

**COUNCIL REGULATION (EC) No 2347/2002
of 16 December 2002**

establishing specific access requirements and associated conditions applicable to fishing for deep-sea stocks

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission ⁽¹⁾,

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

Whereas:

- (1) Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture ⁽³⁾ requires the Council to adopt, in the light of the available scientific advice and, in particular, of the report prepared by the Scientific, Technical and Economic Committee for Fisheries, the measures necessary to ensure the rational and responsible exploitation of resources on a sustainable basis, and the conditions of access to resources.
- (2) Scientific advice concerning certain stocks of fish found in the deep sea indicates that these stocks are vulnerable to exploitation, and that fishing opportunities for these stocks should be limited or reduced in order to assure their sustainability.
- (3) Scientific advice further indicates that management of fishing effort is an appropriate method for securing the precautionary management of the stocks in the deep sea.
- (4) It is therefore appropriate to provide for the issuing of a special fishing permit to vessels fishing for deep-sea species and to limit the fishing effort for those fish stocks to recent levels.
- (5) Accurate and up-to-date information about fishing operations is a prerequisite for provision of high quality scientific advice, and such information can best be collected by trained and independent scientific observers in collaboration with the fishing industry and other interested parties.

- (6) Appropriate, verifiable and up-to-date information for scientific advice about fisheries and the marine environment should be made available to the relevant scientific and management bodies as soon as possible.
- (7) In order to ensure effective and precautionary management of fishing effort directed at deep-sea species, it is necessary to identify the vessels fishing for these species, by means of special fishing permits issued in accordance with Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing permits ⁽⁴⁾ and Commission Regulation (EC) No 2943/95 of 20 December 1995 setting out detailed rules for applying Council Regulation (EC) No 1627/94 ⁽⁵⁾.
- (8) Control measures additional to those laid down in Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy ⁽⁶⁾ and in Commission Regulation (EC) No 1489/97 of 29 July 1997 laying down detailed rules for the application of Council Regulation (EEC) No 2847/93 as regards satellite-based vessel monitoring systems ⁽⁷⁾ are required to ensure compliance with the measures laid down in this Regulation.
- (9) The measures necessary for implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for exercise of implementing powers conferred on the Commission ⁽⁸⁾,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

This Regulation applies to Community fishing vessels carrying out fishing activities in ICES (International Council for the Exploration of the Sea) sub-areas I to XIV inclusive, and Community waters of CECAF areas 34.1.1, 34.1.2, 34.1.3 and 34.2 which lead to catches of species listed in Annex I.

⁽¹⁾ OJ C 151 E, 25.6.2002, p. 184.

⁽²⁾ Opinion delivered on 10 October 2002 (not yet published in the Official Journal).

⁽³⁾ OJ L 389, 31.12.1992, p. 1. Regulation as last amended by Regulation (EC) No 1181/98 (OJ L 164, 9.6.1998, p. 1).

⁽⁴⁾ OJ L 171, 6.7.1994, p. 7.

⁽⁵⁾ OJ L 308, 21.12.1995, p. 15.

⁽⁶⁾ OJ L 261, 20.10.1993, p.1. Regulation as last amended by Regulation (EC) No 2846/98 (OJ L 358, 31.12.1998, p. 5).

⁽⁷⁾ OJ L 202, 30.7.1997, p.18. Regulation as last amended by Commission Regulation (EC) No 2445/1999 (OJ L 298, 19.11.1999, p. 5).

⁽⁸⁾ OJ L 184, 17.7.1999, p. 23.

Article 2

Definitions

For the purpose of this Regulation, the following definitions shall apply:

- (a) 'deep-sea species' means species included in the list in Annex I;
- (b) 'deep-sea fishing permit' means a special fishing permit for deep-sea species issued in accordance with Article 7 of Regulation (EC) No 1627/94;
- (c) 'power' means the total installed engine power of vessels in kilowatt, measured in accordance with Council Regulation (EEC) No 2930/86, of 22 September 1986, defining characteristics for fishing vessels ⁽¹⁾;
- (d) 'volume' means gross tonnage, measured in accordance with Regulation (EEC) No 2930/86;
- (e) 'kilowatt-fishing days' means the product of the power as defined in (c) and the number of days in which a fishing vessel has any item of fishing gear deployed in the water.

Article 3

Deep-sea fishing permit

1. Member States shall ensure that fishing activities which lead to catches and retention on board of more than 10 tonnes each calendar year of deep-sea species by vessels flying their flag and registered in their territory shall be subject to a deep-sea fishing permit.

It shall however be prohibited to catch and retain on board, tranship or to land any aggregate quantity of the deep-sea species in excess of 100 kg in each sea trip, unless the vessel in question holds a deep-sea fishing permit.

2. Upon a request of a Member State specific measures may be laid down to take account of seasonal or artisanal fisheries.

3. Detailed rules for the application of paragraph 2 shall be adopted in accordance with the procedure referred to in Article 11(2).

Article 4

Effort restriction

1. Member States shall calculate the aggregate power and the aggregate volume of its vessels which, in any one of the years 1998, 1999 or 2000, have landed more than 10 tonnes of any mixture of the deep-sea species.

These aggregate values shall be communicated to the Commission.

Upon written request by the Commission, Member States shall provide within thirty days, documentation of the catch records made by vessels to which deep-sea fishing permits have been granted.

2. Each Member State can only issue deep-sea fishing permits to its vessels if:

- (a) the aggregate power of those vessels does not exceed the aggregate power determined in accordance with paragraph 1, and/or

- (b) the aggregate volume of those vessels does not exceed the aggregate volume determined in accordance with paragraph 1.

Article 5

Reporting of fishing gear characteristics and fishing operations

In addition to his obligations under Article 6 of Regulation (EEC) No 2847/93, the master of a Community fishing vessel holding a deep-sea fishing permit shall record in the logbook or in a form provided by the flag Member State the information listed in Annex III.

Article 6

Vessel monitoring system

1. Notwithstanding Article 6(2) of Regulation (EC) No 1489/97, in the event of technical failure or non-functioning of the satellite tracking device fitted on board a fishing vessel, the master of the vessel shall report its geographical situation to the flag and coastal Member States every two hours.

2. After the sea trip has concluded, the vessel must not leave the port until the satellite tracking device is functioning to the satisfaction of the competent authorities.

3. Repeated instances of non-compliance with the obligations laid down in paragraphs 1 and 2 shall be considered as conduct that seriously infringes the Common Fisheries Policy, according to Council Regulation (EC) 1447/1999, of 24 June 1999, establishing a list of types of behaviour which seriously infringe the rules of the Common Fisheries Policy ⁽²⁾.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure referred to in Article 11(2).

Article 7

Designated ports

1. As from 1 March 2003 it shall be prohibited to land any quantity of any mixture of deep-sea species in excess of 100 kg at any place other than the ports which have been designated for landing deep-sea species.

2. Each Member State shall designate ports into which any landing of deep-sea species in excess of 100 kg shall take place and shall determine the associated inspection and surveillance procedures, including the terms and conditions for recording and reporting the quantities of deep-sea species within each landing.

3. Each Member State shall transmit to the Commission within 60 days of the date of entry into force of this Regulation a list of designated ports and, within 30 days thereafter, the associated inspection and surveillance procedures referred to in paragraph 2.

The Commission shall transmit this information to all other Member States.

⁽¹⁾ OJ L 274, 25.9.1986, p. 1. Regulation as amended by Regulation (EC) No 3259/94 (OJ L 339, 29.12.1994, p. 11).

⁽²⁾ OJ L 167, 2.7.1999, p. 5.

*Article 8***Observers**

1. Each Member State shall assign scientific observers to the fishing vessels for which a deep-sea fishing permit has been issued in accordance with a sampling plan as provided for in paragraph 2.

2. Each Member State shall prepare a sampling plan for the deployment of observers and sampling at port that shall ensure collection of representative data that are adequate for the assessment and management of the deep-sea fish stocks.

The sampling plan shall be approved by the Commission on the basis of a scientific and statistical evaluation within six months after the entry into force of this Regulation.

3. Detailed rules for the application of paragraphs 1 and 2 shall be adopted in accordance with the procedure referred to in Article 11(2).

4. The scientific observer shall:

- (a) record independently in a logbook the information referred to in Article 5;
 - (b) present a report to the competent authorities of the Member State concerned within 20 days following the termination of the observation period. A copy of this report shall be sent to the Commission, within 30 days after receipt of a written request;
 - (c) perform additional duties as required in the sampling plan.
5. The scientific observer shall not be any of the following:
- (a) a relative of the master of the vessel or other officer serving on the vessel to which the observer is assigned;
 - (b) an employee of the master of the vessel to which he is assigned;
 - (c) an employee of the master's representative;
 - (d) an employee of a company controlled by the master or his representative;
 - (e) a relative of the master's representative.

*Article 9***Information**

In addition to the obligations laid down in Articles 15 and 19i of Regulation (EEC) No 2847/93, Member States, on the basis of the information recorded in logbooks including full records

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

Done at Brussels, 16 December 2002.

of fishing days out of port and reports presented by the scientific observers, shall communicate, for each half calendar year within three months of the expiry of that half calendar year, to the Commission the information about catches of deep-sea species and fishing effort deployed, expressed as kilowatt-fishing days, broken down by quarter of the year, by type of gear, by species, as well as information concerning those in Annex II and by ICES statistical rectangle or CECAF subdivision.

The Commission shall transmit this information to the relevant scientific bodies without delay.

*Article 10***Follow-up**

The Commission will submit to the European Parliament and to the Council a report on the overall scheme for managing deep-water species before 30 June 2005. On the basis of this report, the Commission will propose to the Council any necessary amendments to this scheme.

*Article 11***Committee procedure**

1. The Commission shall be assisted by the Committee established by Article 17 of Council Regulation (EEC) No 3760/92.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its rules of procedure.

*Article 12***Entry into force**

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

It shall apply from 1 of January 2003.

For the Council

The President

M. FISCHER BOEL

ANNEX I

List of deep-sea species

Scientific name	Common name
<i>Aphanopus carbo</i>	Black scabbardfish
<i>Apristuris</i> spp.	Iceland catshark
<i>Argentina silus</i>	Greater silver smelt
<i>Beryx</i> spp.	Alfonsinos
<i>Centrophorus granulosus</i>	Gulper shark
<i>Centrophorus squamosus</i>	Leafscale gulper shark
<i>Centroscyllium fabricii</i>	Black dogfish
<i>Centroscymnus coelepis</i>	Portuguese dogfish
<i>Coryphaenoides rupestris</i>	Roundnose grenadier
<i>Dalatias licha</i>	Kitefin shark
<i>Deania calceus</i>	Birdbeak dogfish
<i>Etmopterus princeps</i>	Greater lanternshark
<i>Etmopterus spinax</i>	Velvet belly
<i>Galeus melastomus</i>	Blackmouth dogfish
<i>Galeus murinus</i>	Mouse catshark
<i>Hoplostethus atlanticus</i>	Orange roughy
<i>Molva dypterygia</i>	Blue ling
<i>Phycis blennoides</i>	Forkbeards
<i>Centroscymnus crepidater</i>	Longnose velvet dogfish
<i>Scymnodon ringens</i>	Knifetooth dogfish
<i>Hexanchus griseus</i>	Six-gilled shark
<i>Chlamydoselachus anguineus</i>	Frilled shark
<i>Oxynotus paradoxus</i>	Sailfin roughshark (Sharpback shark)
<i>Somniosus microcephalus</i>	Greenland shark

ANNEX II

Additional list of deep sea-species referred to in Article 9

Scientific name	Common name
<i>Pagellus bogaraveo</i>	Red (blackspot) seabream
<i>Chimaera monstrosa</i>	Rabbit fish (Rattail)
<i>Marcrourus berglax</i>	Roughhead grenadier (Rough rattail)
<i>Mora moro</i>	Common mora
<i>Antimora rostrata</i>	Blue antimora (Blue hake)
<i>Epigonus telescopus</i>	Black (Deep-water) cardinal fish
<i>Helicolenus dactylopterus</i>	Bluemouth (Blue mouth redfish)
<i>Conger conger</i>	Conger eel
<i>Lepidopus caudatus</i>	Silver scabbard fish (Cutlass fish)
<i>Alepocephalus bairdii</i>	Baird's smoothhead
<i>Lycodes esmarkii</i>	Eelpout
<i>Raja hyperborea</i>	Arctic skate
<i>Sebastes viviparus</i>	Small redfish (Norway haddock)
<i>Hoplostethus mediterraneus</i>	Silver roughy (Pink)
<i>Trachyscorpia cristulata</i>	Spiny (Deep-sea) scorpionfish
<i>Raja nidarosiensis</i>	Norwegian skate
<i>Chaecon (Geryon) affinis</i>	Deep-water red crab
<i>Raja fyllae</i>	Round skate
<i>Hydrolagus mirabilis</i>	Large-eyed rabbit fish (Ratfish)
<i>Rhinochimaera atlantica</i>	Straightnose rabbitfish
<i>Alepocephalus rostratus</i>	Risso's smoothhead
<i>Polyprion americanus</i>	Wreckfish

ANNEX III

Information concerning fishing gear characteristics and fishing operations referred to in Article 5

1. For vessels using long-lines:
 - the average number of hooks used on the long-lines,
 - the total time the lines have been in the sea in any 24-hour period and the number of shots in this period,
 - fishing depths.
 2. For vessels using fixed nets:
 - the mesh size used in the nets,
 - the average length of the nets,
 - the average height of the nets,
 - the total time the nets have been in the sea in a 24-hour period and the total number of hauls in this time,
 - fishing depths.
 3. For vessels using towed gear:
 - the size of the mesh used in the nets,
 - the total time the nets have been in the sea in a 24-hour period and the total number of hauls in this time,
 - fishing depths.
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