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# COMMUNICATION FROM THE COMMISSION

## Guidelines for the deduction of quotas under Article 105(1), (2) and (5) of Regulation (EC) No 1224/2009

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When the Commission has established that a Member State has exceeded its allocated quotas, it shall, pursuant to Article 105(1) of Regulation (EC) No 1224/2009, operate deductions from future quotas of that Member State.

According to Article 105(2), in case of overfishing of a quota available to a Member State in a given year, deductions shall be operated in the following year or years from the annual quota of that Member State.

If a deduction according to Article 105(1) and (2) cannot be operated on the overfished quota because that quota is not, or not sufficiently, available to the Member State concerned, pursuant of the Article 105(5) deductions may be operated, after consulting the Member State concerned, in the following year or years quotas from other stocks or groups of stocks available to that Member State in the same geographical area, or with the same commercial value.

With a view to facilitate a transparent and consistent application of these provisions in conformity with the principle of equal treatment, the Commission wants to render public the principles by which it will be guided in the deductions of quotas.

The Commission, when applying Article 105(1), (2) and (5) of Regulation (EC) No 1224/2009, will be guided by the following principles:

(1) The totality of the deduction (hereinafter "payback"), including the amounts resulting from applicable multiplying factors, is due in the year following the overfishing.

(2) If the payback is larger than the quota available, the deduction will be operated to the full extent of the available quota in the year following the overfishing. The remaining deductions will be operated on the quotas available in the year or, if necessary, the years after, until the full overfished amount (including the amounts resulting from applicable multiplying factors) is paid back.

(3) By way of derogation from point 2 above, a slower payback (namely, a 50/50 rate over two years or a payback as a percentage of the amount due spread over more than two years) may be exceptionally possible if one of the following conditions is fulfilled:

   (a) Where the fish is sustainably managed on the basis of the relevant scientific advice for the stock concerned; or

   (b) Where the stock concerned is caught in a mixed fishery and a significant loss of quota would produce excessive discards of the species concerned or of its associated species in the mixed fishery catch; or

   (c) Where specific international rules (such as those of Regional Fisheries Management Organisations) pertaining to paybacks for the stock concerned provide for slower paybacks over two years or more.

(4) If it is not possible to operate deductions on the overfished stock in the year following the overfishing because the Member State concerned has no quota available, the deduction will be operated on other stocks in the same geographical area or with the same commercial value, as prescribed by the Control Regulation. Such stocks will be identified on the basis of the following criteria

(a) Deductions will be operated on stocks in the same geographical area according to Article 105(5) and preferably fished by the same fleet that overfished the quota;

(b) Where more than one stock fulfils the criteria of (a), preference will be given to deductions from the quota of stocks which are in the worst conservation status on the basis of the relevant scientific advice. .

(5) By way of derogation from paragraphs 2 and 4, the Commission may in any event operate deductions on other stocks in accordance with Article 105(5) when deductions from other stocks would entail avoiding discards in a mixed fishery.