Commission Regulation (EU) No 237/2010 of 22 March 2010 laying down detailed rules for the application of Council Regulation (EC) No 1342/2008 establishing a long-term plan for cod stocks and the fisheries exploiting those stocks

COMMISSION REGULATION (EU) No 237/2010

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to 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[(1)], and in particular Article 32 thereof,

Whereas:

(1) Regulation (EC) No 1342/2008 establishes in Article 32 that detailed rules may be adopted for the application of Articles 11(3), 14, 16 and 17 of that Regulation.

(2) Certain groups of vessels may be excluded from the fishing effort regime laid down in Chapter III of Regulation (EC) No 1342/2008 on the basis of the advice of the Scientific, Technical and Economic Committee for Fisheries (STECF) referred to in Article 11(2) of that Regulation. It is appropriate to provide for a procedure and requirements so that Member States submit the information necessary to allow the STECF to assess whether the conditions for exclusion have been and remain fulfilled. It is particularly important that the information submitted by Member States be sufficiently detailed and is accompanied by supporting evidence.

(3) The information submitted by Member States concerning the fulfilment of conditions laid down in Article 11(2) of Regulation (EC) No 1342/2008 should indicate a group of vessels that can be clearly distinguished from the other vessels in the effort group concerned and the specific activities or technical characteristics of that group of vessels that account for its cod catches not exceeding 1,5 % of its total catches.

(4) Article 14 of Regulation (EC) No 1342/2008 requires Member States to ensure that for each of the areas set out in Annex I to that Regulation the total capacity of vessels with special fishing permits is not greater than the total capacity in 2006 or 2007. Detailed rules for the calculating and adjusting of the maximum capacity levels are needed, in particular with regard to the treatment of capacity removed with public aid, or transferred between geographical areas in accordance with Article 16 of that Regulation.

(5) In order to ensure controllability, detailed requirements and formats need to be laid down for the special fishing permits to be issued to vessels fishing with regulated gear

Changes to legislation: *There are currently no known outstanding effects for the Commission Regulation (EU) No 237/2010. (See end of Document for details)*

in the geographical areas subject to the fishing effort regime, and for the lists of vessels for which special fishing permits have been issued.

(6) Detailed rules need to be laid down to enable Member States to adapt the maximum allowable fishing effort by Member States pursuant to Article 16 of Regulation (EC) No 1342/2008 or following transfers of effort across effort groups pursuant to Article 17 of that Regulation. Such rules should specify the procedures and calculation methods to be applied by the Member States.

(7) Using electronic means of exchanging information simplifies procedures, makes them more efficient and transparent and saves time. In order to fully exploit these advantages while ensuring secure communication, and with a view to setting up a common computer system for the management of data on the deployment of the fishing effort by Community fishing vessels, it is necessary to specify the format for each document and to provide a detailed description of the information such documents should contain.

(8) The measures provided for in this Regulation are in accordance with the opinion of the Committee for Fisheries and Aquaculture,

HAS ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER AND DEFINITIONS

Article 1

Subject matter

This Regulation lays down detailed rules for the application of Articles 11(3), 14, 16 and 17 of Regulation (EC) No 1342/2008.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply in addition to the definitions laid down in Article 2 of Regulation (EC) No 1342/2008:

(a) ‘group of vessels’ means one or more vessels belonging to an effort group which can be clearly and unambiguously distinguished from other vessels in the same effort group on the basis of activities or technical characteristics that account for their low cod catches;

(b) ‘fishing season’ means the period running from 1 February of one year to 31 January of the following year;

(c) ‘regulated gear’ means any gear belonging to a gear grouping referred to in point 1 of Annex I to Regulation (EC) No 1342/2008.

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CHAPTER II

GROUPS OF VESSELS EXCLUDED FROM THE FISHING EFFORT REGIME

Article 3

Request for exclusion

1 For the purpose of excluding a group of vessels from the fishing effort regime pursuant to Article 11(2) of Regulation (EC) No 1342/2008, Member States shall send the Commission a request for exclusion supported by information demonstrating that the group of vessels concerned will comply with the condition laid down in Article 11(2)(b) of Regulation (EC) No 1342/2008 and justifying how the condition provided for in Article 11(2)(c) of that Regulation is satisfied.

2 The request shall be sent in electronic form and in accordance with the requirements set out in Annex I. Complete requests received at least 1 month before a STECF plenary meeting will be sent to STECF for assessment in that meeting. Requests received thereafter can be sent to STEFC for assessment at the subsequent meeting.

3 Where a group of vessels is excluded from the fishing effort regime pursuant to Article 11(2) of Regulation (EC) No 1342/2008, the fishing effort that can be associated with the activity or technical characteristics of this group, 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.

4 Where a group of vessels is re-included in the effort regime on the basis of Article 11(2) of Regulation (EC) No 1342/2008, the fishing effort allocated to the effort group concerned will be adjusted taking into account the annual effort adjustments that have taken place since the establishment of the baseline effort for that effort group.

5 Where a vessel no longer complies with the requirements specified in the decision on exclusion, in particular concerning activities or technical characteristics of the group of vessels, the Member State shall count the effort deployed by that vessel during the fishing season against the maximum allowable fishing effort.

Article 4

Annual report

1 Each Member State shall send to the Commission, by 31 March of each year, a report on the activities carried out during the preceding fishing season by the group or groups of vessels flying its flag which have been excluded from the effort regime in accordance with Article 11(2) of Regulation (EC) No 1342/2008. The report shall show that the condition set out in Article 11(2)(b) and specified in the decision on exclusion has been complied with during that season.

2 The report shall show how the activities or technical characteristics of groups of vessels which have been excluded from the fishing effort regime pursuant to Article 11(2) of Regulation (EC) No 1342/2008 are controlled and monitored to ensure that all vessels of that group comply with the condition for exclusion set out in Article 11(2)(b) and specified in the decision on exclusion.

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3 The report referred to in paragraph 1 shall be sent in accordance with the requirements set out in Tables 1 and 3 of Annex I. By way of derogation from the requirements set out in that Annex, the data in the annual report shall be limited to the previous fishing season.

4 The annual report shall include the list of vessels with Community Fleet Register number that belonged to the excluded group of vessels during the previous fishing season. This information shall be included in Table 1.

CHAPTER III

FISHING PERMITS

Article 5

Special fishing permits

1 The special fishing permits referred to in Article 14(2) of Regulation (EC) No 1342/2008 shall indicate the gear groupings and geographical areas for which they are issued.

2 For vessels fishing with regulated gear, in any geographical area which form part of a group of vessels that has been excluded from the application of the fishing effort regime pursuant to Article 11(2) of Regulation (EC) No 1342/2008, the special fishing permit shall indicate the activity or technical characteristics for which exclusion has been granted and the conditions applying to such exclusion.

3 The form and content of the list of vessels holding a special fishing permit, as referred to in Article 14(4) of Regulation (EC) No 1342/2008, shall comply with Annex II. Member States shall keep the list updated by recording changes to the number of vessels included in it or to the special fishing permits issued, within 20 working days from such change.

4 Member States shall provide the Commission and other Member States with the link to the relevant page of their official website on which the list of the vessels holding a special fishing permit is published. Member States shall inform the Commission and other Member States of any changes to that link within 20 working days from such change.

5 Member States shall ensure that all data concerning the lists of vessels holding special fishing permits and any changes to those lists are duly archived. The archived information shall be made available to the Commission upon its request.

Article 6

Maximum fishing capacity

1 The maximum capacity referred to in Article 14(3) of Regulation (EC) No 1342/2008 shall be calculated as a maximum capacity in kW deployed by the vessels that have been authorised to fish during the period 2006 or 2007 with a regulated gear in any of the geographical areas referred to in Annex I to Regulation (EC) No 1342/2008, and have made use of such an authorisation.

2 Within 1 month after the entry into force of this Regulation, Member States shall send to the Commission in electronic form and in accordance with the requirements set out in Annex III:

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a the list of the vessels and corresponding capacity expressed in kW, used to establish the maximum capacity in accordance with paragraph 1, for each of the geographical areas;

b the reference year concerned.

3 The maximum capacity for each of the areas calculated in accordance with paragraph 1 shall be adjusted:

a by deducting the capacity of vessels that were subject to the permanent cessation of fishing activities with public aid after the date of entry into force of this Regulation; and/or

b in accordance with any capacity transfers carried out pursuant to Article 16(3) of Regulation (EC) No 1342/2008.

4 Member States shall inform the Commission within 20 working days, of any decision to adapt the maximum capacity, by providing the Commission with an updated version of the information in accordance with Table 2 of Annex III.

CHAPTER IV

ADAPTATIONS TO THE MAXIMUM ALLOWABLE FISHING EFFORT

Article 7

Fishing effort adaptation in relation to quota management

1 Member States may adapt their maximum allowable fishing effort for a certain effort group through transfer of fishing effort from the same effort group of another Member State in accordance with Article 16(1)(a) of Regulation (EC) No 1342/2008. The adaptation shall be valid for one fishing season only.

2 Where a Member State discontinues a quota exchange in accordance with Article 16(2) of Regulation (EC) No 1342/2008, that Member State may increase its maximum allowable fishing effort for the effort group or effort groups to which the recovered quota will be allocated by a number of kW-days corresponding to the quota recovered. That number of kW-days shall not exceed the amount calculated on the basis of the catch per unit effort (cpue) of the effort group or groups concerned.

3 The Member State returning the quota referred to in paragraph 2 shall reduce its maximum allowable fishing effort in the effort group or groups that previously fished for that quota. The fishing effort to be deducted shall correspond to the number of the kW-days no more needed to fish the quota returned. That number of kW-days shall be calculated on the basis of cpue of the effort group or groups concerned.

4 The amount of fishing effort by which the maximum allowable fishing effort is increased or decreased in accordance with paragraph 2 or 3 shall be taken into account for the purpose of establishing the maximum allowable fishing effort in accordance with Article 12 of Regulation (EC) No 1342/2008.