as laid down by Regulation (EEC) No 3760/92<sup>(5)</sup>;
- avoid the risk of disturbing the current balances within the areas and stocks concerned;
- not give rise to any increase in the overall levels of fishing effort or adversely affect stocks which are subject to catch restrictions;
- preserve the balance of resources in certain highly sensitive areas;
- take account of the geographical, geomorphological and biological features of these maritime regions.

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<sup>(1)</sup> Council Regulation (EC) No 1275/94 of 30 May 1994 on adjustments to the arrangements in the fisheries chapters of the Act of Accession of Spain and Portugal (OJ No L 140, 3.6.1994, p.1).

<sup>(2)</sup> Report (1992) by the Commission to the Council and Parliament on the application of the Act of Accession of Spain and Portugal in the fisheries sector (Document SEC(92) 2340 final of 23 December 1992).

<sup>(3)</sup> Proposal for a Council Regulation on adjustments to the fisheries arrangements provided for in the Act of Accession of Spain and Portugal (Document COM(93) 493 final of 13 October 1993).

<sup>(4)</sup> Opinion of ...

<sup>(5)</sup> Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture (OJ No L 389, 31.12.1992, p.1).

## II. OUTSIDE CONSTRAINTS

Over and above the framework adopted by the Council for the full integration of the AA arrangements, the legal and political context of the CFP imposes an obligation to:

- determine fisheries which are compatible with the existing restrictions on access, specifically those relating to catches;
- ensure that management models are effective by guaranteeing that they can be monitored;
- see to it that management measures are consistent and compatible with the existing provisions both as regards the management of fishing effort (fleet restructuring programmes) and the monitoring of activities (control measures, special fishing licences and permits);
- comply with the measures for the restructuring of fishing fleets as laid down in the multiannual guidance programmes for the period 1992 to 1996 (MGP III) being implemented by the Member States;

## III. THE REGULATION OF ACCESS TO FISHERIES

The proposal introduces new arrangements which are the first application in full of the new instruments for the management of Community fisheries adopted by the Council in 1992 in order to establish a form of management of the fisheries sector which is better balanced and integrated and more rational in the light of the natural limits imposed by the availability of marine resources.

### A. **The determination of fisheries**

Although innovative, the proposal complies fully with the 'acquis communautaire'. In addition, it reflects the well-known and relevant parameters of the Community fishing activities regulated in whole or in part by the arrangements in the fisheries chapters of the 1986 Act of Accession.

Given the various constraints described above, therefore, the proposal:

- applies to all the vessels concerned without distinction on grounds of flying the flag of any Member State;
- is concerned only with the areas and resources covered in part or in full by the 1986 Act of Accession which are subject already to restrictions on access;
- identifies the fisheries in which rates of exploitation are to be limited in a manner which ensures that there will be no increase in fishing effort and that effort reflects the state of resources;

- determines, on a case-by-case basis, the appropriate control instruments which have been adopted in respect of monitoring and control<sup>(6)</sup> and of special fishing permits<sup>(7)</sup> or which are to be adopted by the Council on the basis of the Commission proposal amending the 'control' Regulation, the main purpose of which is to control fishing effort;
- spells out the Member States' obligations regarding the management of fishing effort in strict compliance with the existing provisions of the CFP, notably as regards structural planning, by requesting the Member States to convert their levels of fishing effort as authorized by the Council to match the characteristics of their own fleets.

## **B. The determination of fishing effort levels**

As regards the fixing of fishing effort levels, in order to ensure that those laid down in the 1986 Act of Accession are not increased and to guarantee equal treatment, the Commission proposes that the fishing effort levels for all Member States concerned by the fisheries which are to be regulated be expressed as "standard-vessel days", to be called "SVDs".

In the case of Member States for which access was regulated by the 1986 Act of Accession in terms of fishing effort, the relevant provisions of that instrument have been converted into "SVDs".

In the case of the other Member States, in order to give each of them an opportunity of taking its share of the available resources while bearing in mind that the levels of some quotas are not necessarily, in all instances, a sound indicator of the optimum level of fishing effort, the fishing effort levels have been calculated on the basis of the fishing availabilities allocated to each Member State by applying a fixed and standard ratio representing the average daily yield of a standard vessel to the species subject to TACs (total allowable catches).

The levels of fishing effort thus determined reflect the current situation but should new biological, socio-economic or technical data come to light the Council, acting on a proposal from the Commission, may adjust the levels as necessary.

Similarly, following accession of the candidate countries and as appropriate, fishing effort levels will be fixed by the Council for each of the new Member States concerned.

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<sup>(6)</sup> Council Regulation (EEC) No 2847/93 establishing a control system applicable to the common fisheries policy (OJ No L 261, 20.10.1993, p.1).

<sup>(7)</sup> Council Regulation (EC) No .... laying down general provisions concerning special fishing permits (adopted by the Council meeting on fisheries of 10 June 1994, about to be published).

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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,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas Article 4 of Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture<sup>(1)</sup> provides that it is the Council's responsibility to establish Community measures laying down the conditions of access to waters and resources and of the pursuit of fishing activities;

Whereas Council Regulation (EEC) No 1275/94 of 30 May 1994 on adjustments to the arrangements in the fisheries chapters of the Act of Accession of Spain and Portugal<sup>(2)</sup> provides, with regard to the adjustment and incorporation into Community measures of the arrangements regarding access to waters and resources laid down in the Act of Accession of Spain and Portugal, that the Council is to adopt, before 1 January 1995, the measures to be taken in accordance with Article 3 thereof;

Whereas it is necessary to safeguard present balances and to observe fully the acquis communautaire, particularly the principle of relative stability;

Whereas it is necessary to ensure that there is no increase in the overall levels of existing fishing effort within the areas and stocks covered by the Act of Accession of Spain and Portugal, and to provide for a reduction of this fishing effort if changes in resources make it necessary to introduce a general reduction of fishing opportunities;

Whereas, in addition to laying down the overall fishing effort, it is necessary to take account of the complexity of fishing activities and the biological, geographical and geomorphological characteristics of the resources; whereas particular note should be taken of the need to preserve the balance of those resources in highly sensitive areas;

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

<sup>(2)</sup> OJ No L 140, 3.6.1994, p. 1.

Whereas it is the responsibility of flag Member States to implement restrictions on fishing effort; whereas, as a result, it is necessary to ensure the transparency of the methods of allocation;

Whereas the effectiveness of measures to manage fishing effort in each fishery depends on the measures to monitor and control fishing activities as defined in the relevant provisions of the common fisheries policy, in particular those laid down in Council Regulation (EEC) No 2847/93<sup>(3)</sup>, as amended by [...] <sup>(4)</sup>;

Whereas, to ensure sustainable management of fishing effort in certain fisheries, it is necessary for the Member States to ensure a consistent and transparent management of fishing capacities and corresponding levels of activity,

**HAS ADOPTED THIS REGULATION:**

### Article 1

1. Without prejudice to the provisions of the common fisheries policy laying down in particular the authorized size of catches, this Regulation establishes the conditions of access to areas and resources applicable from 1 January 1996 to fishing activities exercised in the fisheries defined in Annex I and located in ICES divisions Vb, VI, VII, VIII, IX and X and CECAF areas.
2. In the light of the biological, socio-economic and technical analyses available, the Council shall, where necessary, make technical adjustments to the information given in Annex I, in accordance with the procedure laid down in Article 8(4) of Regulation (EEC) No 3760/92.

### Article 2

1. For the purposes of this Regulation, the fishing effort of a vessel shall be expressed as a number of "standard-vessel days" hereinafter referred to as "SVDs", and shall be defined as the product of the following:
  - the fishing power, expressed on the basis of a standard vessel as defined in Annex II;
  - and
  - the time spent by the vessel in the area covered by the fishery, or, in the case of passive gear, the time spent by the gear in the area, calculated from the day of entry into the area in question up to the day that area is left.

The fishing effort of a group of vessels for a given fishery shall be the sum of the "SVDs" of each vessel.

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<sup>(3)</sup> OJ No L 261, 20.10.1993, p. 1.

<sup>(4)</sup> OJ No L

2. Any adjustments to be made to the criteria defining fishing power as laid down in paragraph 1, in particular to take account of technical developments, shall be adopted in accordance with the procedure laid down in Article 18 of Regulation (EEC) No 3760/92, provided these adjustments do not entail an increase in mortality by fishing in any of the fisheries in question.

### Article 3

Save as otherwise provided for in Annex I, the monthly fishing effort for any fishery shall not exceed one-eighth of the total annual fishing effort for each fishery as set out in Annex I.

### Article 4

1. Each Member State shall convert the authorized fishing effort, expressed in "SVDs", into a number of days in the area within the meaning of Article 19b of Regulation (EEC) No 2847/93 in order to distribute it among the vessels flying its flag, each of which must hold a special fishing permit, or, where necessary, among groups of vessels flying its flag, to which special fishing permits are not applicable.
2. Member States may, after notification to the Commission, exchange all or part of their fishing effort as laid down in Annex I.
3. Each year, and for the first time before 1 January 1996, Member States shall inform the Commission of the measures they have adopted to implement restrictions of fishing effort.
4. The measures referred to in paragraph 3 shall comply with the provisions of the common fisheries policy, including those relating to monitoring "SVDs", in particular for vessels of less than 10 metres.

### Article 5

1. From 1 January 1996, for each homogeneous group of vessels corresponding to the fisheries defined in Annex I, and in compliance with the levels of fishing effort laid down in that Annex and in accordance with the relevant provisions taken pursuant to Article 11 of Regulation (EEC) No 3760/92, Member States shall establish a programme of fishing-effort limitation comprising national regulatory measures covering the fishing activities of the vessels concerned.
2. No less than two months before the beginning of the period covered by the programme of fishing-effort limitation, Member States shall submit the programme to the Commission in accordance with the procedure laid down in Article 4 of Commission Regulation (EC) No 109/94<sup>(5)</sup>.

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<sup>(5)</sup> OJ No L 19, 22.1.1994, p. 5.

Article 6

This Regulation shall enter into force on 1 January 1995.

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

Done at Brussels,

For the Council  
The President



## ANNEX I

## CONDITIONS FOR ACCESS TO WATERS AND RESOURCES IN ICES AND CECAF AREAS

## Levels of fishing effort for each Member State in "SVD"

FISHERY		SPECIFIC CONTROL MEASURES	LEVEL OF FISHING EFFORT AUTHORIZED PER ANNUM									
FISHING GEAR	TARGET SPECIES		AREA	BE	DA	DE	ES	FR	IR	NL	PO	UK
Towed gear	Demersal species (Gadidae, flatfish, crustaceans, etc.)	Vb, VI, VII, VIIIabd	SFP	13666	0	4280	61043	283101	86578	3696	0	171181
Fixed gear		of which: Vb, VI	SFP (1)	1001	0	4169	8427	61719	22763	853	0	122833
		VII	SFP	11688	0	241	25600	124891	54928	1275	0	47278
		of which: VIIa	SFP, CM	1130	0	0	0	801	11521	293	0	6278
		VIIIa,b,d	SFP	263	0	0	0	28872	104302	0	1387	0
	VIIIc, IX, X, CECAF 34.1.1	SFP	0	0	0	230668	9108	0	0	281304	0	

FISHERY		SPECIFIC CONTROL MEASURES	LEVEL OF FISHING EFFORT AUTHORIZED PER ANNUM									
FISHING GEAR	TARGET SPECIES		AREA	BE	DA	DE	ES	FR	IR	NL	PO	UK
Pelagic trawl	Clupeidae, small pelagic gadidae, horse mackerel, mackerel, sandeel	Vb, VI, VII, VIIIabd	SFP, der	23	8808	13078	33215	2993	43406	62710	2280	23904
Purse seine		VIIIc, IX, X, CECAF 34.1.1	SFP, der	0	0	0	30018	6580	0	0	36608	0

FISHERY		SPECIFIC CONTROL MEASURES	LEVEL OF FISHING EFFORT AUTHORIZED PER ANNUM									
FISHING GEAR	TARGET SPECIES		AREA	BE	DA	DE	ES	FR	IR	NL	PO	UK
Surface longline	Ray's bream, sharks, large pelagic oceanic species	Vb, VI, VII	SFP, der				1551					
		VIIIc, IX, X, CECAF 34.1.1	SFP, der				30956				34500	
Tuna fishing gear	Tuna	VIIIc, IX, X, CECAF 34.1.1	SFP, der				86536	8226	1880		7097	1175

SFP: Special fishing permits issued by each Member State in accordance with Article 7 of Regulation (EEC) No..... on "special fishing permits", which must indicate the number of days in the zone

Notwithstanding Article 6 of Regulation (EEC) No..... (on special fishing permits), vessels not subject to special fishing permits may be authorized to fish in accordance with Regulation (EEC) No 2847/93

CM: Communication of vessel movements in accordance with Article 3a of Regulation (EEC) No 2847/93

der: Notwithstanding Article 4, the monthly limitation is not applicable

(1): Notwithstanding Article 1 of Regulation (EEC) No.....(on special fishing permits), special fishing permits are not applicable to vessels of less than 15 m length between perpendiculars.

## ANNEX II

### DEFINITION OF STANDARD VESSEL

For the purposes of this Regulation, "standard vessel" shall mean a vessel with a power of 511 kW, calculated in accordance with Article 5 of Regulation (EEC) No 2930/86<sup>(1)</sup>.

The conversion rate applicable to vessels with a different power shall be:

$$\text{Conversion rate} = \frac{\text{Installed engine power (kW)}}{511 \text{ kW}}$$

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<sup>(1)</sup> OJ No L 274, 25.9.1986, p. 1.

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# DOCUMENTS

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