COUNCIL OF THE EUROPEAN UNION

Brussels, 30 August 2012

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PROPOSAL

from:	European Commission
dated:	29 August 2012
No Cion doc.:	COM(2012) 471 final
Subject:	Proposal for a Regulation of the European Parliament and of the Council on certain technical and control measures in the Skagerrak and amending Regulation (EC) No 850/98 and Regulation (EC) No 1342/2008

Delegations will find attached a proposal from the Commission, submitted under a covering letter from Jordi AYET PUIGARNAU, Director, to Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union.

Encl.: COM(2012) 471 final

EUROPEAN COMMISSION

Brussels, 29.8.2012
COM(2012) 471 final

2012/0232 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on certain technical and control measures in the Skagerrak and amending Regulation (EC) No 850/98 and Regulation (EC) No 1342/2008

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

General context

During the fisheries consultations in 2010 between EU and Norway[1] it was agreed to set up a Working Group to improve the control and enforcement measures in the fisheries in the Skagerrak, and to recommend ways to harmonise EU and Norwegian technical and control measures regulations in the area outside 4 nautical miles from the baselines. This Working Group on Technical Measures and Control in Skagerrak met during 2011 and reported in October 2011. The Working Group's recommendations were included in the Agreed Record by the EU and Norway in Bergen of 2 December 2011.

Existing EU provisions in the area of the proposal

Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy[2].

Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms[3].

Council Regulation (EC) No 1342/2008 of 18 December 2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks and repealing Regulation (EC) No 423/2004[4].

Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999[5].

Council Regulation (EC) No 1006/2008 of 29 September 2008 concerning authorisations for fishing activities of Community fishing vessels outside Community waters and the access of third country vessels to Community waters, amending Regulations (EEC) No 2847/93 and (EC) No 1627/94 and repealing Regulation (EC) No 3317/94[6] and its Implementing rules of Commission Regulation (EU) No 201/2010 of 10 March 2010 laying down detailed rules for the implementation of Council Regulation (EC) No 1006/2008 concerning authorisations for fishing activities of Community fishing vessels outside Community waters and the access of third country vessels to Community waters[7].

Council Regulation (EC) 1224/2009 establishing an EU control system for fisheries[8] sets the general control requirement for fisheries but also specific requirements for multiannual plans

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1 Agreed Record of Conclusions of Fisheries Consultations between the EU and Norway on the Regulation of Fisheries in Skagerrak and Kattegat for 2011 signed in Bergen on 4 December 2010
2 OJ L 358, 31.12.2002, p.59.
3 OJ L 125, 27.4.1998, p.1.
4 OJ L 348, 24.12.2008, p.20.
5 OJ L 286, 29.10.2008, p.1.
6 OJ L 286, 29.10.2008, p.33.
7 OJ L 61, 11.3.2010, p.1.
8 OJ L 343, 22.12.2009, p.1.

and its Implementing rules in Commission Implementing Regulation (EU) No 404/2011 of 8 April 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy[9].

Council Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of TACs and quotas[10].

CFP reform

At present a Commission Proposal for a Regulation of the European Parliament and the Council on the Common Fisheries Policy[11] is being discussed, including the implementation of an obligation to land all catches across EU fisheries. The Skagerrak is a small geographical area with a limited number of Member States concerned. Accordingly, the provisions laid down in the present proposal are specific to the Skagerrak and the fisheries therein and hence do not form any precedent for the debate on the reform of the CFP. Nevertheless, the experiences in the Skagerrak can provide valuable feedback for the general discussion on the implementation of a general obligation to land all catches in EU fisheries.

Consistency with the other policies and objectives of the Union

The proposal and its objectives are consistent with the European Union's policies, especially environmental, social, market and trade policies.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

Consultation with interested parties

The Working Group established in the context of the EU-Norway negotiations described in Point 1 was mandated to review the current technical and control measures in the area and, where appropriate, recommend, to the largest degree possible, harmonised technical and control measures for the Skagerrak. The Working Group consisted of technical, control and scientific experts as well as fishermen's representatives, including the owners of small vessels. The Working Group held several meetings in 2011 and reported it findings and recommendations in October 2011.

In April 2012 the recommendations were included in the agreed record signed by EU and Norway.

Against this background and in order to follow the objective of the CFP to ensure sustainable use of living aquatic resources and to eradicate discarding as unsustainable practice it is desirable to enact the recommendations listed in the Agreed Records in Union legislation.

Impact assessment

The rules to be adopted will be applicable only in the Skagerrak, and are in the context of an EU-Norway international agreement. This agreement identified the common technical

[9] OJ L 112, 30.4.2011, p.1.
[10] OJ L 115, 9.5.1996, p.3.
[11] COM(2011) 425 final of 13.7.2011

measures and control measures included in the proposal, as well as the list of species to be covered by the obligation to land and the time schedule for its progressive implementation. Moreover, the EU-Norway agreement was based on the recommendations made by the technical Working Group, with stakeholder participation, that examined in detail the various options available in order to allow the continuation of the traditional fisheries in the Skagerrak following the expiry of the Skagerrak neighbourhood agreement. This Working Group is deemed to represent a sufficient alternative to the impact assessment. Furthermore, the issue of the obligation to land all catches was thoroughly presented in the impact assessment that was prepared along with the reform proposal[12].

3. LEGAL ELEMENTS OF THE PROPOSAL

Legal basis

Article 43(2) of the Treaty on the Functioning of the European Union.

Subsidiarity principle

Provisions of the proposal relate to the conservation of marine biological resources, measures that fall under the exclusive competence of the Union. Consequently the subsidiarity principle does not apply.

Proportionality principle

The proposed measures comply with the proportionality principle as no other less restrictive measures are available to obtain the desired policy objectives.

Choice of instrument

Proposed instrument: Regulation of the European Parliament and of the Council.

4. BUDGETARY IMPLICATION

No budgetary implications.

[12] http://ec.europa.eu/fisheries/reform/index_en.htm

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on certain technical and control measures in the Skagerrak and amending Regulation (EC) No 850/98 and Regulation (EC) No 1342/2008

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Having regard to the opinion of the European Economic and Social Committee[13],

Having regard to the opinion of the Committee of the Regions[14],

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) As result of the Fisheries Consultations for 2012 held on 2 December 2011 between the Union and Norway certain technical and control measures applicable to the Skagerrak should be amended with the view to improving the exploitation patterns and where possible to align Union and Norwegian regulations.

(2) During the Fisheries Consultations between the Union and Norway of 28 June 2012 common technical and control measures were specified to be applied in the Skagerrak, the list of species to be covered by an obligation to land all catches and the timetable by which these species should be progressively included in the obligation to land.

(3) Changes to the technical measures in place in the Skagerrak are needed to reduce the level of unwanted catches and discards as they negatively affect the sustainable exploitation of marine biological resources.

(4) An obligation to land all catches of stocks subject to catch limits needs to be established, except for species or fisheries where there is scientific evidence of high survival rates of discarded fish or where the burden to fishermen of having to extract the unwanted species from the catch for separate treatment is unreasonably high. *[Art. 3]*

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13 OJ C , , p. .

14 OJ C , , p. .

(5) The system of landing all catches requires substantial changes to the present fisheries and the management of the fisheries concerned. Therefore, the obligation to land should be introduced progressively. *[Art. 4]*

(6) For the protection of juvenile fish, the functioning of the fisheries market and to ensure that no unjust profit can be gained from catching fish under a minimum conservation reference size, the handling of such catches should be limited to fish meal, pet food or other non-human consumption products, or for charitable purposes. *[Art. 5]*

(7) In order to progressively eliminate discards the selectivity of the fishing gears should be improved by increasing the general minimum mesh size requirement for demersal fisheries but with derogations to allow the use of gears, including selection devices having the same selectivity in these fisheries. *[Art. 6]*

(8) For the best possible effect and proper monitoring and control of the new technical measures to be set out, it is necessary to restrict the use of fishing gears in the Skagerrak. *[Art. 7]*

(9) In order to address the conflict of applicable legislation in the Skagerrak and its neighbouring areas and to ensure that the rules establishing the technical measures in the Skagerrak are complied with, it is also necessary to establish certain measures to govern issues when on a given fishing trip fishing vessels combine their fishing activities in the Skagerrak with fishing in areas where the new technical measures adopted for the Skagerrak are not to be applied. *[Art. 8]*

(10) With a view to ensuring compliance with the measures laid down in this Regulation, specific control measures should be adopted in addition to those provided for in Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy[15].*[Art. 9]*

(11) Recognising that the Skagerrak is a rather small fishing area where mainly smaller vessels carry out short fishing trips, the use of prior notification as requested by Article 17 of Regulation (EC) 1224/2009 should be extended to cover all vessels with an overall length of 10 m or more and the prior notifications should be submitted two hours in advance to adapt to the fisheries.*[Art. 10]*

(12) For the proper monitoring of fishing activities with special regard to verifying that the obligation to land all catches of stocks subject to catch limitations is complied with at sea, it is necessary to operate a Remote Electronic Monitoring (REM) system on vessels operating in the Skagerrak. *[Art. 11]*

(13) To ensure that the new technical measures are complied with, Member States concerned should define a control and inspection measures for the Skagerrak and incorporate this measures into their respective national control action programmes. *[Art. 12]*

(14) It is required to provide rules for vessels transiting the Skagerrak in order to ensure that the new technical measures are respected. *[Art. 13]*

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15 OJ L 343, 22.12.2009, p. 1.

(15) Provisions should be made for the periodical assessment by the Commission of the adequacy and effectiveness of the technical measures. It is appropriate that such assessment is based on reports of the Member States concerned. *[Art. 14 and 15]*

(16) In order to facilitate more selective fishing under an obligation to land all catches, it is appropriate to exempt the vessels operating in the Skagerrak from the effort regime set out in Chapter III of Regulation (EC) No 1342/2008 of 18 December 2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks and repealing Regulation (EC) No 423/2004 [16].*[Art. 20]*

(17) It is required to provide a level of flexibility for fishermen to adapt to the new regime in the Skagerrak. Accordingly, the permitted flexibility in the year-to year quota uptake established in Regulation (EC) No 847/96 of 6 May 1996 introducing additional conditions for year-to-year management of TACs and quotas [17] should not be deemed as overfishing. *[Art. 20]*

(18) In order to adapt to the technical and scientific progress in a timely and proportionate fashion and to ensure flexibility and allow evolution of certain measures, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of amending Annex I as regards the timeline and the stocks subject to the obligation to land all catches and in respect of amending Annex II as regards minimum conservation reference size.

(19) The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.

(20) In order to ensure uniform conditions and timely response to the reality of fisheries and available scientific information, implementing powers should be conferred on the Commission for the implementation of the provisions of technical nature on the determination of selectivity level of gears and the minimum requirements of the REM. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers[18].

(21) The prohibition of retention on board of certain species at certain times in the Skagerrak and the scope of this Regulation make necessary certain amendments to Regulation (EC) No 850/98 and Regulation (EC) No 1342/2008.

(22) Regulation (EC) No 850/98 and Regulation (EC) No 1342/2008 should, therefore, be amended accordingly,

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16 OJ L 348, 24.12.2008, p. 20.
17 OJ L 115, 9.5.1996, p.3.
18 OJ L 55, 28.2.2011, p. 13.

HAVE ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter and scope

1. This Regulation establishes new technical and control measures in the Skagerrak.

2. This Regulation shall apply to all fishing vessels operating in the Skagerrak.

Article 2

Definitions

For the purposes of the Regulation in addition to the definitions laid down in Article 3 of Regulation 850/98 and in Article 3 of Regulation 2371/2002 the following definitions shall apply:

(a) *Pots and creels* mean small traps designed to catch crustaceans or fish in the form of cages or baskets made with various materials that are set on the seabed either singly or in rows; connected by ropes (buoy-lines) to buoys on the surface showing their position and having one or more openings or entrances;

(b) *Minimum conservation reference size* means the size for a given species below which the sale of catches shall be restricted to reduction to fish meal, pet food or other non-human consumption products only;

(c) *Mesh size of any trawl, Danish seine or similar towed net* mean the mesh size of any codend or extension piece found on board a fishing vessel;

(d) *codend* means a codend *sensu stricto*;

(e) *extension piece* means a lengthening piece as defined in the Annex to Regulation (EEC) No 3440/84[19];

(f) *Demersal trawl* means gear which is actively towed by one or more fishing vessels across the seabed and consisting of a net having a cone- or pyramid-shaped body (as trawl body) closed at the back by a codend which is horizontally opened by otter boards in contact with the bottom or in the case of two vessels by the distance between the vessels;

(g) *Danish seine* means encircling and towed gear, operated from one or more vessels by means of two long ropes (seine ropes) designed to herd the fish towards the opening of the seine. The gear made up of net, which is similar to a bottom trawl in design and size, comprises two long wings, a body and a codend.

[19] OJ L 318, 7.12.1984, p. 23.

(h) *Beam trawl* means gear with a trawl net open horizontally by a steel or wooden tube, the beam, and netting with ground chains, chain mats or tickler chains, actively towed on the bottom by the vessel engine.

(i) *Pelagic trawl* means gear which is towed by one or more fishing vessels in midwater and consisting of a net with large meshes in the front section which herd the catch towards the net aft sections which are constructed in small mesh, for which the fishing depth is controlled by means of a net sounder and the horizontal opening is controlled by otter boards which normally do not touch the seabed.

*(*j) Pelagic and industrial species means herring, mackerel, sprat, blue whiting, Norway pout, sandeel or horse mackerel.

CHAPTER II

TECHNICAL CONSERVATION MEASURES

Article 3

Obligation to land all catches

1. By way of derogation from Article 19(1) of Regulation 850/98 all catches of the fish stocks listed in Annex I shall be brought and retained on board the fishing vessels and landed in accordance with the timeline set out in that Annex, except if the discarded fish of such stocks have high survival rate or where the burden to fishermen of having to extract the unwanted species from the catch for separate treatment is unreasonably high.

2. Notwithstanding paragraph 1, and by way of derogation from Article 19(1) of Regulation 850/98 when fishing with gears having a mesh size equal to or less than 32 mm all catches of stocks, including stocks to which the obligation to land does not apply, shall be brought and retained on board the fishing vessels and landed.

3. Paragraph 1 shall not apply to fishing with pots or creels.

4. The Commission shall be empowered to adopt delegated acts to amend Annex I on the basis of advances in scientific information or where the burden to fishermen proves to be disproportionate to the benefits. Those delegated acts shall be adopted in accordance with Article 16.

Article 4

Special conditions for quota management

1. All catches of stocks referred to in Article 3 made by Union fishing vessels shall be counted against the quotas applicable to the flag Member State for the stock or group of stocks in question, irrespective of the place of landing.

2. Member States shall ensure that quota is available for fishing vessels operating in the Skagerrak for any stocks subject to the obligation to land what they may catch, taking account of the likely catch composition of the vessels.

3. Member States shall ensure that fishing vessels flying their flag retaining on board fish for which the Member State has no quota shall return to port.

Article 5

Handling of juvenile fish

1. Where a minimum conservation reference size is set for a stock subject to Article 3, the sale of catches of that stock below the minimum conservation reference size shall be restricted for reduction to fish meal, pet food or other non-human consumption products only, or for charitable purposes.

2. The minimum conservation reference sizes for stocks in the Skagerrak are listed in Annex II.

3. The Commission shall be empowered to adopt delegated acts to amend Annex II on the basis of advances of scientific information. Those delegated acts shall be adopted in accordance with Article 16.

Article 6

Specifications of fishing gears

1. The carrying on board or the use of any demersal trawl, Danish seine, beam trawl or similar towed net having a mesh size of less than 120 mm is prohibited.

2. By way of derogation from paragraph 1:

(a) Gears having the same selectivity characteristics as the ones set out in paragraph 1 confirmed by experimental fishing trips or assessment from the Scientific, Technical and Economic Committee for Fisheries (STECF) may be used.

(b) Trawls with minimum mesh sizes of less than 32 mm may be used provided the catch on board contains more than 50 % of one or more pelagic or industrial species.

3. The Commission shall be empowered to adopt implementing acts to decide on the gears, including the selection devices attached to those gears, which may be used as having the characteristics of equivalent selectivity to the gears set out in paragraph 1.

Those implementing acts shall be adopted in accordance with Article 17.

Article 7

Restrictions on the use of gear

1. Fishing vessels operating in the Skagerrak shall only use one fishing gear during any given fishing trip.

2. By way of derogation from paragraph 1, fishing vessels may use any combination of fishing gears specified in Article 6(1) and Article 6(2)(a).

3. Vessels referred to in paragraphs 1 may retain on board more than one gear provided that they shall stow the unused nets in accordance with Article 47 of Regulation (EC) No 1224/2009.

Article 8

Fishing trips carried out in Skagerrak and other areas

1. By way of derogation from Articles 4, 15, 19(1), 35, 36, 37 of Regulation (EC) No 850/98 this Chapter shall also apply to areas other than the Skagerrak for the whole fishing trip of a vessel.

2. Paragraph 1 shall apply to other areas only where that vessel fishes in the Skagerrak and in the other area any time during the same fishing trip.

CHAPTER III

CONTROL MEASURES

Article 9

Relationship with other Regulations

The control measures provided for in this Chapter shall apply in addition to those provided for in Regulation (EC) No 1005/2008, Regulation (EC) No 1006/2008 and Regulation (EC) No 1224/2009 and save where otherwise provided for in the Articles of this Chapter.

Article 10

Prior notification

1. By way of derogation from Article 17 of Regulation (EC) No 1224/2009, masters of Union fishing vessels retaining on board fish stocks subject to Article 3 of this Regulation shall notify the competent authorities of their flag Member State of the information listed in Article 17(1) of Regulation (EC) No 1224/2009 two hours before entering into port.

2. By way of derogation from Article 1 of Commission Regulation (EC) No 1010/2009[20], masters of third country fishing vessels retaining on board fish stocks subject to Article 3 of this Regulation shall notify the competent authorities of the Member State whose port they wish to use of the information listed in Article 6(1) of Regulation (EC) No 1005/2008 two hours before entering into port.

[20] OJ L 280, 27.10.2009, p. 5.

Article 11

Remote Electronic Monitoring

1. Member States shall operate a Remote Electronic Monitoring (REM) system for monitoring of fishing activities of the fishing vessels flying their flag and operating in the Skagerrak.

2. A fishing vessel of 12 metres' length overall or more shall have installed on board a fully functioning REM system that consists of a sufficient number of closed circuit TV (CCTV) cameras on board, GPS and sensors to be allowed to leave port.

3. Paragraph 2 shall be applied in accordance with the following timeline:

(a) as from 1 January 2014 to Union fishing vessels of 15 metres' length overall or more;

(b) as from 1 July 2015 to Union fishing vessels of 12 metres' length overall or more.

4. The Commission shall be empowered to adopt implementing acts on the following aspects of the REM: reliability of the system, system specifications, data to be recorded and processed, monitoring the use of the REM, or any other elements necessary for the functionality of the system.

Those implementing acts shall be adopted in accordance Article 17.

Article 12

Control and inspection plan

1. Member States shall establish a control and inspection measures in accordance with Annex III to ensure compliance with the conditions referred to in this Regulation within six months from the entry into force of this Regulation.

2. The control and inspection measures shall be included in the national control action programme as provided for in Article 46 of Regulation (EC) 1224/2009 that is applicable to the multiannual plan for cod stocks laid down in Regulation (EC) 1342/2008[21].

Article 13

Transit

Fishing vessels transiting the Skagerrak with fish retained on board caught in areas other than the Skagerrak shall lash and stow the nets in accordance with Article 47 of Regulation (EC) No 1224/2009.

CHAPTER IV

REVIEW

[21] OJ L 348, 24.12.2008, p. 20.

Article 14

Member States reporting

Member States concerned shall report to the Commission on the implementation of this Regulation in the third year after the entry into force of this Regulation and then every third year thereafter.

Article 15

Evaluation of the plan

The Commission shall, on the basis of the reports from Member States referred to in Article 14 and in conjunction with scientific advice, evaluate the impact of the measures on the stocks and fisheries concerned in the year following that in which it receives the reports.

CHAPTER V

PROCEDURAL PROVISIONS

Article 16

Exercise of delegated powers

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The powers to adopt delegated acts as referred to in Articles 3(4) and 5(3) shall be conferred on the Commission for an indeterminate period of time.

3. The delegation of power referred to in Articles 3(4) and 5(3) may be revoked at any time by the European Parliament or by the Council. A decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

5. A delegated act adopted pursuant to Articles 3(4) and 5(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of 2 months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by 2 months at the initiative of the European Parliament or the Council.

Article 17

Committee procedure

1. The Commission shall be assisted by the Committee for Fisheries and Aquaculture established by Article 30 of Regulation (EC) No 2371/2002. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

CHAPTER VI

AMENDMENTS

Article 18

Amendments to Regulation (EC) No 850/98

Regulation (EC) No 850/98 is amended as follows:

1. The word "Skagerrak" is deleted from Articles 4()a)(ii), 35 and from the heading of Annex IV.

2. Article 38 is deleted.

3. The heading of Annex X.B is replaced by the following:

"B. CONDITIONS FOR USE OF CERTAIN COMBINATIONS OF MESH SIZE IN KATTEGAT"

Article 19

Amendments to Regulation (EC) No 1342/2008

Regulation (EC) No 1342/2008 is amended as follows:

1. In Article 11(1), the following second subparagraph is added:

"The fishing effort regime referred to in the first subparagraph shall not apply to the Skagerrak from 1 January 2013."

2. In Article 12(5), the following second subparagraph is added:

"Where the Skagerrak is excluded from the fishing effort regime pursuant to Article 11(1) second subparagraph, the fishing effort that can be associated with the Skagerrak, and which contributed to establishment of the baseline effort, shall no longer be taken into account for the purpose of establishing the maximum allowable fishing effort."

CHAPTER VII
DEROGATIONS

Article 20

Derogation from Regulation (EC) No 847/96

1. By way of derogation from

(a) Article 3(3) of Regulation 847/1996 , when more than 75 % of a quota for a stock subject to Article 3 has been utilized before 31 October of the year of its application, the Member State to which such a quota has been allocated may request the Commission's permission to land additional quantities of fish of the same stock to be deducted from the quota of that stock in the following year indicating the additional quantity required (borrowing), and

(b) Article 4(2) of Regulation 847/1996, a Member State to which a relevant quota has been allocated may ask the Commission, before 31 October of the year of application of the quota, to withhold a part of its quota to be transferred to the following year (banking).

The quantities referred to in paragraphs (a) and (b) shall not exceed

(i) in 2013 20 % of the appropriate quota,

(ii) in 2014 15 % of the appropriate quota and

(iii) from 2015 10 % of the appropriate quota.

2. The additional quantity borrowed in accordance with paragraph 1 shall not be considered as exceeding permitted landings for the purposes of the deductions set out in Article 105 of Regulation 1224/2009.

CHAPTER VIII
FINAL PROVISIONS

Article 21

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

This Regulation shall apply from 1 January 2013.

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

Done at Brussels,

For the European Parliament
The President

For the Council
The President

Annex I

List of species to be progressively included in the obligation to land

Name	***Scientific name***	***Start date of application***
Cod	*Gadus morhua*	1 January 2013
Haddock	*Melanogrammus aeglefinus*	1 January 2013
Herring	*Clupea harengus*	1 January 2013
Mackerel	*Scomber scombrus*	1 January 2013
Northern Prawn	*Pandalus borealis*	1 January 2013
Saithe	*Pollachius virens*	1 January 2013
Sprat	*Sprattus sprattus*	1 January 2013
Whiting	*Merlangius merlangus*	1 January 2013
Hake	*Merluccius merluccius*	1 January 2013
Ling	*Molva molva*	1 January 2013
Monkfish	*Lophius piscatorius.*	1 January 2013
Pollack	*Pollachius pollachius*	1 January 2013
Grenadier	*Coryphaenoides rupestris*	1 January 2013
Blue Ling	*Molva dypterygia*	1 January 2013
Tusk	*Brosme brosme*	1 January 2013
Plaice	*Pleuronectes platessa*	1 January 2015
Witch	*Glyptocephalus cynoglossus*	1 January 2015
Long rough dab	*Hippoglossoides platessoides*	1 January 2015
Blue Whiting	*Micromesistius poutassou*	1 January 2015
Norway pout	*Trisopterus esmarkii*	1 January 2015
Argentine	*Argentina spp.*	1 January 2015
Sole	*Solea solea*	1 January 2015
Nephrops	*Nephrops norvegicus*	1 January 2015
Brill	*Scophthalmus rhombus*	1 January 2015
Dab	*Limanda limanda*	1 January 2015
Turbot	*Scophthalmus maximus*	1 January 2015
Lemon Sole	*Microstomus kitt*	1 January 2015
Sandeel	*Ammodytidae*	1 January 2015

Horse Mackerel	*Trachurus trachurus*	1 January 2015
Rays (other than those listed in the fishing opportunities regulations as having to be released)	*Raja spp.*	1 January 2015
Flounder	*Platichthys flesus*	1 January 2015
Catfish/Wolfish	*Anarhichas lupus*	1 January 2015
Greater Forkbeard	*Phycis blennoides*	1 January 2015
Lumpsucker	*Cyclopterus lumpus*	1 January 2015
Redfish spp	*Sebastes spp.*	1 January 2015

Annex II

Minimum conservation reference size

Species	Minimum conservation reference sizes
Cod *(Gadus Morhua)*	30 cm
Haddock (*(Melanogrammus aeglefinus)*	27 cm
Whiting *(Merlangus merlangus)*	23 cm
Saithe *(Polachius virensis)*	30 cm
Herring *(Clupea harengus)*	18 cm
Mackerel *(Scomber spp.)*	20 cm
Hake *(Merluccius merluccius)*	30 cm
Ling *(Molva molva)*	63cm
Blue ling *(Molva dipterygia)*	70cm
Pollack *(Pollachius pollachius)*	30cm
Plaice *(Pleuronectes platesus)*	27 cm
Sole *(Solea spp.)*	24 cm
Horse mackerel *(Trachurus spp.)*	15 cm

ANNEX III

Control and inspection measures

1. For the purposes of control and inspection to verify the level of compliance with Articles 3 and 5, the national control and inspection measures shall include reference at least to the following:

(a) requirements of full catch sampling at sea and in port;

(b) analysis of all data listed in Article 109(2)(a) and (b) of Regulation (EC) No 1224/2009;

(c) use of sensors attached to the gears;

(d) use of remote electronic monitoring (REM) that consists of closed circuit TV (CCTV), GPS and sensors;

(e) reference fleet for the main fisheries in Skagerrak, either by the use of REM or observers;

(f) a scientific sampling program on discards covering all the main fisheries in Skagerrak.

2. For the purposes of control and inspection to verify the level of compliance with Articles 6, 7 and 8, the national control and inspection measures shall include reference at least to the following:

(a) the allocated human and technical means;

(b) the inspection strategy, including the level of inspections at sea and land and of surveillance.

3. Baselines for inspection

The Member States concerned shall assign the highest risk level to fisheries carried out in the Skagerrak in their risk management system established in accordance with Article 5(3) of Regulation (EC) No 1224/2009. A separate risk factor shall be established for vessels fishing in the Skagerrak and other Union waters during the same fishing trip and they shall also be assigned to the highest risk level.