COUNCIL REGULATION (EC) No 423/2004
of 26 February 2004
establishing measures for the recovery of cod 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,

Having regard to the opinion of the European Parliament [1],

Whereas:

(1) Recent scientific advice from the International Council for the Exploration of the Sea (ICES) has indicated that a number of cod stocks in Community waters have been subjected to levels of mortality by fishing which have eroded the quantities of mature fish in the sea to the point at which the stocks may not be able to replenish themselves by reproduction and that these stocks are therefore threatened with collapse.

(2) These stocks are cod in the Kattegat, the North Sea, including the Skagerrak and the eastern Channel, to the west of Scotland and in the Irish Sea.

(3) Measures need to be taken to establish multi-annual plans for the recovery of these stocks.

(4) It is expected that recovery of these stocks under the conditions of this Regulation will take between five and 10 years.

(5) The objective of the plan concerning such measures should be considered to be achieved for a stock when, for two consecutive years, the quantity of mature cod has been greater than that decided upon by managers as being within safe biological limits.

(6) In order to achieve that objective, the fishing mortality rates should be controlled so that it is highly likely that the quantities of mature fish in the sea increase from year to year.

(7) Such control of fishing mortality rates can be achieved by establishing an appropriate method for the establishment of the level of the total allowable catches (TACs) of the stocks concerned, and a system whereby fishing effort on those stocks is constrained to levels so that the TACs are unlikely to be exceeded.

(8) Once recovery has been achieved, the Commission should propose, and the Council should decide upon, follow-up measures in accordance with Article 6 of 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].

(9) Control measures in addition 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 [3] are required to ensure compliance with the measures laid down in this Regulation,

HAS ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER AND DEFINITIONS

Article 1

Subject-matter

This Regulation establishes a recovery plan for the following cod stocks (hereinafter referred to as 'depleted cod stocks'):

(a) cod in the Kattegat;

(b) cod in the North Sea, in the Skagerrak and the eastern Channel;

(c) cod to the west of Scotland;

(d) cod in the Irish Sea.

Article 2

Definitions of geographical areas

For the purposes of this Regulation, the following definitions of geographical areas shall apply:

(a) 'Kattegat' means that part of division III a, as delineated by ICES, that is bounded on the north by a line drawn from the Skagen lighthouse to the Tistlarna lighthouse, and from this point to the nearest point on the Swedish coast, and on the south by a line drawn from Hasenore to Gnibens Spids, from Korshage to Spodsbjerg and from Gilbjerg Hoved to Kullen;

(b) 'North Sea' means ICES subarea IV and that part of ICES division III a not covered by the Skagerrak and that part of ICES division II a which lies within waters under the sovereignty or jurisdiction of Member States;

[1] Opinion of 23 October 2003 (not yet published in the Official Journal).

[2] OJ L 358, 31.12.2002, p. 59.

[3] OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 1954/2003 (OJ L 289, 7.11.2003, p. 1).

(c) 'Skagerrak' means that part of ICES division III a bounded on the west by a line drawn from the Hanstholm lighthouse to the Lindesnes lighthouse and on the south by a line drawn from the Skagen lighthouse to the Tistlarna lighthouse and from that point to the nearest point on the Swedish coast;

(d) 'eastern Channel' means ICES division VII d;

(e) 'Irish Sea' means ICES division VII a;

(f) 'west of Scotland' means ICES division VI a and that part of ICES division V b which lies within waters under the sovereignty or jurisdiction of Member States.

CHAPTER II

TARGET LEVELS

Article 3

Purpose of the recovery plan

The recovery plan referred to in Article 1 shall aim to increase the quantities of mature fish to values equal to or greater than the target levels specified in the following table:

Stock	Target levels in tonnes
Cod in the Kattegat	10 500
Cod in the North Sea, Skagerrak and eastern Channel	150 000
Cod to the west of Scotland	22 000
Cod in the Irish Sea	10 000

Article 4

Reaching of target levels

Where the Commission finds, on the basis of advice from ICES and following agreement on that advice by the Scientific Technical and Economic Committee for Fisheries (STECF), that for two consecutive years the target level for any cod stock concerned has been reached, the Council shall decide by qualified majority on a proposal from the Commission to remove that stock from the scope of this Regulation and to establish a management plan for that stock in accordance with Article 6 of Regulation (EC) No 2371/2002.

CHAPTER III

TOTAL ALLOWABLE CATCHES

Article 5

Setting of TACs

A TAC shall be set in accordance with Article 6 where the quantities of mature cod have been estimated by the STECF, in the light of the most recent report of ICES, to be equal to or above the minimum levels specified in the following table:

Stock	Minimum levels in tonnes
Cod in the Kattegat	6 400
Cod in the North Sea, Skagerrak and eastern Channel	70 000
Cod to the west of Scotland	14 000
Cod in the Irish Sea	6 000

Article 6

Procedure for setting TACs

1. Each year, the Council shall decide by qualified majority, on the basis of a proposal from the Commission, on a TAC for the following year for each of the depleted cod stocks.

2. The TACs shall not exceed a level of catches which a scientific evaluation, carried out by the STECF in the light of the most recent report of the ICES, has indicated will result in an increase of 30 % in the quantities of mature fish in the sea at the end of the year of their application, compared to the quantities estimated to have been in the sea at the start of that year.

3. The Council shall not adopt a TAC whose capture is predicted by the STECF, in the light of the most recent report of the ICES, to generate in its year of application a fishing mortality rate greater than the following values:

Concerned fish stock	Fishing mortality rate
Cod in the Kattegat	0,60
Cod in the North Sea, Skagerrak and eastern Channel	0,65
Cod to the west of Scotland	0,60
Cod in the Irish Sea	0,72

4. Where it is expected that application of paragraph 2 will result in a quantity of mature fish at the end of the year of application of the TAC in excess of the quantity indicated in Article 3, the Commission shall carry out a review of the recovery plan and propose any adjustments necessary on the basis of the latest scientific evaluations. Such a review shall in any event be carried out by 16 March 2007.

5. Except for the first year of application of this Article:

(a) where the rules provided for in paragraphs 2 or 4 would lead to a TAC which exceeds the TAC of the preceding year by more than 15 %, the Council shall adopt a TAC which shall not be more than 15 % greater than the TAC of that year; or

(b) where the rules provided for in paragraphs 2 or 4 would lead to a TAC which is more than 15 % less than the TAC of the preceding year, the Council shall adopt a TAC which is not more than 15 % less than the TAC of that year.

6. Paragraphs 4 or 5 shall not apply when their application would entail an exceeding of the values laid down in paragraph 3.