COUNCIL REGULATION (EC) No 406/97

of 20 December 1996

laying down for 1997 certain conservation and management measures for fishery resources in the Regulatory Area as defined in the Convention on Future Multilateral Cooperation in the North-West Atlantic Fisheries

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture [1], and in particular Article 8 (4) thereof,

Having regard to Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing permits [2], and in particular Article 7 (2) thereof,

Having regard to the proposal from the Commission,

Whereas the Community has signed the United Nations' Convention on the Law of the Sea, which contains principles and rules relating to the conservation and management of the living resources within the exclusive economic zones of the coastal States and on the high seas;

Whereas the Convention on Future Multilateral Cooperation in the North-West Atlantic Fisheries, hereinafter referred to as the NAFO Convention, was approved by the Council in Regulation (EEC) No 3179/78 [3] and entered into force on 1 January 1979; whereas the Regulatory Area as defined consists of that part of the Convention Area which lies beyond the areas in which coastal States exercise fisheries jurisdiction;

Whereas the NAFO Convention establishes a suitable framework for the rational conservation and management of the fishery resources of the Regulatory Area with a view to achieving the optimum utilization thereof; whereas, to this end, the Contracting Parties undertake to carry out joint measures;

Whereas the North-West Atlantic Fisheries Organization, hereafter referred to as NAFO, held its annual meeting from 9 to 13 September 1996 and, on that occasion, adopted recommendations for conservation and management measures in the Regulatory Area for 1997; whereas it is appropriate that these recommendations be implemented by the Community;

Whereas, in the light of the available scientific advice, the catches of certain species in certain parts of the Regulatory Area should be limited; whereas, in accordance with Article 8 of Regulation (EEC) No 3760/92, it falls to the Council to establish the total allowable catches (TACs) by stock or group of stocks, the share available for the Community and the specific conditions under which catches must be made and to allocate the share available to the Community among the Member States;

Whereas, in order to ensure the conservation of fishery resources and their balanced exploitation, technical conservation measures must be defined, *inter alia*, for mesh sizes, the level of by-catches, authorized fish sizes and processed length equivalents;

Whereas in order to ensure sound management of the shrimp stock in NAFO area 3M, a system of fishing effort control should be maintained;

Whereas in order to ensure the conservation of the Greenland halibut stock, provisions should be made for the communication of effort plans for this fishery;

Whereas to enable controls to be carried out on catches from the Regulatory Area while supplementing the monitoring measures provided for in Regulation (EEC) No 2847/93 [4], certain specific control measures are to be defined, *inter alia*, for the declaration of catches, the communication of information, the holding of non-authorized nets and information and assistance relating to the storage and processing of catches;

Whereas, within NAFO, the relevant TAC and quotas have been established on an annual basis and may not be exceeded and, therefore, they may not be subject to the provisions of Council Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of TACs and quotas [5];

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[1] OJ No L 389, 31. 12. 1992, p. 1. Regulation as amended by the 1994 Act of Accession.
[2] OJ No L 171, 6. 7. 1994, p. 7.
[3] OJ No L 378, 30. 12. 1978, p. 1.
[4] OJ No L 261, 20. 10. 1993, p. 1.
[5] OJ No L 115, 9. 5. 1996, p. 3.

Whereas, for imperative reasons of common interest, this Regulation shall apply from 1 January 1997,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

1. Community vessels operating in the Regulatory Area and retaining on board fish from resources of that area shall do so in furtherance of the objectives and principles of the NAFO Convention.

2. With a view to ensuring through the joint action of the Contracting Parties the rational conservation and management of the fishery resources of the Regulatory Area for the purpose of achieving the optimum utilization thereof, this Regulation lays down:

— limits on catches,

— technical conservation measures,

— international control measures,

— provisions relating to the processing and transmission of certain scientific and statistical data.

Article 2

Community participation

Member States shall forward to the Commission a list of all vessels registered in their ports or flying their flag which intend to take part in the fishing activities in the Regulatory Area at least 30 days before the intended commencement of such activity or, as the case may be, not later than the 20th day following the date of entry into force of this Regulation. The information forwarded shall include:

(a) name of vessel;

(b) official registration number of the vessel assigned by the competent national authorities;

(c) home port of the vessel;

(d) name of owner or charterer of the vessel;

(e) a declaration that the master has been provided with a copy of the regulations in force in the Regulatory Area;

(f) the principal species fished by the vessel in the Regulatory Area;

(g) the sub areas where the vessel may be expected to fish.

Article 3

Limits on catches

Catches in 1997 of the species set out in Annex I hereto by fishing vessels registered in the ports of Member States or flying their flag shall be limited, within the divisions of the Regulatory Area referred to in that Annex, to the quotas set out therein.

Article 4

Management measures for shrimp

Fishing in 1997 for shrimp (*Pandalus borealis*) in division 3M of the Regulatory Area shall be subject to the limitations and conditions set out in Annex II.

Article 5

Greenland halibut fishery

Member States shall inform the Commission of the fishing plan for their vessels fishing for Greenland halibut in the Regulatory Area at least 30 days before the intended commencement of such activity or, as the case may be, not later than 20 January 1997. The fishing plan shall identify, *inter alia*, the vessel or vessels which will engage in this fishery. The fishing plan shall represent the total fishing effort to be deployed with respect to this fishery in relation to the extent of the fishing opportunities available to the Member State making the notification.

Member States shall, no later than 31 December 1997, report to the Commission on the implementation of their fishing plans, including the number of vessels actually engaged in this fishery and the total number of days fished.

Member States shall report to the Commission every Tuesday before 12 noon for the week ending at 12 midnight on the previous Sunday the quantities of Greenland halibut caught by their vessels.

Article 6

Technical measures

1. *Mesh sizes*

The use of trawl net having in any section thereof net meshes of dimensions less than 130 mm shall be prohibited for direct fishing of the species referred to in Annex III hereto. This mesh size shall be reduced to 60 mm for direct fishing of short-finned squid.

Vessels fishing for shrimp (*Pandalus borealis*) shall use nets with a minimum mesh size of 40 mm.

2. *Attachments to nets*

The use of any means or device other than those described in this paragraph which obstructs the meshes of a net or which diminishes their size shall be prohibited.

Canvas, netting or any other material may be attached to the underside of the cod-end in order to reduce or prevent damage.

Devices may be attached to the upper side of the cod-end provided that they do not obstruct the meshes of the cod-end. The use of top-side chafers shall be limited to those mentioned in Annex IV hereto.

Vessels fishing for shrimp (*Pandalus borealis*) shall use sorting grids or grates with a maximum spacing between bars of 22 mm.

3. *By-catches*

By-catches of the species listed in Annex I for which no quotas have been fixed by the Community for a part of the Regulatory Area and taken in that part when fishing directly for:

— one or more of the species listed in Annex I, or

— one or more of species other than those listed in Annex I,

may not exceed for each species on board 2 500 kg or 10 % by weight of all fish on board, whichever is the greater. However, in a part of the Regulatory Area where direct fishing of certain species is banned, by-catches of each of the species listed in Annex I may not exceed 1 250 kg or 5 % respectively.

For vessels fishing for shrimp (*Pandalus borealis*), in the event that total by-catches of all species listed in Annex I, in any haul exceed 5 % by weight, vessels shall immediately change fishing area (minimum 5-nautical-miles) in order to seek to avoid further by-catches of this species.

4. *Minimum size of fish*

Fish from the Regulatory Area which do not have the size required as set out in Annex V may not be processed, retained on board, transhipped, landed, transported, stored, sold, displayed or offered for sale, but shall be returned immediately to the sea. Where the quantity of caught fish not having the required size exceeds in certain fishing waters 10 % of the total quantity, the vessel must move away to a distance of at least 5-nautical-miles before continuing fishing. Any processed fish of a species for which a minimum fish size is set out in Annex V that is below a length equivalent set out in Annex VI, shall be deemed to originate from fish that is below the minimum fish size.

Article 7

Control measures

1. In addition to complying with Articles 6, 8, 11 and 12 of Regulation (EEC) No 2847/93, masters of vessels shall enter in the logbook the information listed in Annex VII hereto.

In complying with Article 15 of Regulation (EEC) No 2847/93, Member States shall also inform the Commission of catches of species not subject to quota.

2. When fishing directly for one or more of the species listed in Annex III, vessels may not carry nets the mesh size of which is smaller than that laid down in Article 6 (1). However, vessels fishing in the course of the same voyage in areas other than the Regulatory area may keep such nets on board provided that these nets are securely lashed and stowed and are not available for immediate use, that is to say:

(a) nets shall be unshackled from their boards and their hauling or trawling cables and ropes;

(b) nets carried on or above the deck must be lashed securely to a part of the superstructure.

3. The masters of fishing vessels flying the flag of a Member State or registered in one of its ports shall, in respect of catches of the species listed in Annex I, keep:

(a) a logbook stating, by species and by processed product, the aggregate output; or

(b) a storage plan, by species, of products processed, indicating where they are located in the hold.

Masters of vessels must provide the necessary assistance to enable the quantities declared in the logbook and the processed products stored on board to be verified.

4. Masters of Community vessels fishing for Greenland halibut shall report to the competent authorities of the Member State whose flag their vessel is flying or in which their vessel is registered every Monday for the week ending at 12 midnight the previous Sunday the quantities of Greenland halibut caught.

Article 8

Statistical and scientific data

1. In order to secure advice on localized and seasonal concentrations of juvenile American plaice and yellowtail flounder in division 3LNO of the Regulatory Area:

(a) Member States shall provide, based upon the relevant entries in the logbook, as provided for by Article 7 (1), nominal catch and discard statistics, broken down by unit areas no larger than 1° latitude and 1° longitude, summarized on a monthly basis;

(b) length sampling shall be provided for both nominal catches and discards, with a sampling intensity on the same scale as adopted in (a) and summarized on a monthly basis.

2. In order to assess the effects of cod by-catches in the redfish and flatfish fisheries on the Flemish Cap:

(a) Member States shall supply, based upon the relevant entries in the logbook as provided for by Article 7 (1), statistics on discards of cod taken in the redfish and flatfish fisheries in the above area, in addition to the normal reports, summarized on a monthly basis;

(b) length samples of cod taken in the redfish and flatfish fisheries in the above area, shall be provided for the two components separately, with depth information accompanying each sample, summarized on a monthly basis.

3. Length samples shall be taken from all parts of the respective catch of each species concerned in such a manner that at least one statistically significant sample is taken from the first haul taken each day. The size of a fish shall be measured from the tip of the snout to the end of the tail fin.

For the purposes set out in paragraphs 1 and 2, length samples taken as described in this Regulation shall be deemed to be representative of all catches of the species concerned.

Article 9

Fishing quotas referred to in Annex I shall not be subject to the conditions laid down in Articles 2, 3 and 5 (2) of Regulation (EC) No 847/96.

Article 10

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

It shall apply from 1 January 1997.

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

Done at Brussels, 20 December 1996.

For the Council

The President

S. BARRETT

ANNEX I

Stock			Member State	1997 quota (tonnes)
Species	Geographical region	Zone		
Cod	North-West Atlantic	NAFO 2J3KL	Belgium	
			Denmark	
			Germany	
			Greece	
			Spain	
			France	
			Ireland	
			Italy	
			Luxembourg	
			Netherlands	
			Portugal	
			United Kingdom	
			Austria	
			Finland	
			Sweden	
			Available for Member States	
			EC total	0
Cod	North-West Atlantic	NAFO 3NO (1)	Belgium	
			Denmark	
			Germany	
			Greece	
			Spain	
			France	
			Ireland	
			Italy	
			Luxembourg	
			Netherlands	
			Portugal	
			United Kingdom	
			Austria	
			Finland	
			Sweden	
			Available for Member States	
			EC total	0
Cod	North-West Atlantic	NAFO 3M	Belgium	
			Denmark	
			Germany	279
			Greece	
			Spain	858
			France	120
			Ireland	
			Italy	
			Luxembourg	
			Netherlands	
			Portugal	1 177
			United Kingdom	558
			Austria	
			Finland	
			Sweden	
			Available for Member States	
			EC total	2 992

(1) There will be no directed fishing on this species, which will be caught only as a by-catch, without prejudice to the rules set out in Article 6 (3) hereof.

Stock			Member State	1997 quota (tonnes)
Species	Geographical region	Zone		
Atlantic redfish	North-West Atlantic	NAFO 3M	Belgium	
			Denmark	
			Germany	666
			Greece	
			Spain	303
			France	
			Ireland	
			Italy	
			Luxembourg	
			Netherlands	
			Portugal	3 061
			United Kingdom	
			Austria	
			Finland	
			Sweden	
			Available for Member States	
			EC total	4 030
Atlantic redfish	North-West Atlantic	NAFO 3LN	Belgium	
			Denmark	
			Germany	374
			Greece	
			Spain	
			France	
			Ireland	
			Italy	
			Luxembourg	
			Netherlands	
			Portugal	
			United Kingdom	
			Austria	
			Finland	
			Sweden	
			Available for Member States	
			EC total	374
American plaice	North-West Atlantic	NAFO 3M [1]	Belgium	
			Denmark	
			Germany	
			Greece	
			Spain	
			France	
			Ireland	
			Italy	
			Luxembourg	
			Netherlands	
			Portugal	
			United Kingdom	
			Austria	
			Finland	
			Sweden	
			Available for Member States	
			EC total	0

[1] There will be no directed fishing on this species, which will be caught only as a by-catch, without prejudice to the rules set out in Article 6 (3) hereof.

Stock			Member State	1997 quota (tonnes)
Species	Geographical region	Zone		
American plaice	North-West Atlantic	NAFO 3LNO (1)	Belgium Denmark Germany Greece Spain France Ireland Italy Luxembourg Netherlands Portugal United Kingdom Austria Finland Sweden Available for Member States	
			EC total	0
Yellowtail flounder	North-West Atlantic	NAFO 3LNO (1)	Belgium Denmark Germany Greece Spain France Ireland Italy Luxembourg Netherlands Portugal United Kingdom Austria Finland Sweden Available for Member States	
			EC total	0
Witch flounder	North-West Atlantic	NAFO 3NO (1)	Belgium Denmark Germany Greece Spain France Ireland Italy Luxembourg Netherlands Portugal United Kingdom Austria Finland Sweden Available for Member States	
			EC total	0

(1) There will be no directed fishing on this species, which will be caught only as a by-catch, without prejudice to the rules set out in Article 6 (3) hereof.

Stock			Member State	1997 quota (tonnes)
Species	Geographical region	Zone		
Capelin	North-West Atlantic	NAFO 3NO (1)	Belgium Denmark Germany Greece Spain France Ireland Italy Luxembourg Netherlands Portugal United Kingdom Austria Finland Sweden Available for Member States	
			EC total	0
Squid	North-West Atlantic	NAFO-subzones 3 and 4	Belgium Denmark Germany Greece Spain France Ireland Italy Luxembourg Netherlands Portugal United Kingdom Austria Finland Sweden Available for Member States	
			EC total	(*)
Greenland halibut	North-West Atlantic	NAFO 3LMNO	Belgium Denmark Germany Greece Spain France Ireland Italy Luxembourg Netherlands Portugal United Kingdom Austria Finland Sweden Available for Member States	 550 7 398 3 122
			EC total	11 070

(1) There will be no directed fishing on this species, which will be caught only as a by-catch, without prejudice to the rules set out in Article 6 (3) hereof.

(*) No specified Community share; out of a TAC of 150 000 tonnes, an amount of 130 000 tonnes is available to Canada and the Community.

Stock			Member State	1997 quota (tonnes)
Species	Geographical region	Zone		
Shrimp	North-West Atlantic	NAFO 3LNO (1)	Belgium Denmark Germany Greece Spain France Ireland Italy Luxembourg Netherlands Portugal United Kingdom Austria Finland Sweden Available for Member States	
			EC total	0

(1) There will be no directed fishing on this species, which will be caught only as a by-catch, without prejudice to the rules set out in Article 6 (3) hereof.

ANNEX II

Stock			Member State	Maximum number of vessels	Maximum number of fishing days
Species	Geographical region	Zone			
Shrimp	North-West Atlantic	NAFO 3M	Belgium		
			Denmark (1)	2	131
			Germany		
			Greece		
			Spain (1)	10	257
			France		
			Ireland		
			Italy		
			Luxembourg		
			Netherlands		
			Austria		
			Portugal (1)	1	69
			Finland		
			Sweden		
			United Kingdom		

(1) The Member States concerned shall issue special fishing permits for their fishing vessels engaging in this fishery, and shall notify those permits to the Commission prior to the commencement of vessel's activity, in accordance with Regulation (EC) No 1627/94. By way of derogation from Article 7 of that Regulation, permits will only become valid if the Commission has not objected within five working days following the notification.

ANNEX III

Common name	Scientific name
Principal groundfish (except flatfish)	
Atlantic cod	*Gadus morhua*
Haddock	*Melanogrammus aeglefinus*
Redfish	*Sebastes* spp.
Atlantic redfish	*Sebastes marinus*
Golden redfish	*Sebastes mentella*
Silver hake	*Merluccius bilinearis*
Red hake	*Urophycis chuss*
Pollack (= saithe)	*Pollachius virens*
Flatfish	
American plaice	*Hippoglossoides platessoides*
Witch flounder	*Glyptocephalus cynoglossus*
Yellowtail flounder	*Limanda ferruginea*
Greenland halibut	*Reinhardtius hippoglossoides*
Atlantic halibut	*Hippoglossus hippoglossus*
Winter flounder	*Pseudopleuronectes americanus*
Summer flounder	*Paralichthys dentatus*
Windowpane flounder	*Scophthalmus aquosus*
Flatfish (NS)	*Pleuronectiformes*
Other groundfish	
American angler (= goosefish)	*Lophius americanus*
Atlantic searobins	*Prionotus* spp.
Atlantic tomcod	*Microgadus tomcod*
Blue whiting	*Micromesistius poutassou*
Cunner	*Tautogolabrus adspersus*
Cusk (= tusk)	*Brosme brosme*
Greenland cod	*Gadus ogac*
Blue ling	*Molva dypterygia*
Ling	*Molva molva*
Lumpfish (= lumpsucker)	*Cyclopterus lumpus*
Northern kingfish	*Menticirrhus saxatilis*
Northern puffer	*Sphoeroides maculatus*
Eelpouts (NS)	*Lycodes* spp.
Ocean pout	*Macrozoarces americanus*
Polar cod	*Boreogadus saida*
Roundnose grenadier	*Coryphaenoides rupestris*
Roughhead grenadier	*Macrouris berglax*
Sand eel (= sand lance)	*Ammodytes* spp.
Sculpin	*Myoxocephalus* spp.
Scup	*Stenotomus chrysops*
Tautog	*Tautoga onitis*
Tilefish	*Lopholatilus chamaeleonticeps*
White hake	*Urophycis tenuis*
Wolf-fish (NS)	*Anarhichas* spp.
Atlantic wolf-fish	*Anarhichas lupus*
Spotted wolf-fish	*Anarhichas minor*
Groundfish (NS)	. . .

ANNEX IV

AUTHORIZED TOP-SIDE CHAFERS

1. **ICNAF-type top-side chafer**

A rectangular piece of netting attached to the upper side of a cod end to reduce or prevent damage and complying with the following requirements:

(a) the netting shall not have a mesh size less than that specified for the net itself;

(b) the netting may be fastened to the cod end only along the forward and lateral edges of the netting and shall be fastened in such a manner that it extends forward of the splitting strap no more than four meshes and ends not less than four meshes in front of the codline mesh; where a splitting strap is not used, the netting shall not extend to more than one third of the cod end measured from not less than four meshes in front of the codline mesh;

(c) the number of meshes in the width of the netting shall be at least one and a half times the number of meshes in the width of the part of the cod end which is covered, both widths being taken at right angles to the longitudinal axis of the cod end.

2. **'Multiple flap' top-side chafer**

Pieces of netting having in all their parts meshes the dimensions of which, whether the pieces of netting are wet or dry, are not less than those of the meshes of the net to which they are attached, provided that:

(i) each piece of netting:

(a) is fastened only by its forward edge across the cod end at right angles to its longitudinal axis;

(b) is at least equal in width to the width of the cod end (such width being measured at right angles to the longitudinal axis of the cod end at the point of attachment);

(c) is not more than 10 meshes long;

(ii) the aggregate length of all the pieces of netting so attached does not exceed two thirds of the length of the cod end.

3. **Large mesh (modified Polish-type) top-side chafer**

A rectangular piece of netting made of the same twine material as the cod end, or of a single, thick, knotless twine material, attached to the rear portion of the upper side of the cod end and extending over all or any part of the upper side of the cod end, having in all its parts a mesh size twice that of the cod end when measured wet and fastened to the cod end along the forward, lateral and rear edges only of the netting in such a way that each mesh of the netting exactly coincides with four meshes of the cod end.

ANNEX V

Species	Minimum size	Definition
Atlantic cod	41 cm	Fork length
American plaice	25 cm	Total length
Yellowtail flounder	25 cm	Total length
Greenland halibut	30 cm	Total length

ANNEX VI

Species	Gilled and gutted fish whether or not skinned; fresh or chilled, frozen, or salted			
	Whole	Head off	Head and tail off	Head off and split
Atlantic cod	41 cm	27 cm	22 cm	27/25 cm (*)
American plaice	25 cm	19 cm	15 cm	NA
Yellowtail flounder	25 cm	19 cm	15 cm	NA

(*) Lower size for fresh salted fish.

ANNEX VII

Particulars to be contained in the logbook

Particulars	Code
Name of vessel	01
Nationality of vessel	02
Registration number of vessel	03
Port of registration	04
Type of fishing gear used (daily)	10
Type of fishing gear	2 (2)
Date:	
— day	20
— month	21
— year	22
Position:	
— latitude	31
— longitude	32
— statistical zone	33
Number of fishing operations per period of 24 hours (1)	40
Number of hours fishing with gear per period of 24 hours (1)	41
Name of species	2 (2)
Daily catches by species (in tonnes live weight)	50
Daily catches, per species, for human consumption	61
Quantities discarded daily per species	63
Place of transhipment	70
Date(s) of transhipment	71
Master's signature	80

(1) Where two or more types of fishing gear are used in a given 24-hour period, separate records must be supplied for each type of gear.
(2) To be indicated together with one of the abbreviations listed in the second part of this Annex.

Standard abbreviations for the principal species in the NAFO area

Abbreviations	Names of species of fish	
	English	Latin
ALE	Alewife	*Alosa pseudoharengus*
ARG	Atlantic argentine	*Argentina silus*
BUT	American butterfish	*Peprilus triacanthus*
CAP	Capelin	*Mallotus villosus*
COD	Cod	*Gadus morhua*
GHL	Greenland halibut	*Reinhardtius hippoglossoides*
HAD	Haddock	*Melanogrammus aeglefinus*
HER	Herring	*Clupea harengus*
HKR	Red hake	*Urophycis chuss*
HKS	Silver hake	*Merluccius bilinearis*
MAC	Mackerel	*Scomber scombrus*
PLA	American plaice	*Hippoglossoides platessoides*
POK	Saithe	*Pollachius virens*
RED	Redfish	*Sebastes marinus*
RMG	Roundnose grenadier	*Macrourus rupestris*
SHR	Shrimps and prawns	*Pandalus* spp.
SQU	Squid	*Loligo pealei — Illex illecebrosus*
WIT	Witch flounder	*Glyptocephalus cynoglossus*
YEL	Yellowtail flounder	*Limanda ferruginea*

Standard abbreviations for fishing gear

Abbreviations	Fishing gear
OTB	Bottom otter trawl (side or stern, not specified)
OTB 1	Bottom otter trawl (side)
OTB 2	Bottom otter trawl (stern)
OTM	Midwater otter trawl (side or stern, not specified)
OTM 1	Midwater otter trawl (side)
OTM 2	Midwater otter trawl (stern)
PTB	Bottom pair trawl (2 vessels)
PTM	Midwater pair trawl (2 vessels)
GM	Gillnets (not specified)
GNS	Set gillnets
LL	Long lines (set or drifting, not specified)
LLS	Long lines (set)
LLD	Long lines (drifting)
MIS	Miscellaneous fishing gear
NK	Fishing gear not known