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COMMISSION DECISION

of 22 July 2008

establishing a specific control and inspection programme related to the cod stocks in the Kattegat, the North Sea, the Skagerrak, the eastern Channel, the waters west of Scotland and the Irish Sea

(notified under document number C(2008) 3633)

(2008/620/EC)

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establishing a specific control and inspection programme related to the cod stocks in the Kattegat, the North Sea, the Skagerrak, the eastern Channel, the waters west of Scotland and the Irish Sea

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy ⁽¹⁾, in particular Article 34c(1) thereof,

Whereas:

- (1) Council Regulation (EC) No 423/2004 of 26 February 2004 establishing measures for the recovery of cod stocks ⁽²⁾, establishes measures for the recovery of cod stocks in the Kattegat, the North Sea, the Skagerrak, the eastern Channel, the waters west of Scotland and the Irish Sea and rules on monitoring, control and surveillance of cod fisheries in those areas.
- (2) Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy ⁽³⁾ provides for control activities by the Commission and Member States and for the cooperation between Member States to ensure compliance with the rules of the Common Fisheries Policy.
- (3) To ensure the success of the recovery measures for the cod stocks in the North Sea, the Skagerrak, the Kattegat, the west of Scotland, the eastern Channel and the Irish Sea, it is necessary to establish a specific control and inspection programme directed to the fisheries exploiting those stocks.
- (4) The specific control and inspection programme should be established for a period of three years. The results obtained by the application of the specific control and inspection programme should be periodically evaluated by the Member States concerned in cooperation with the Community Fisheries Control Agency (hereinafter referred to as CFCA) set up by Council Regulation (EC) No 768/2005 ⁽⁴⁾.

⁽¹⁾ OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 1098/2007 (OJ L 248, 22.9.2007, p. 1).

⁽²⁾ OJ L 70, 9.3.2004, p. 8.

⁽³⁾ OJ L 358, 31.12.2002, p. 59. Regulation as amended by Regulation (EC) No 865/2007 (OJ L 192, 24.7.2007, p. 1).

⁽⁴⁾ OJ L 128, 21.5.2005, p. 1.

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- (5) Joint inspection and surveillance activities should be carried out in accordance with joint deployment plans established by the CFCA.
- (6) The measures provided for in this Decision have been established in concert with the Member States concerned.
- (7) The measures provided for in this Decision are in accordance with the opinion of the Management Committee for Fisheries and Aquaculture,

HAS ADOPTED THIS DECISION:

Article 1

Subject matter

This Decision establishes a specific control and inspection programme to ensure the harmonised implementation of the measures established by Regulation (EC) No 423/2004 for the recovery of cod stocks in the Kattegat, the North Sea, the Skagerrak, the eastern Channel, the waters west of Scotland and the Irish Sea.

Article 2

Scope

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The specific control and inspection programme referred to in Article 1 shall apply for 4 years and cover:

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- (a) fishing activities by vessels subject to effort limitations and associated conditions in the areas referred to in Article 1;
- (b) all related activities including the landing, weighing, marketing, transport and storage of fishery products and the recording of landing and sales.

Article 3

Definitions

For the purposes of this Decision, the definitions laid down in Article 3 of Regulation (EC) No 2371/2002 and Article 2 of Regulation (EC) No 423/2004 shall apply.

Article 4

National control and inspection programmes

1. Belgium, Denmark, Germany, France, Ireland, the Netherlands, Sweden and the United Kingdom shall establish national control and inspection programmes, in conformity with the common rules set out in Annex I, as regards the activities listed in Article 2.

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2. National control and inspection programmes shall contain all the data and specifications listed in Annex II.

3. The Member States referred to in paragraph 1 shall make available to the Commission, by 15 October 2008, their national control and inspection programme and the implementation schedule. The schedule shall include details as regards human and material resources allocated and the periods and zones where they are to be deployed.

4. Thereafter, the Member States referred to in paragraph 1 shall notify an updated implementation schedule to the Commission every year and no later than 15 days before the date of commencement of its implementation.

*Article 5***Cooperation between Member States**

All Member States shall cooperate with the Member States referred to in Article 4(1) for the implementation of the specific control and inspection programme.

*Article 6***Member State surveillance and inspection activities**

1. A Member State that intends to conduct surveillance and inspect fishing vessels in the waters under the jurisdiction of another Member State, in the framework of a Joint Deployment Plan (hereinafter referred to as JDP) established in accordance with Article 12 of Regulation (EC) No 768/2005, shall notify its intentions to the contact point of the coastal Member State concerned, referred to in Article 3 of Commission Regulation (EC) No 1042/2006 ⁽¹⁾, and to the Community Fisheries Control Agency (hereinafter referred to as CFCA). The notification shall contain the following information:

- (a) type, name and call sign of the inspection vessels and inspection aircraft on the basis of the list referred to in Article 28(4) of Regulation (EC) No 2371/2002;
- (b) the areas, as referred to in Article 1, where the surveillance and inspection will be carried out;
- (c) the duration of the surveillance and inspection activities.

2. Surveillance and inspections shall be carried out in accordance with Annex I.

*Article 7***Joint inspection and surveillance activities**

The Member States referred to in Article 4(1) shall undertake joint inspection and surveillance activities in accordance with the joint deployment plan established by the CFCA on the basis of Article 12 of Regulation (EC) No 768/2005.

⁽¹⁾ OJ L 187, 8.7.2006, p. 14.

▼B*Article 8***Information**

The Member States referred to in Article 4(1) shall make available to the Commission by 31 January of each year the following information concerning the previous calendar year:

- (a) the inspection and surveillance tasks set out in Annex I;
- (b) the infringements, as referred to in Annex III, detected during that year, including for each infringement the flag of the vessel, the date and location of the inspection and the nature of the infringement; Member States shall indicate the nature of the infringement by references to the letter under which they are listed in Annex III;
- (c) the state of play concerning the follow-up of infringements, whether detected during that year or during previous years;
- (d) any relevant coordination and cooperation actions between Member States.

*Article 9***Evaluation**

1. Each of the Member States referred to in Article 4(1) shall, by 31 January of each year, draw up and send to the Commission and CFCA an evaluation report concerning the control and inspection activities carried out in the previous calendar year under the specific control and inspection programme laid down in this Decision and the national control and inspection programme referred to in Article 5.

2. The CFCA shall take into consideration the evaluation reports referred to in paragraph 1 in its annual assessment of the effectiveness of a Joint Deployment Plan as referred to in Article 14 of Regulation (EC) No 768/2005.

3. The Commission shall convene once a year a meeting of the Committee for Fisheries and Aquaculture to evaluate compliance with the specific control and inspection programme and the national control and inspection programmes.

*Article 10***Addressees**

This Decision is addressed to the Member States.

*ANNEX I***Inspection and surveillance tasks**

1. General inspection tasks

1.1. An inspection report shall be drawn up for each inspection. Inspectors shall in any case verify and note in their report the following information:

- (a) the details of the identity of the responsible persons, as well as those of the vessel or vehicles involved in the activities inspected;
- (b) the authorisation: licence, special fishing permit and fishing effort entitlement;
- (c) relevant vessel documentation such as logbooks, certifications of registration, vessel storage plans, records of notification and where applicable records of vessel monitoring system (VMS) manual reports;
- (d) all other relevant findings from the inspection done at sea, at port or at any step of the commercialisation process.

1.2. The findings referred to in point 1.1 shall be compared with the information made available to the inspectors by other competent authorities, including the VMS information, prior notifications and lists of vessels holding a special permit for fishing for cod in any of the areas defined in Article 1 of this Decision.

2. Inspection tasks at sea

Inspectors shall verify:

- (a) the quantities of fish retained on board in comparison with the quantities recorded in the logbook and the compliance with the margins of tolerance as referred to in Article 13 of Regulation (EC) No 423/2004;
- (b) the compliance of the gear used with the relevant requirements and the compliance with the provisions on twine thickness, minimum sizes for meshes and fish, net attachments and the marking and identification of passive gear;
- (c) the correct functioning of VMS equipment.

3. Inspection tasks at landing

Inspectors shall verify the following:

- (a) prior notification of landing including the information concerning the catch on board;
- (b) the completion of the logbook and landing declaration, including effort recording;
- (c) the actual quantities of fish on board, weight of cod and other species landed and the compliance with the margins of tolerance as referred to in Article 13 of Regulation (EC) No 423/2004;
- (d) the gear on board and the compliance with the provisions on twine thickness, minimum sizes for meshes and fish, net attachments and the marking and identification of passive gear;
- (e) where applicable, the compliance with the shut down procedures for VMS equipment.

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4. Inspection tasks concerning transports and marketing

Inspectors shall verify:

- (a) the relevant documents accompanying transport and check them against the physical quantities transported;
- (b) the compliance with grading and labelling requirements and minimum fish size requirements;
- (c) the documentation (logbook, landing declaration and sales notes), sorting and weighing of fish for the control of marketing provisions.

5. Tasks for aerial surveillance

Surveillance crew shall:

- (a) cross-check sightings against allocation of effort;
- (b) cross-check the area restrictions on fishing;
- (c) report on surveillance data for cross-checking purposes.



ANNEX II

Contents of national control programmes

National control programmes shall, *inter alia*, specify:

1. MEANS OF CONTROL

— Human means

Estimation of the numbers of shore-based and seagoing inspectors and the periods and zones where these are to be deployed.

— Technical means

Estimation of the numbers of patrol vessels and aircraft and the periods and zones where these are to be deployed.

— Financial means

Estimation of the budgetary allocation for deployment of human resources, patrol vessels and aircrafts.

2. DESIGNATION OF PORTS

List the designated ports into which any landings of cod in excess of two tonnes must take place.

3. EFFORT CONTROL

The system in place for allocation, monitoring and control of fishing effort, including:

- system in use to verify the track records of vessels allocated extra days,
- system in use to verify compliance with the by-catch restrictions placed upon vessels benefiting from extra days allocations or derogations,
- legislation and/or recommendation issued to industry on how to register their intended management period and gear category,
- legislation and/or recommendation issued to industry on how to register their intentions to use more than one gear category during a management period,
- a description of how effort data is managed and the structure of the database,
- system in use for the transfer of days,
- system in use for the allocation of extra days,
- system in use for the non-attribution of transit days,
- system in use to ensure that the equivalent capacity is withdrawn to allow vessels with no track record to fish in an area.

4. EFFORT REGIME

Associated conditions including:

- description of the hailing system in use,
- description of alternative control measures,
- system in place to ensure compliance with the pre-notification conditions,

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- description of the system to authorise landings,
- method of calculation of the margin of tolerance in the estimation of quantities.

5. INSPECTION PROTOCOLS

Protocols for inspections at landing, first sale, after first sale transport and inspections at sea.

6. GUIDELINES

Explanatory guidelines for inspectors, producers' organisations and fishermen.

7. COMMUNICATION PROTOCOLS

Protocols for communication with the competent authorities designated by other Member States as being responsible for the specific control and inspection programme for cod.

8. EXCHANGES OF INSPECTORS

Protocols for exchange of inspectors including specification of powers and authority of inspectors operating in each other's exclusive economic zone

9. SPECIFIC INSPECTION BENCHMARKS

Each Member State will set specific benchmarks. Such benchmarks should be communicated to all Member States concerned and revised periodically after analysing the results achieved. Inspection benchmark shall evolve progressively until the target benchmarks defined below are achieved.

Target benchmarks.

Not later than one month from the date of entry into force of this Decision, Member States shall implement their inspection schedules taking account of the targets set out below.

Member States shall specify and describe which sampling strategy will be applied.

The Commission shall have access on request to the sampling plan used by the Member State.

(a) Level of inspection in ports

As a general rule, the accuracy to be achieved should be at least equivalent to what would be obtained by a simple random sampling method, where inspections shall cover 20 % of all cod landings by weight in a Member State.

(b) Level of inspection of marketing

Inspection of 5 % of the quantities of cod offered for sale at auction.

(c) Level of inspection at sea

Flexible benchmark: to be set after a detailed analysis of the fishing activity in each area. Benchmarks at sea shall refer the number of patrol days at sea in the cod management areas, possibly with a separate benchmark for days patrolling specific areas.

(d) Level of aerial surveillance

Flexible benchmark: to be set after a detailed analysis of the fishing activity conducted in each area and taking the available resources at the Member State's disposal into consideration.

*ANNEX III***List of infringements as referred to in Article 7**

- A. Failure by the master of a fishing vessel to comply with the fishing effort limitations referred to in Article 2 of this Decision.
- B. Failure by the master or his authorised representative of a Community fishing vessel of an overall length equal to or greater than 10 metres carrying on board or using any gears for which special fishing permit is required in any of the areas defined in Article 1 of this Commission Decision to hold or keep a copy of the special fishing permit.
- C. Tampering with the satellite-based vessel monitoring system as referred to in Article 6 of Commission Regulation (EC) No 2244/2003 of 18 December 2003 laying down detailed provisions regarding satellite-based Vessel Monitoring Systems ⁽¹⁾.
- D. Falsifying or failing to record data in logbooks including effort reports, landing declarations and sales notes, takeover declarations and transport documents or failure to keep or submit those documents as referred to in Articles 6-19 of Regulation (EEC) No 2847/93, Articles 13 and 15 of Regulation (EC) No 423/2004.
- E. Failure by the master of a Community fishing vessel or his representative with more than one tonne of cod on board to comply with the prior notification rules laid down in Article 11 of Regulation (EC) No 423/2004.
- F. Landing more than two tonnes of cod by vessels outside the designated ports.

⁽¹⁾ OJ L 333, 20.12.2003, p. 17.