COUNCIL REGULATION (EC) No 685/95

of 27 March 1995

on the management of the fishing effort relating to certain Community fishing areas and resources

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 (1),

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

Having regard to the opinion of the Economic and Social Committee (3),

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

Whereas Regulation (EC) No 1275/94 (5) 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 existing balances and 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 in that fishing effort if changes in resources make it necessary to introduce a general reduction of fishing opportunities;

Whereas 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;

Whereas it is the responsibility of flag Member States to regulate on fishing effort; whereas, as a result, it is necessary to ensure the transparency and equity of the management and monitoring procedures;

Whereas the introduction of a system for the management of fishing effort calls for certain accompanying Community measures,

HAS ADOPTED THIS REGULATION:

Article 1

In accordance with the provisions of the common fisheries policy this Regulation establishes, with effect from 1 January 1996, the criteria and procedures for the introduction of a system for the management of fishing effort in ICES divisions Vb, VI, VII, VIII, IX and X and CECAF areas 34.1.1, 34.1.2, and 34.2.0.

Article 2

1. The Member States shall establish lists of named fishing vessels flying their respective flags which are authorized to carry out their fishing activities in the fisheries defined in Annex I.

2. The Member States may include other vessels on their lists of named vessels at a later date, provided there were entitlements to fish at the time that the reference lists were established.

3. The Member States may at a later date replace the vessels entered on their lists of named vessels.

4. In the event of any amendment to those lists, the criteria and procedures referred to in Articles 3 and 5 shall continue to apply.

TITLE I

Measures concerning the catching of demersal species

Article 3

1. With regard to each fishery for the catching of demersal species as defined in Annex I, the Member States shall assess the fishing effort necessary, on the basis of Community criteria for assessing the fishing efforts defined in Annex II.

2. These fishing efforts shall take account of the following conditions:

(i) effort levels shall allow each Member State, for each fishery, to take up fully its fishing possibilities, i.e. species subject to TAC's, allocated or not, as well as species not subject to such limitations;

(1) OJ No C 247, 3. 9. 1994, p. 4.
(2) OJ No C 18, 23. 1. 1995.
(3) OJ No C 397, 31. 12. 1994.
(4) OJ No L 389, 31. 12. 1992, p. 1.
(5) OJ No L 140, 3. 6. 1994, p. 1.

(ii) effort levels shall be established pursuant to Community rules; existing balances in exploitation by fishery and by zone shall not be disturbed;

(iii) effort levels shall, in no way, affect the relative stability of the different fisheries.

3. The Member States shall introduce arrangements to regulate the fishing effort where the potential fishing effort corresponding to free access for fishing vessels entered on the list of named vessels exceeds the assessed effort.

4. The Member States concerned shall assess the fishing effort in ICES areas VII a and VII f north of latitude 50 °30′ north in the light of traditional fishing activities.

5. The Member States concerned shall assess the fishing effort in the area south of latitude 56 °30′ north, east of longitude 12 ° west and north of latitude 50 °30′ north on the basis of the level of existing activity for their respective vessels, except for those flying the flag of Spain. The number of vessels flying the flag of Spain in this area may not exceed 40, in full compliance with the provisions laid down in paragraph 2 (ii).

TITLE II

Measures concerning the catching of pelagic species

Article 4

1. With regard to the catching of pelagic species, including the highly migratory species, defined in Annex I, the Member States shall take steps to ensure *a posteriori* monitoring of the actual fishing effort.

2. In particular cases, the fishing effort may be regulated by the Council under the procedure laid down in Article 8 (4) of Regulation (EEC) No 3760/92, taking account, *inter alia*, of existing balances in exploitation by fishery and by zone.

3. With a view to guaranteeing that the controls on fishing efforts, referred to in Article 3 (4) and (5), shall apply to fishing for pelagic species and other non-demersal species in ICES areas VII a and VII f, the Council will take a decision on a proposal from the Commission in accordance with the procedure provided for in paragraph 2 of this Article.

TITLE III

General provisions

Article 5

1. The Member States shall communicate the following information to the Commission by 31 March 1995 at the latest:

— the lists of named vessels referred to in Article 2 for demersal fisheries;

— an assessment of the necessary fishing effort, as referred to in Article 3 (1);

— if necessary, the proposed arrangements for regulating the fishing effort, as referred to in Article 3 (3).

2. The Member States shall periodically communicate to the Commission each amendment made to the information referred to in paragraph 1.

3. The Commission shall forward the information referred to in paragraphs 1 and 2 to the Member States.

Article 6

1. On the basis of the information referred to in Article 5 and after close consultation with the Member States concerned the Commission shall submit to the Council, by 30 April 1995 at the latest, a proposal for a Regulation on the regulation of the fishing effort.

2. The Council shall, by 30 June 1995 at the latest, decide on this proposal in accordance with the procedure laid down in Article 8 (4) of Regulation (EEC) No 3760/92 and may or may not adapt the conditions for engaging in fishing activities which are communicated by the Member States concerned, with full respect for the principles of relative stability and non-discrimination.

The Regulation which will be adopted by the Council may provide for the adoption of implementation measures, in accordance with the procedure provided for in Article 18 of Regulation (EEC) No 3760/92, including the adjustment, in certain circumstances, of the conditions for the exercise of fishing activities, while having due regard to the criteria and conditions defined by Article 3 (1) and (2) of the present Regulation.

The Commission shall review the conditions for the exericse of fishing activities in the event that the corresponding fishing effort ceilings prejudice the full use of quotas of a Member State and shall take the appropriate measures in order to remedy this situation in accordance with the procedure provided for in the second subparagraph.

3. Should the Council fail to decide by 31 July 1995 at the latest, the Commission shall adopt, on the basis of the proposal mentioned in paragraph 1, if possible by 31 October 1995 at the latest, in accordance with the procedure laid down in Article 18 of Regulation (EEC) No 3760/92, the measures needed to ensure that each Member State does not increase its fishing effort beyond the existing level.

4. If the measures laid down in paragraph 3 are not adopted by the Commission before 31 December 1995, the lists of named fishing vessels and, if necessary, the arrangements for regulating the fishing effort which are communicated to the Commission by the Member States shall apply.

Article 7

1. The Member States shall, before 31 March 1995, take the necessary steps to ensure that the fishing effort assessed pursuant to Article 3 is replaced. The Member State shall notify such steps to the Commission, which shall apprise the other Member States thereof.

In this context, the Member State may regulate fishing effort by monitoring the activity of its fleet and by taking appropriate action if the level of the fishing effort authorized pursuant to Article 6 is about to be reached.

2. The Member States shall, whenever necessary, issue special fishing permits for vessels flying their respective flags.

3. The Member States shall take the necessary action to make it compulsory for vessels flying flags to communicate details of entry into, and exits from, fishing areas, including entry into, and exit from, fishing ports located within these areas, in which fishing effort limitation or limitation on capacity apply, and of entries into, and exits from, the area lying south of latitude 56 °30′ north, east of longitude 12 ° west and north of latitude 50 °30′ north. For vessels equipped with real-time automatic monitoring systems recognized under Community legislation, these communications may be made by means of those systems.

4. The Member States shall take the necessary steps to make it compulsory for vessels flying their respective flags to declare in addition on entry into, and exit from, an area, on-board catches as from the date of implementation — not later than 1 January 1998 — of Community infrastructure for the management of data on fishing catches in Community waters.

5. Communications and declarations referred to in paragraphs 3 and 4 shall be made simultaneously to the flag State and the coastal States concerned.

6. The Commission shall, by 30 June 1995 at the latest, submit proposals for amending Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy [1], in particular Article 6 thereof on the obligation to register catches and fishing effort. The Council shall act on these proposals before 31 December 1995.

7. The Council shall act, by 30 June 1995 at the latest, on a Commission proposal amending Council Decision 89/631/EEC of 27 November 1989 on a Community financial contribution towards expenditure incurred by Member States for the purpose of ensuring compliance with the Community system for the conservation and management of fishery resources [2] in order to provide for additional financial support for Ireland, including support for operating expenditure, with due regard for authorized Community practices and in the framework of financial guidelines.

8. The Commission shall provide the Member States, by 15 September of each year at the latest with a full report on the inspections carried out by the Commission in the preceding calendar year, together with an assessment of the results of the inspections and an account of any improvements in national enforcement arrangements which have been recommended.

Article 8

The Member States shall take the measures referred to in Annex III before 1 January 1996.

Article 9

1. The provisions laid down in Articles 2, 3, 4 (2) and 7 shall apply to vessels of over 15 metres between the perpendiculars.

2. The fishing capacity of fishing vessels below that limit shall be assessed globally for each fishery.

Article 10

In accordance with Articles 4 and 8 of Regulation (EEC) No 3760/92, the Council shall, by 31 December 1995 at the latest, fix the total admissible catches for the different stocks of horse mackerel in ICES area X and CECAF and shall allocate those fishing possibilities to Spain and Portugal in the corresponding areas.

Article 11

1. In accordance with Article 9 of Regulation (EEC) No 3760/92, the Member States concerned shall exchange fishing possibilities allocated to them under the conditions referred to in Annex IV point 1.

2. As from 1 January 1996, the Member States concerned shall limit their catches in accordance with the conditions referred to in Annex IV point 2.

Article 12

1. In accordance with the provisions and procedures laid down in Article 4 of Regulation (EEC) No 3760/92 and in compliance with the principle of non-discrimination, the Council shall act by 30 June 1995 at the latest on the amendments to be made to Council Regulation

[1] OJ No L 261, 20. 10. 1993, p. 1.

[2] OJ No L 364, 14. 12. 1989, p. 64. Decision as last amended by Decision 94/207/EC (OJ No L 101, 20. 4. 1994, p. 9).

(EEC) No 3094/86 of 7 October 1986 laying down certain technical measures for the conservation of fishery resources (1), in the light of the information contained in Annex V.

2. The Commission shall submit proposals by 30 June 1995 at the latest in order to improve technical conservation measures, in particular with regard to the selectivity of fishing gear in western Community waters. The Council shall act on these measures by 31 December 1995 at the latest in accordance with the provisions and procedures laid down in Article 4 of Regulation (EEC) No 3760/92.

Article 13

This Regulation shall enter into force on the third 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 Brussels, 27 March 1995.

For the Council

The President

J. PUECH

(1) OJ No L 288, 11. 10. 1986, p. 1. Regulation as last amended by Regulation (EEC) No 3676/93 (OJ No L 341, 31. 12. 1993, p. 1).

ANNEX I

DEFINITION OF FISHERIES

Fishery			
Fishing gear	Target species	ICES area unless otherwise indicated	
Towed gear	Demersal species (a)	Vb (1), VI	
		VII	
		of which :	VIIa
			VIIf (2)
		VIIIabd	
		VIIIce, IX, X, Cecaf 34.1.1, 34.1.2 and 34.2.0	
		of which :	VIIIce, IX (4)
			IX (3)
			X (3)
			Cecaf 34.1.1 (3) 34.1.2 (3) 34.2.0 (3)
			Cecaf 34.1.1 (4) 34.1.2 (4) 34.2.0 (4)
Fixed gear	Demersal species (a)	Vb (1), VI	
		VII	
		of which :	VIIa
			VIIf (2)
		VIIIabd	
		VIIIce, IX, X, Cecaf 34.1.1, 34.1.2 and 34.2.0	
		of which :	VIIIce, IX (4)
			IX (3)
			X (3)
			Cecaf 34.1.1 (3) 34.1.2 (3) 34.2.0 (3)
			Cecaf 34.1.1 (4) 34.1.2 (4) 34.2.0 (4)

(a) For deep-water species (emperor fish, grenadier, cutlassfish and Portuguese dogfish), edible crab, spider crab and scallop, the Member States concerned will evaluate fishing effort and issue special fishing permits for this purpose.
(1) Except waters under the sovereignty and/or jurisdiction of the Faroe Islands and Iceland.
(2) North of 50° 30′ N.
(3) Solely in waters under the sovereignty and/or jurisdiction of Portugal.
(4) Solely in waters under the sovereignty and/or jurisdiction of Spain.

Fishery		
Fishing gear	Target species	ICES area unless otherwise indicated
Purse seine, pelagic trawl, small-meshed drift net	Pelagic fish except: Ray's bream, shark, tuna and highly migratory species	Vb (1), VI
		VII
		of which: VIIa
		of which: VIIf (2)
		VIIIabd
		VIIIce, IX, X, Cecaf 34.1.1, 34.1.2 and 34.2.0
		of which: VIIIce, IX (4)
		of which: IX (3)
		of which: X (3)
		of which: Cecaf 34.1.1 (3) 34.1.2 (3) 34.2.0 (3)
		of which: Cecaf 34.1.1 (4) 34.1.2 (4) 34.2.0 (4)
Surface longline	Ray's bream, shark, tuna and highly migratory species	Vb (1), VI
		VII
		of which: VIIa
		of which: VIIf (2)
		VIIIabd
		VIIIce, IX, X, Cecaf 34.1.1, 34.1.2 and 34.2.0
		of which: VIIIce, IX (4)
		of which: IX (3)
		of which: X (3)
		of which: Cecaf 34.1.1 (3) 34.1.2 (3) 34.2.0 (3)
		of which: Cecaf 34.1.1 (4) 34.1.2 (4) 34.2.0 (4)

(1) Except waters under the sovereignty and/or jurisdiction of the Faroe Islands and Iceland.
(2) North of 50° 30′ N.
(3) Solely in waters under the sovereignty and/or jurisdiction of Portugal.
(4) Solely in waters under the sovereignty and/or jurisdiction of Spain.

Fishery			
Fishing gear	Target species	ICES area unless otherwise indicated	
Tuna fishing gear	Tuna	Vb (1), VI	
		VII	
		of which :	VIIa
			VIIf (2)
		VIIIabd	
		VIIIce, IX, X, Cecaf 34.1.1, 34.1.2 and 34.2.0	
		of which :	VIIIce, IX (4)
			IX (3)
			X (3)
			Cecaf 34.1.1 (3) 34.1.2 (3) 34.2.0 (3)
			Cecaf 34.1.1 (4) 34.1.2 (4) 34.2.0 (4)

(1) Except waters under the sovereignty and/or jurisdiction of the Faroe Islands and Iceland.
(2) North of 50°30'N.
(3) Solely in waters under the sovereignty and/or jurisdiction of Portugal.
(4) Solely in waters under the sovereignty and/or jurisdiction of Spain.

ANNEX II

COMMUNITY CRITERIA FOR THE EVALUATION OF FISHING EFFORT

Fishing effort

In accordance with Article 3 of Regulation (EEC) No 3760/92, fishing effort is defined as follows:

— in the case of a vessel, as the product of its capacity and its activity;

— in the case of a fleet or of a group of vessels, as the sum of the fishing effort of each individual vessel.

Capacity

The capacity of a vessel is expressed as follows:

— in the case of vessels using towed gear, as the installed power expressed in kilowatts (kW);

— in the case of vessels using fixed gear, as the installed power expressed in kilowatts (kW) and tonnage. If necessary, on the basis of proposals from the Member States and in consultation with the Member States concerned, the Commission will examine the possibility of setting more sophisticated criteria for assessing fishing effort.

Activity

The fishing activity of a fishing vessel is evaluated on the basis of time spent annually in the zone.

ANNEX III

CONDITIONS GOVERNING THE EXERCISE OF FISHING ACTIVITIES

1. **Towed gear**

The lists of named vessels flying the flag of Spain or Portugal shall include a list of vessels with access to each other's continental waters.

In the case of fisheries covering the waters of the continental coasts in ICES areas VIII and IX and Cecaf, the competent Spanish and Portuguese authorities shall establish national fishery plans regulating the activity of their respective vessels in each other's waters. These plans shall, in particular, respect, in terms of the number of vessels and total capacity, the overall fishing effort levels reached during the period 1986-1995.

Catches of crustaceans, in the form of a by-catch, will be permitted only up to 10 % of the volume of the catch kept on board in the course of directed fishing for hake and other demersal species.

2. **Surface longlines and troll line tuna fishing**

The fishing activities of vessels flying the flag of Spain in continental waters under the sovereignty or jurisdiction of Portugal in ICES area IX and Cecaf and the fishing activities of vessels flying the flag of Portugal in continental waters under the sovereignty or jurisdiction of Spain in ICES areas VIII and IX and Cecaf are authorized in accordance with the Community provisions in force.

3. **Tuna fishing**

The access of Spanish vessels to island waters under the sovereignty or jurisdiction of Portugal in ICES area X and Cecaf and that of Portuguese vessels to island waters under the sovereignty or jurisdiction of Spain in Cecaf is excluded, except, where appropriate, in the case of vessels engaging in fishing activities which involve the use of traditional gear under a joint agreement between these two Member States.

ANNEX IV

MEASURES CONCERNING THE EXCHANGE OF CERTAIN FISHING POSSIBILITIES AND CERTAIN AUTHORIZED CATCH LIMITS

1. Exchanges of fishing possibilities

1.1. Exchanges between France and Portugal will be tacitly renewable for the period 1995 to 2002, subject to the possibility of annual amendment of the conditions thereof by each Member State at the time of the annual fixing of TACs and quotas.

Exchanges concern the following TACs:

(i) a common TAC for anchovy being fixed for ICES areas VIII and IX, 80 % of Portugal's fishing possibilities will be transferred every year to France. Quantities must be fished exclusively in waters under the sovereignty or jurisdiction of France;

(ii) in the case of the TAC for hake in ICES areas VIIIc, IX and X and Cecaf, 70 % of France's fishing possibilities will be transferred every year to Portugal. Quantities must be fished exclusively in waters under the sovereignty or jurisdiction of Portugal;

(iii) in the case of the TAC for cod in NAFO area 3 M, all of France's fishing possibilities will be transferred every year to Portugal.

1.2. Exchanges between Spain and France, based on the 1992 bilateral agreement on anchovies, shall become operative as from 1995 with a multiannual prospect, bearing in mind the concerns of the two Member States, including in particular the level of the annual exchange of quotas, the control measures and the problems of the market, subject to the possibility of annual amendment of the conditions thereof by each Member State at the time of the annual fixing of TACs and quotas.

Exchanges concern the following TACs:

(i) in the case of the TAC for cod in ICES areas Vb, VI, XII and XIV, 10 tonnes of France's fishing possibilities will be transferred to Spain every year;

(ii) in the case of the TAC for cod in ICES areas VIIb, k, VIII, IX and X and Cecaf 34.1.1, 50 tonnes of France's fishing possibilities will be transferred to Spain every year;

(iii) in the case of the TAC for haddock in ICES areas Vb, VI, XII and XIV, 10 tonnes of France's fishing possibilities will be transferred to Spain every year;

(iv) in the case of the TAC for haddock in ICES areas VII, VIII, IX, X and Cecaf 34.1.1, 55 tonnes of France's fishing possibilities will be transferred to Spain every year;

(v) in the case of whiting in ICES areas Vb, VI, XII and XIV, 10 tonnes of France's fishing possibilities will be transferred to Spain every year;

(vi) in the case of the TAC for saithe in ICES areas VIIb, k, 50 tonnes of France's fishing possibilities will be transferred to Spain every year;

(vii) in the case of the TAC for hake in ICES areas Vb, VI, XII and XIV, 2 200 tonnes of France's fishing possibilities will be transferred to Spain every year;

(viii) in the case of the TAC for monkfish in ICES area VII, 300 tonnes of France's fishing possibilities will be transferred to Spain every year.

(ix) in the case of the TAC for anchovy in ICES area VIII, 9 000 tonnes of Spain's fishing possibilities will be transferred to France every year.

1.3. Exchanges between Belgium and Spain will be tacitly renewable for the period 1995-2002, subject to the possibility of annual amendment of the conditions thereof by each Member State at the time of the annual fixing of TACs and quotas.

Exchanges concern the following TACs:

(i) in the case of cod in ICES areas Vb, VI, XII and XIV, 10 tonnes of Belgium's fishing possibilities will be transferred to Spain every year;

(ii) in the case of the TAC for haddock in ICES areas Vb, VI, XII and XIV, 10 tonnes of Belgium's fishing possibilities will be transferred to Spain every year;

(iii) in the case of the TAC for whiting in ICES area VIIb, k, 15 tonnes of Belgium's fishing possibilities will be transferred to Spain every year;

(iv) in the case of the TAC for monkfish in ICES area VII, 150 tonnes of Belgium's fishing possibilities will be transferred to Spain every year;

(v) in the case of the TAC for megrim in ICES areas VIIIa, b, d and e, 30 tonnes of Spain's fishing possibilities will be transferred to Belgium every year;

(vi) in the case of the TAC for Norway lobster in ICES area VII, 100 tonnes of Spain's fishing possibilities will be transferred to Belgium every year;

(vii) in the case of the TAC for monkfish in ICES areas VIIIa, b and d, 60 tonnes of Spain's fishing possibilities will be transferred to Belgium every year;

(viii) in the case of the TAC for hake in ICES areas VIIIa, b, d and e, 30 tonnes of Spain's fishing possibilities will be transferred to Belgium every year;

2. **Authorized catch limits**

2.1. Spain will limit its annual catches of hake in waters under the sovereignty or jurisdiction of Portugal to 850 tonnes and its annual catches of horse mackerel in the said waters to 2 250 tonnes.

2.2. Portugal will limit its annual catches of hake in waters under the sovereignty or jurisdiction of Spain to 850 tonnes and its annual catches of horse mackerel in the said waters to 2 250 tonnes.

ANNEX V

AMENDMENTS TO THE TECHNICAL MEASURES FOR FISHERIES CONSERVATION

1. Ban on the use of drift nets for catching tuna in waters under the sovereignty or jurisdiction of Portugal and Spain in ICES areas VIII, IX, X and Cecaf.

2. Ban on the use of purse seines for catching tropical tuna (skipjack, bigeye and longfinned tuna) in waters under the sovereignty or jurisdiction of Portugal in ICES area X, north of latitude 36° 30′ north, and Cecaf, north of latitude 31° north and east of latitude 17° 30′ west.
