



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 10.1.2006  
COM(2005) 714 final

2006/0002 (CNS)

Proposal for a

**COUNCIL REGULATION**

**establishing a management plan for fisheries exploiting stocks of plaice and sole in the  
North Sea**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

The objective of the proposal is to manage the fisheries exploiting the stocks of plaice and sole such that the stocks of plaice and sole in the North Sea are rebuilt to within safe biological limits, and that the stocks of sole and plaice are exploited sustainably thereafter

- **General context**

Plaice and sole have been fished together using beam-trawls for many decades in the southern North Sea. Since the mid-1950s the fishing mortality rate experienced by the plaice stock has risen more than two-fold, but the plaice stock has declined and landings, after a short-lived increase in the mid-1980s, has returned to the same level as in the late 1960s. In the same period the fishery for sole showed a similar trend.

- **Existing provisions in the area of the proposal**

Plaice and sole fisheries in the North Sea are subject to the provisions of annual regulations concerning fishing opportunities (Total Allowable Catches and effort limits). The latest of these is Council Regulation (EC) No 27/2005 of 22 December 2004 fixing for 2005 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required. Fishing is also subject to 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, and Commission Regulation (EC) No 2056/2001 of 19 October 2001 establishing additional technical measures for the recovery of the stocks of cod in the North Sea and to the west of Scotland. However, there are no regulations concerning the long-term management of plaice and sole in this area.

This proposal is broadly similar to the Commission's proposal concerning the sole stocks in the Bay of Biscay and in the Western Channel (COM(2003) 819) in terms of the criteria for setting TACs and adjusting fishing mortality, and is similar in structure to Council Regulation (EC) No 423/2004 establishing measures for the recovery of cod stocks.

- **Consistency with other policies and objectives of the Union**

This proposal is designed in accordance with the objectives of the Common Fisheries Policy, the Biodiversity Action Plan and the Implementation Plan agreed at the 2002 World Summit on Sustainable Development.

## 2. CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

- **Consultation of interested parties**

Consultation methods, main sectors targeted and general profile of respondents

The North Sea Regional Advisory Council has been established as the principal forum for the Commission to consult the fisheries sector. Its membership includes representatives of the Commercial fishing sector, non-governmental organisations relevant to the marine environment, and the fish processing sector.

Summary of responses and how they have been taken into account

Stakeholders' inputs and the Commission's response are described in the foregoing section.

- **Collection and use of expertise**

Scientific/expertise domains concerned

Fisheries scientists in the fisheries research laboratories of Member States.

Methodology used

Committees of national experts working by consensus on the basis of national fisheries data.

Main organisations/experts consulted

The International Council for the Exploration of the Sea and the Scientific, Technical and Economic Committee for Fisheries.

Summary of advice received and used

The existence of potentially serious risks with irreversible consequences has been mentioned. There is no consensus on the existence of such risks.

The Community requests, each year, scientific advice on the state of important fish stocks from the International Council for the Exploration of the Sea (ICES) and the Scientific, Technical and Economic Committee for Fisheries (STECF).

These Committees have advised that plaice and sole are mainly caught together in mixed fisheries, and that the stock of plaice is at risk of reduced reproductive capacity, is at risk of being harvested unsustainably, and is overfished in relation to the highest yields that could be taken from the stock. A very large proportion of the plaice caught are discarded. In 2003 the Committees advised that a recovery plan for plaice was needed. In 2004 the advice was that the stock size should be rebuilt to above 230 000 t in 2006 (a 24% increase). A similar advice was provided in 2005.

The same Committees advised that sole in the North Sea are at full reproductive capacity at present, but are at risk of being harvested unsustainably. The stock is overfished with respect to the highest long-term yields that could be taken from the stock. ICES further advised a reduction in catch by 36% in order to maintain the sole within safe biological limits in 2007.

At current levels of fishing mortality the North Sea sole stock will fall outside safe biological levels in 2007.

Advice on long-term management from ICES indicates that at low target fishing mortalities (considerably lower than the present level), low risk to reproduction and high long-term yields are achieved simultaneously. The general pattern is that there is no conflict between the two objectives. A low fishing mortality will lead to high yield simultaneously with a low risk to reproduction that is lower than the 5-10% risk which has generally been considered acceptable by managers. Target fishing mortalities in the range 0.3 to 0.4 are considered appropriate. However, a fixed-TAC management method would eventually lead to lower yields and higher risks.

Means used to make the expert advice publicly available

Publication on internet and on Europa server

• **Impact assessment**

The plaice and sole fishing sector in the North Sea makes annual catches of around 18 000 t of sole and 72 000 t of plaice with a first-sale value of about EUR 300 million, of which about EUR 140 million from sales of plaice. The catching sector is made up of approximately 114 vessels from Belgium, 390 from the Netherlands, 11 beam trawlers from Denmark, 290 from Germany and 110 from the UK. Plaice are an important species also in the catches of 375 Danish trawlers under 24 m and 95 seiners. In the sector of seiners flying the Danish flag plaice makes up more than half the catch. Based on an average crew levels of approximately five per vessel, this implies some 4 500 jobs at sea are directly dependent on the sole and flatfish stocks, and a further 2 400 are dependent on plaice for a part of their income. Additional onshore employment in processing, handling, marketing and catering sectors depends on supplies of sole and plaice from the catching sector, but cannot be quantified at present.

An economic assessment made by STECF shows that recently the Danish fleets exploiting plaice were operating at a loss of between 5% and 23%. Belgian beam-trawlers were loss-making in 2002 and 2003. In the Netherlands large (over 24m) beam-trawlers were unprofitable in 2002 and 2003. Smaller beam-trawlers achieved an operating profit margin of only 2.9% to 3.3% between 2001 and 2004.

Continued fishing at current levels represents a substantial risk to the sustainability of the plaice stock, and therefore to about half of the value of this fishery. A loss of the plaice component of the landings would therefore seriously affect the viability of the entire sector. Some sectors, notably the Danish sector, are more dependent on plaice than on sole. Continued fishing at current levels also incurs unnecessary costs when fishing for sole, given that the same yields can be achieved with lower fishing effort. More economic rent from the fishery can be obtained if fishing pressures are reduced, and there are therefore both economic benefits and conservation benefits to reducing fishing mortality. Given that the fleets exploiting plaice and sole operate either at a loss or with a very low profit margin, measures to restore profitability are urgently needed, quite apart from their conservation merits.

### **3. LEGAL ELEMENTS OF THE PROPOSAL**

- **Summary of the proposed action**

Proposal of a management plan ensuring sustainable exploitation of plaice and sole stocks in the North Sea.

- **Legal basis**

The legal basis for this proposal is Article 6 of Regulation (EC) No 2371/2002, which provides for the establishment of a management plan covering fisheries exploiting a mixture of stocks, with the objective of ensuring the management of the stocks within safe biological limits. The wider objectives of the Common Fisheries Policy are defined in Article 2 of the Common Fisheries Policy and include ensuring the exploitation of living aquatic resources that provides sustainable economic, environmental and social conditions.

- **Subsidiarity principle**

The proposal falls under the exclusive competence of the Community. The subsidiarity principle therefore does not apply.

- **Proportionality principle**

The proposal complies with the proportionality principle for the following reason(s).

The proposed action is as simple as is necessary for effective action and for consistency with Regulation (EC) No 2371/2002

This proposal has no direct financial implications concerning the Community budget; the proposal develops appropriate use of existing management instruments in order to reach required conservation goals.

- **Choice of instruments**

Proposed instruments: Regulation.

Other means would not be adequate for the following reason(s).

A regulation is the legislative instrument that is compatible with the requirements of a management plan under Article 6 of Regulation (EC) No 2371/2002.

**4. BUDGETARY IMPLICATION**

The proposal has no implication for the Community budget.

**5. ADDITIONAL INFORMATION**

- **Review/revision/sunset clause**

The proposal includes a review clause.

Proposal for a

## **COUNCIL REGULATION**

**establishing a management plan for fisheries exploiting stocks of plaice and sole in the North Sea**

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<sup>1</sup>,

Having regard to the opinion of the European Parliament<sup>2</sup>,

Whereas:

- (1) Recent scientific advice from the International Council for the Exploration of the Sea (ICES) has indicated that the stock of plaice in the North Sea has been subjected to a fishing mortality rate which has exceeded the level determined by ICES as consistent with the precautionary approach to fisheries management, and the stock is at risk of being harvested unsustainably.
- (2) Advice from a committee of experts examining multiannual management strategies indicates that the highest yield of sole can be obtained at a fishing mortality rate of 0.2<sup>3</sup>.
- (3) 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<sup>4</sup> provides for the establishment of a management plan that covers fisheries exploiting a mixture of stocks.
- (4) A large part of the catches of plaice in the North Sea are taken together with catches of sole. The management of plaice cannot be addressed independently of the management of the fishery for sole.
- (5) Measures need to be taken to establish a multi-annual management plan for the stocks of plaice and sole in the North Sea, in conformity with Article 6 of Council Regulation (EC) No 2371/2002.

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

<sup>3</sup> SEC(2004) 1209, 1.10.2004.

<sup>4</sup> OJ L 358, 31.12.2002, p. 59.

- (6) The objective of the management plan should be to ensure exploitation of North Sea plaice and sole that provides sustainable economic, environmental and social conditions.
- (7) Regulation (EC) No 2371/2002 requires *inter alia* that to achieve the objectives of the Common Fisheries Policy, the Community is to apply the precautionary approach in taking measures to protect and conserve stocks, to provide for their sustainable exploitation and to minimise the impact of fishing on marine ecosystems. The Community aims at a progressive implementation of an ecosystem-based approach to fisheries management, which contributes to efficient fishing activities within an economically viable and competitive fisheries industry. The present Regulation should aim at providing a fair standard of living for those who depend on fishing plaice and sole in the North Sea taking into account the interests of consumers.
- (8) Control of the fishing mortality rates can be achieved by establishing an appropriate method for the establishment of the level of Total Allowable Catches (TACs) of the stocks concerned, and a system including limitations on permissible days at sea whereby fishing efforts on those stocks are restricted to levels at which the TACs and planned fishing mortality rates are unlikely to be exceeded.
- (9) Control measures, in addition to or by derogation from those laid down in Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the Common Fisheries Policy<sup>5</sup> and Commission Regulation (EEC) No 2807/83 of 22 September 1983 laying down detailed rules for recording information on Member States' catches of fish<sup>6</sup>, need to be provided for in order to ensure compliance with the measures laid down in the present Regulation.
- (10) The Scientific, Technical and Economic Committee for Fisheries has advised that the precautionary biomass for the stock of plaice in the North Sea should be 230 000 t; that the fishing mortality rate necessary to produce the highest yield from the stock of plaice in the North Sea in the long term is 0.3, that the precautionary biomass for the stock of sole in the North Sea should be 35 000 t,

HAS ADOPTED THIS REGULATION:

## **CHAPTER I**

### **Subject-matter and objective**

#### *Article 1*

#### **Subject-matter**

1. This Regulation establishes a management plan for fisheries exploiting the stocks of plaice and sole in the North Sea ('the management plan').

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<sup>5</sup> OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 768/2005 (OJ L 128, 21.5.2005, p. 1).

<sup>6</sup> OJ L 276, 10.10.1983, p. 1. Regulation as last amended by Regulation (EC) No 1804/2005 (OJ L 290, 4.11.2005, p. 10).



2. For the purposes of this Regulation, “North Sea” shall mean the area of the sea delineated by the International Council for the Exploration of the Sea as Sub-area IV.

#### *Article 2*

#### **Objective of the Management plan**

1. The management plan shall ensure the sustainable exploitation of the stocks of plaice and sole in the North Sea.
2. The objective provided for in paragraph 1 shall be attained while maintaining the fishing mortality rate on plaice in the North Sea at a rate equal to or no lower than 0.3.
3. The objective provided for in paragraph 1 shall be attained while maintaining the fishing mortality rate on sole in the North Sea at a rate equal to or no lower than 0.2.

## **CHAPTER II Total Allowable Catches**

#### *Article 3*

#### **Setting of Total Allowable Catches (TACs)**

1. Each year, the Council shall decide, by qualified majority on the basis of a proposal from the Commission, on the Total Allowable Catches (TACs) for the following year for the stocks of plaice and sole in the North Sea.
2. The TAC for plaice shall be set in accordance with Article 4.
3. The TAC for sole shall be set in accordance with Article 5.

#### *Article 4*

#### **Procedure for setting the TAC for plaice**

1. The Council shall set the TAC for plaice at that level which, according to a scientific evaluation carried out by Scientific Technical and Economic Committee for Fisheries (STECF), is the higher of the following:
  - (a) that TAC whose application would result in a 10% reduction in the fishing mortality rate in its year of application compared to the fishing mortality rate estimated for the preceding year;
  - (b) that TAC whose application would result in a fishing mortality rate of 0.3 on ages 2 to 4 in its year of application.

2. Where the application of paragraph 1 would result in a TAC which exceeds the TAC of the preceding year by more than 15%, the Council shall set a TAC which is 15% greater than the TAC of that year.
3. Where the application of paragraph 1 would result in a TAC which is more than 15% less than the TAC of the preceding year, the Council shall set a TAC which is 15% less than the TAC of that year.

#### *Article 5*

#### **Procedure for setting the TAC for sole**

1. The Council shall set a TAC for sole at that level which, according to a scientific evaluation carried out by STECF, is the higher of the following:
  - (a) that TAC whose application would result in the same proportionate change in the fishing mortality rate on sole as is generated by the application of Article 4(1) concerning plaice;
  - (b) that TAC whose application would result in a fishing mortality rate of 0.2 in its year of application;
  - (c) that TAC whose application would result in a 10% reduction in the fishing mortality rate in its year of application compared to the fishing mortality rate estimated for the preceding year.
2. Where the application of paragraph 1 would result in a TAC which exceeds the TAC of the preceding year by more than 15%, the Council shall set a TAC which is 15% greater than the TAC of that year.
3. Where the application of paragraph 1 would result in a TAC which is more than 15% less than the TAC of the preceding year, the Council shall set a TAC which is 15% less than the TAC of that year.

### **CHAPTER III Fishing effort limitation**

#### *Article 6*

#### **Fishing effort limitation**

1. The TACs referred to in Chapter II of the present Regulation shall be complemented by a system of fishing effort limitation based on the geographical areas and groupings of fishing gear, and the associated conditions for the use of the fishing opportunities set out in Annex IVa to Council Regulation (EC) No 27/2005<sup>7</sup>.

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<sup>7</sup> OJ L 12, 14.1.2005, p. 1.

2. Each year, the Council shall decide by a qualified majority, on the basis of a proposal from the Commission, on the maximum number of days at sea available for Community fishing vessels deploying beam trawl gear of mesh size equal to or greater than 80 mm and subject to the system of fishing effort limitation referred to in paragraph 1.
3. The annual adjustment of the maximum number of days referred to in paragraph 2 of this Article shall be in the same proportion as the annual adjustment in fishing mortality rate provided for in accordance with Article 5(1).
4. In the event that it is necessary for the recovery or management of living aquatic resources other than plaice or sole, the Council shall decide by a qualified majority on the basis of a proposal from the Commission on a lower number of days at sea than is provided for by the application of paragraph 3.

## **CHAPTER IV**

### **Monitoring, inspection and surveillance**

#### *Article 7*

##### **Effort messages**

Articles 19b, to 19e and Article 19j of Regulation (EEC) No 2847/93 shall apply to Community fishing vessels subject to the provisions of Article 6 of the present Regulation.

#### *Article 8*

##### **Margin of tolerance**

1. By way of derogation from Article 5(2) of Regulation (EEC) No 2807/83, the permitted margin of tolerance, in estimation of quantities in kilograms live weight retained on board of Community fishing vessels that have been present in the North Sea shall be 8% of the figure entered in the logbook. In the event that no conversion factor is laid down in Community legislation, the conversion factor adopted by the Member State whose flag the vessel is flying shall apply.
2. Paragraph 1 shall not apply concerning a species of aquatic organism if the quantity of that species retained on board is less than 50 kg.

#### *Article 9*

##### **Weighing of landings**

The competent authorities of a Member State shall ensure in respect of landings made by any Community fishing vessel that has been present in the North Sea that:

- (a) all quantities of plaice and sole landed by any Community fishing vessel carrying on board any quantity of plaice exceeding 500 kg or of sole exceeding 300 kg are weighed;
- (b) the weighing of plaice and sole is carried out in the presence of controllers and before transportation from the point of landing and before first sale;
- (c) weighing is undertaken using scales that have been certified as accurate within a reasonable margin of tolerance by the competent authorities of the Member State.

#### *Article 10*

##### **Prior notification**

1. The master of a Community fishing vessel that has been present in the North Sea and that carries on board more than 500 kg of plaice or more than 300 kg of sole shall, prior to any entry of his vessel into port or to any landing location of a Member State, inform the competent authorities of that Member State at least four hours in advance of such entry, of:
  - (a) the name of the port or landing location;
  - (b) the estimated time of arrival at that port or landing location;
  - (c) the quantities in kilograms live weight of all species of which more than 50 kg is retained on board.
2. The notification provided for in paragraph 1 may also be made by a representative of the master of the Community fishing vessel.
3. The master of a Community fishing vessel that has been present in the North Sea and who wishes to tranship any quantity of plaice or sole retained on board or to land any quantity of plaice or sole in a port or a landing location of a third country shall inform the competent authorities of the flag Member State at least 24 hours prior to transhipping or to landing in a third country, of the information provided for in paragraph 1.

#### *Article 11*

##### **Separate stowage of plaice and sole**

1. When quantities of plaice or of sole greater than 50 kg are stowed on board a Community fishing vessel that has been present in the North Sea, it shall be prohibited to retain on board that vessel in any container any quantity of plaice or of sole mixed with any other species of marine organisms.
2. Containers holding plaice or sole shall be stowed separately from other containers.

3. The masters of Community fishing vessels that have been present in the North Sea shall give inspectors of Member States such assistance as will enable the quantities entered in the logbook and the catches of plaice and of sole retained on board to be cross-checked.

#### *Article 12*

### **Transport of plaice and sole**

By way of derogation from Article 13 of Regulation (EEC) No 2847/93, quantities bigger than 100 kg of any mixture of plaice and sole which are transported to a place other than that of landing or import shall be accompanied by a copy of one of the declarations provided for in Article 8(1) of that Regulation pertaining to the quantities of plaice and sole transported. The exemption provided for in Article 13(4)(b) of Regulation (EEC) No 2847/93 shall not apply.

#### *Article 13*

### **Specific monitoring programme**

By way of derogation from Article 34c(1) of Regulation (EEC) No 2847/93, the specific monitoring programmes for the stocks of plaice and sole in the North Sea may last for more than two years from their date of entry into force.

## **CHAPTER V**

### **Follow-up**

#### *Article 14*

### **Evaluation of management measures**

1. The Commission shall, on the basis of advice from the STECF, evaluate the impact of the management measures on the stocks of plaice and sole in the North Sea and the fisheries on those stocks, in the second year of application of this Regulation and in each of the following years.
2. The Commission shall seek scientific advice from the STECF on the progress towards the targets of the management plan in the third year of application of this Regulation and each third successive year of application of this Regulation. The Commission shall, if appropriate, propose relevant measures, and the Council shall decide by qualified majority on alternative measures to achieve the objective provided for in Article 2.

*Article 15*

**Special Circumstances**

In the event that the STECF advises that either or both the spawning stock size of plaice or that of sole is suffering reduced reproductive capacity, the Council shall decide by qualified majority on the basis of a proposal from the Commission on a TAC for plaice that is lower than that provided for in Article 4, on a TAC for sole that is lower than that provided for in Article 5, and on a number of days at sea that is lower than that provided for in Article 6.

**CHAPTER VI**  
**Final provision**

*Article 16*

**Entry into force**

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

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

Done at Brussels, [...]

*For the Council*  
*The President*  
[...]