Proposal for a Council Regulation (EC) introducing additional conditions for year-to-year management of TACs and quotas

(94/C 382/04)

COM(94) 583 final — 94/0303(CCNS)

(Submitted by the Commisison on 9 December 1994)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas, in addition to the provisions listed in Article 4 (2) of Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture [1], it is necessary to lay down conditions for the pursuit of exploitation activities which would improve the mechanisms presently available by the introduction of the appropriate year to year flexibility in the management of total allowable catches (TACs) and quotas which, within certain limits, is compatible with conservation policies;

Whereas, pursuant to Article 8 of Regulation (EEC) No 3760/92, it is the role of the Council to establish the fishing availabilities to be allocated to Member States and to determine the conditions for adjusting these availabilities from one year to the next;

Whereas precautionary TACs apply to stocks for which no scientifically-based evaluation of fishing possibilities is available specifically for the year in which the TACs are to be set; whereas analytical TACs apply otherwise; whereas definiton of stocks subject to precautionary or analytical TACs is required;

Whereas under certain conditions, precautionary TACS and quotas for certain stocks may be revised upwards during the year with negligible danger of undermining the principle of rational and responsible exploitation of marine resources;

Whereas it is appropriate to encourage Member States to transfer part of their quotas of stocks subject to analytical TAC from one year to another within certain limits;

Whereas other stocks subject to either an analytical or a precautionary TAC may be known to be in a state of exploitation such that any increase in the TAC is undesirable;

Whereas overfishing of quotas should be penalized; whereas this can be achieved by imposing appropriate reductions in the following year's quota on the Member States responsible for the overfishing; whereas, in accordance with Article 23 of Regulation (EC) No 2847/93 of 12 October 1993, establishing a control system applicable to the common fisheries policy [2], the Council shall adopt rules by which the Commission may operate deductions from the quotas when overfishing has taken place in accordance with the objectives and management strategies set out in Council Regulation (EC) No . . . ./. ., and taking into acccount the degree of the overfishing, any cases of overfishing in the previous year, and the biological status of the resources concerned,

HAS ADOPTED THIS REGULATION:

Article 1

When fixing TACs in accordance with Article 8 of Regulation (EEC) No 3760/92, the Council shall decide which stocks are subject to a precautionary TAC and which stocks are subject to an analytical TAC.

Article 2

Precautionary TACs

1. When fixing TACs in accordance with Article 8 of Regulation (EEC) No 3760/92, the Council shall determine the stocks to which the provisions of this Article shall not apply.

2. When more than 75 % of a precautionary TAC has been utilized before 30 September of the year of its application, a Member State with a quota for the stock for which that TAC has been fixed may request an increase in the TAC. Such a request, accompanied by relevant supporting biological information and an indication of the magnitude of the revision, shall be addressed to the Commission. The Commission, within 30 working days, shall examine all the elements of the request with a view to presenting to the Council a proposal for an amendment of the regulation fixing TACs and quotas if it is found justified. The Member State shall be informed of the results of the examination.

[1] OJ No L 389, 31. 12. 1992, p. 1.

[2] OJ No L 261, 20. 10. 1993, p. 1.

3. When more than 75 % of a quota for a stock subject to a precautionary TAC has been utilized before 30 September of the year of its application, the Member State to which such a quota has been allocated may request permission to land additional quantities of fish of the same stock indicating the additional quantity required, this quantity not to exceed 20 % of the appropriate quota.

The request, to be addressed to the Commission, shall be admissible only if landings of the species covered by the quota have been banned at least once in the previous three years due to quota exhaustion. The Commission shall decide within 30 working days.

Article 3

Analytical TACs

1. The provisions of Article 2 (3) shall apply ***mutatis mutandis*** to stocks subject to an analytical TAC, except to those referred to in Article 4 (2).

2. For stocks subject to analytical TAC, except those referred to in Article 4 (2), a Member State to which a relevant quota has been allocated may ask the Commission, before 31 March of the year of application of the quota, to withhold a maximum of 20 % of its quota to be transferred to the following year.

The Commission shall increase the relevant quota for the following year by the quantity withheld, multiplied by 1,1, and inform the Member States thereof. This increase of the quota shall not be taken into account in the calculation of the percentages of quota referred to in this Regulation.

Article 4

Deductions

1. Except for the stocks referred to in paragraph 2, if a TAC is exceeded, all landings in excess of the respective quotas shall be deducted from the quotas of the same stock in the following year.

2. When fixing TACs in accordance with Article 8 of Regulation (EEC) No 3760/92, the Council shall determine the stocks subject to analytical TACs for which overfishing of a quota shall lead to deduction from the corresponding quota in the following year according to the following table:

Extent of the overfishing relative to the quota available	Deduction
Less than 5 %	Overfishing × 1,05
5 % to less than 10 %	Overfishing × 1,10
10 % to less than 20 %	Overfishing × 1,20
20 % to less than 40 %	Overfishing × 1,40
40 % to less than 60 %	Overfishing × 1,60
Greater than 60 %	Overfishing × 1,75

An additional 5 % of quota shall also be deducted for each successive year in which a quota is overfished.

The deductions shall be decided by the Commission in accordance with the procedure laid down in Article 36 of Regulation (EC) No 2847/93.

3. Deductions shall be without prejudice to Article 21 (4) of Regulation (EC) No 2847/93.

Article 5

This Regulation shall enter into force on 1 January 1995.

However, Article 4 (2) shall apply from 1 January 1996.

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