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**COUNCIL REGULATION (EC) No 1098/2007
of 18 September 2007**

establishing a multiannual plan for the cod stocks in the Baltic Sea and the fisheries exploiting those stocks, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 779/97

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COUNCIL REGULATION (EC) No 1098/2007
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establishing a multiannual plan for the cod stocks in the Baltic Sea and the fisheries exploiting those stocks, amending Regulation (EEC) No 2847/93 and repealing Regulation (EC) No 779/97

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) indicates that the cod stock in ICES Subdivisions 25 to 32 of the Baltic Sea has declined to levels where it is suffering from reduced reproductive capacity and that the stock is being harvested unsustainably.
- (2) Recent scientific advice from ICES indicates that the cod stock in ICES Subdivisions 22, 23 and 24 of the Baltic Sea is over-exploited and has reached levels where it is at risk of reduced reproductive capacity.
- (3) Measures need to be taken to establish a multiannual plan for fisheries management of the cod stocks in the Baltic Sea.
- (4) The objective of the plan is to ensure that Baltic cod stocks can be exploited under sustainable economic, environmental and social conditions.
- (5) 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⁾ requires, *inter alia*, that to achieve that objective, the Community is to apply the precautionary approach in taking measures to protect and conserve the stock, to provide for its sustainable exploitation and to reduce to a minimum the impact of fishing on marine ecosystems. It should aim at a progressive implementation of an ecosystem-based approach to fisheries management, and should contribute to efficient fishing activities within an economically viable and competitive fisheries industry, providing a fair standard of living for those who depend on fishing Baltic cod and taking the interests of consumers into account.

⁽¹⁾ Opinion of 7 June 2007 (not yet published in the Official Journal).

⁽²⁾ OJ L 358, 31.12.2002, p. 59.

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- (6) In order to achieve the objective, the Eastern stock must be rebuilt to safe biological limits and, for both stocks, levels must be ensured at which their full reproductive capacity is maintained and the highest long-term yields can be reached.
- (7) This can be achieved by establishing an appropriate method for gradually reducing the fishing effort in fisheries catching cod to levels that are consistent with the objective, and by fixing the total allowable catches (TACs) for the cod stocks at levels consistent with the fishing effort.
- (8) As catches of cod in the fisheries for herring and sprat and in gillnet and entangling-net fisheries for salmon are very limited, these fisheries should not be subject to the gradual reduction in fishing effort.
- (9) To ensure stability in the fishing possibilities, it is appropriate to limit the variation in the TACs from one year to the next.
- (10) An appropriate implementation of the control of fishing effort is to regulate the length of the periods when cod fishing is allowed. Member States may set common days when all Community vessels flying their flag are allowed to be absent from port.
- (11) Control measures are needed in addition to or by way of derogation from those laid down in Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing permits⁽¹⁾, Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy⁽²⁾ and Commission Regulation (EEC) No 2807/83 of 22 September 1983 laying down detailed rules for recording information on Member States' catches of fish⁽³⁾ in order to ensure compliance with the measures laid down in this Regulation.
- (12) During the first three years of its application, the multiannual plan should be deemed to be a recovery plan within the meaning of Article 5 of Regulation (EC) No 2371/2002.
- (13) ICES Subdivision 27 or 28 might be excluded from the provisions for the management of fishing effort due to minimal catches in these ICES Subdivisions.
- (14) The multiannual plan provided for in this Regulation replaces the existing arrangements on the management of fishing effort in the Baltic Sea. Therefore, Council Regulation (EC) No 779/97 of 24 April 1997, introducing arrangements for the management of fishing effort in the Baltic Sea⁽⁴⁾ should be repealed,

⁽¹⁾ OJ L 171, 6.7.1994, p. 7.

⁽²⁾ OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 1967/2006 (OJ L 409, 30.12.2006, p. 11).

⁽³⁾ 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).

⁽⁴⁾ OJ L 113, 30.4.1997, p. 1.

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HAS ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER, SCOPE AND DEFINITIONS

*Article 1***Subject matter**

This Regulation establishes a multiannual plan for the following cod stocks (hereinafter referred to as ‘the cod stocks concerned’) and the fisheries exploiting those stocks:

- (a) cod which inhabits Area A;
- (b) cod which inhabits Areas B and C.

*Article 2***Scope**

This Regulation shall apply to Community fishing vessels with an overall length equal to or greater than eight meters operating in the Baltic Sea and Member States bordering the Baltic Sea (hereinafter referred to as the ‘Member States concerned’). However, Article 9 shall apply to vessels with an overall length below eight meters operating in the Baltic Sea.

*Article 3***Definitions**

For the purposes of this Regulation, the following definitions shall apply in addition to those laid down in Article 3 of Regulation (EC) No 2371/2002 and Article 2 of Council Regulation (EC) No 2187/2005 of 21 December 2005 for the conservation of fishery resources through technical measures in the Baltic Sea, the Belts and the Sound ⁽¹⁾:

- (a) the International Council for the Exploration of the Sea (ICES) Divisions and Subdivisions are as defined in Council Regulation (EEC) No 3880/91 of 17 December 1991 on the submission of nominal catch statistics by Member States fishing in the north-east Atlantic ⁽²⁾;
- (b) ‘Baltic Sea’ means ICES Divisions IIIb, IIIc and IIId;
- (c) ‘total allowable catch (TAC)’ means the quantity that can be taken from each stock each year;
- (d) ‘VMS’ means vessel monitoring systems according to Commission Regulation (EC) No 2244/2003 of 18 December 2003 laying down detailed provisions regarding satellite-based Vessel Monitoring Systems ⁽³⁾ for vessels of any length;

⁽¹⁾ OJ L 349, 31.12.2005, p. 1.

⁽²⁾ OJ L 365, 31.12.1991, p. 1. Regulation as last amended by Commission Regulation (EC) No 448/2005 (OJ L 74, 19.3.2005, p. 5).

⁽³⁾ OJ L 333, 20.12.2003, p. 17.

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- (e) 'Area A' means ICES Subdivisions 22 to 24;
'Area B' means ICES Subdivisions 25 to 28;
'Area C' means ICES Subdivisions 29 to 32;
- (f) 'days absent from port' means any continuous period of 24 hours or part thereof during which the vessel is absent from port.

CHAPTER II

OBJECTIVE AND TARGETS*Article 4***Objective and targets**

The plan shall ensure the sustainable exploitation of the cod stocks concerned by gradually reducing and maintaining the fishing mortality rates at levels no lower than:

- (a) 0,6 on ages 3 to 6 years for the cod stock in Area A; and
- (b) 0,3 on ages 4 to 7 years for the cod stock in Areas B and C.

CHAPTER III

TOTAL ALLOWABLE CATCHES*Article 5***Setting of TACs**

1. Each year, the Council shall decide by a qualified majority on the basis of a proposal from the Commission on the TACs for the following year for the cod stocks concerned.
2. The TACs for the cod stocks concerned shall be set in accordance with Articles 6 and 7.

*Article 6***Procedure for setting the TACs for the cod stocks concerned**

1. The Council shall adopt the TAC for the cod stocks concerned that, according to a scientific evaluation carried out by the Scientific, Technical and Economic Committee for Fisheries (STECF), is the higher of:
 - (a) the TAC that 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) the TAC that would result in the level of fishing mortality rate defined in Article 4.
2. Where the application of paragraph 1 would result in a TAC that exceeds the TAC for the preceding year by more than 15 %, the Council shall adopt a TAC which is 15 % greater than the TAC of that year.

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3. Where the application of paragraph 1 would result in a TAC that is more than 15 % below the TAC of the preceding year, the Council shall adopt a TAC which is 15 % less than the TAC of that year.

4. Paragraph 3 shall not apply where a scientific evaluation carried out by the STECF shows that the fishing mortality rate in the year of application of the TAC will exceed a value of 1 per year from the ages 3 to 6 years for the cod stock in Area A or a value of 0,6 per year for the ages 4 to 7 years for the cod stock in Areas B and C.

*Article 7***Derogation**

By way of derogation from Article 6, the Council may, where it considers this appropriate, adopt a TAC that is below the TAC that follows from applying Article 6.

CHAPTER IV

FISHING EFFORT LIMITATION*Article 8***Procedure for setting periods when fishing with certain types of gear is allowed**

1. It shall be prohibited for fishing vessels to fish with trawls, Danish seines or similar gear of a mesh size equal to or larger than 90 mm, with gillnets, entangling nets or trammel nets of a mesh size equal to or larger than 90 mm, with bottom set lines, longlines except drifting lines, handlines and jigging equipment:

(a) from 1 to 30 April in Area A; and

(b) from 1 July to 31 August in Area B.

2. When fishing with drifting lines no cod shall be retained on board.

3. The Council shall decide each year by a qualified majority on the maximum number of days absent from port outside the periods specified in paragraph 1 in the following year when fishing with the gear referred to in paragraph 1 is allowed, in accordance with the rules set out in paragraphs 4 and 5.

4. Where the fishing mortality rate for one of the cod stocks concerned has been estimated by the STECF to be at least 10 % higher than the minimum fishing mortality rate defined in Article 4, the total number of days when fishing with the gear referred to in paragraph 1 is allowed shall be reduced by 10 % compared to the total number of days allowed in the current year.

5. Where the fishing mortality rate for one of the cod stocks concerned has been estimated by the STECF to be less than 10 % above the minimum fishing mortality rates defined in Article 4, the total number of days where fishing with the gear referred to in paragraph 1 is allowed shall be equal to the total number of days allowed in the current year, multiplied by the minimum fishing mortality rate defined in Article 4 divided by the fishing mortality rate estimated by STECF.

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6. By way of derogation from paragraph 1, fishing vessels with an overall length of less than 12 metres shall be permitted to use up to five days per month divided into periods of at least two consecutive days from the maximum number of days absent from port resulting from the application of paragraphs 3 to 5 during the closed periods referred to in paragraph 1. During these days, fishing vessels may only immerse their nets and land fish from 06.00 on Monday to 18.00 on Friday of the same week.

Article 16 shall apply to the fishing vessels referred to in the first subparagraph without holding a permit for fishing for cod.

7. At the request of the Commission or a Member State, Member States shall make available on their website or provide to the Commission and all Member States a description of the system applied to ensure compliance with paragraphs 3, 4 and 5.

*Article 9***Area restrictions on fishing**

1. It shall be prohibited to conduct any fishing activity from 1 May to 31 October within the areas enclosed by sequentially joining with rhumb lines the following positions, which shall be measured according to the WGS84 coordinate system:

(a) Area 1:

- 55° 45' N, 15° 30' E
- 55° 45' N, 16° 30' E
- 55° 00' N, 16° 30' E
- 55° 00' N, 16° 00' E
- 55° 15' N, 16° 00' E
- 55° 15' N, 15° 30' E
- 55° 45' N, 15° 30' E

(b) Area 2:

- 55° 00' N, 19° 14' E
- 54° 48' N, 19° 20' E
- 54° 45' N, 19° 19' E
- 54° 45' N, 18° 55' E
- 55° 00' N, 19° 14' E

(c) Area 3:

- 56° 13' N, 18° 27' E
- 56° 13' N, 19° 31' E
- 55° 59' N, 19° 13' E
- 56° 03' N, 19° 06' E
- 56° 00' N, 18° 51' E
- 55° 47' N, 18° 57' E
- 55° 30' N, 18° 34' E
- 56° 13' N, 18° 27' E.

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2. By way of derogation from paragraph 1, fishing with gillnets, entangling nets and trammel nets of a mesh size equal to or larger than 157 mm or with drifting lines shall be permitted. No other gear shall be kept on board.

3. When fishing with any of the gear types defined in paragraph 2, no cod shall be retained on board.

CHAPTER V

MONITORING, INSPECTION AND SURVEILLANCE*Article 10***Special permit for fishing for cod in the Baltic Sea**

1. By way of derogation from Article 1(2) of Regulation (EC) No 1627/94, all Community vessels of an overall length equal to or greater than eight metres carrying on board or using any gears for cod fishing in the Baltic Sea in accordance with Article 3 of Regulation (EC) No 2187/2005 shall hold a special permit for fishing for cod in the Baltic Sea.

2. Member States may issue the special permit for fishing for cod referred to in paragraph 1 only to Community vessels holding in 2005 a special permit for fishing for cod in the Baltic Sea in accordance with point 6.2.1 of Annex III to 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⁽¹⁾. However, a Member State may issue a special permit for fishing for cod to a Community vessel, flying the flag of that Member State, not holding a special fishing permit in 2005 if it ensures that at least an equivalent capacity, measured in kilowatts (kW), is prevented from fishing in the Baltic Sea with any gear referred to in paragraph 1.

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▼B*Article 11***Logbooks**

1. By way of derogation from Article 6(4) of Regulation (EEC) No 2847/93, the masters of all Community vessels of an overall length equal to or greater than eight metres shall keep a logbook of their operations in accordance with Article 6 of that Regulation.

Notwithstanding the first subparagraph fishing vessels of overall length between 8 and 10 meters having cod on board caught in Area C shall keep a logbook that complies with the provisions as set out in point 2 of Annex IV to Regulation (EEC) No 2807/83.

⁽¹⁾ OJ L 12, 14.1.2005, p. 1. Regulation as last amended by Regulation (EC) No 1936/2005 (OJ L 311, 26.11.2005, p. 1).

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▼B*Article 14***Monitoring and control of fishing effort**

The competent authorities of the flag Member State shall monitor and control the compliance with:

- (a) fishing effort limits provided for in Article 8;
- (b) restrictions on fishing provided for in Article 9.

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▼B*Article 16***Entry into or exit from specific areas**

1. A fishing vessel having a special permit for fishing for cod may only fish in either Areas A, B or C during one fishing trip.
2. A fishing vessel may only commence fishing activity in Community waters in either Areas A, B or C with no cod on board.

If the fishing vessel goes to a port, without landing its fish, within the area where it has been fishing the vessel may continue its fishing activity in that area with cod on board.

3. When a fishing vessel exits from either Areas A, B or C with cod on board it shall:
 - (a) go directly to port outside the Area where it has been fishing and land the fish;
 - (b) when leaving the Area where the vessel has been fishing, stow the nets in accordance with the following conditions so that they may not readily be used:
 - (i) nets, weights and similar gear shall be disconnected from their trawl boards and towing and hauling wires and ropes;
 - (ii) nets which are on or above deck shall be securely lashed to some part of the superstructure.

4. By way of derogation to paragraphs 1, 2 and 3 a fishing vessel may fish in areas A and B during one fishing trip and may commence fishing activity in either of the areas only with less than 150 kg of cod on board in the year 2008. Member States shall take specific measures to ensure effective control. Member States shall report on those measures to the Commission by 31 January 2008.

▼B*Article 17***Prior notification**

1. The master of a Community fishing vessel exiting from Area A, B or C with more than 300 kg of live weight of cod on board shall notify the competent authorities of the Coastal State in which it will land the fish at least one hour before leaving the Area of:

- (a) the time and position of exit;
- (b) the quantities of cod and the total weight of other species in live weight retained on board;
- (c) the name of the landing location;
- (d) the estimated time of arrival at the landing location.

The Coastal State shall notify the flag State of the landing.

2. When a Community fishing vessel intends to enter a port in the area where it has been fishing with more than 300 kg of live weight of cod on board the master of a Community fishing vessel shall notify the competent authorities of the Coastal State and the Coastal State shall notify the flag state at least one hour before entering port all the information referred to in points (b), (c) and (d) of paragraph 1.

3. The submission of information referred to in points (a) and (b) of paragraph 1 shall not apply to vessels subject to Article 12.

4. Paragraph 1(a) shall not apply to vessels equipped with VMS.

5. The notification provided for in paragraphs 1 and 2 may also be made by a representative of the master of the Community fishing vessel.

*Article 18***Designated ports**

1. When a vessel retains more than 750 kilograms of cod live weight, the cod may be landed exclusively at designated ports.

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_____**▼B***Article 21***Prohibition on transiting and transhipping**

1. Transit within areas closed for cod fishing is prohibited unless fishing gear on board is securely lashed and stowed in accordance with Article 16(3)(b).

2. The transhipment of cod is prohibited.

▼B*Article 22***Transport of Baltic cod**

By way of derogation from Article 8(1) of Regulation (EEC) No 2847/93 the master of a fishing vessel having an overall length equal to or more than eight metres, shall complete a landing declaration when fish is transported to a place other than that of landing.

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CHAPTER VI

FOLLOW-UP*Article 26***Evaluation of the plan**

1. The Commission shall, on the basis of advice from STECF and the Baltic Regional Advisory Council (RAC), evaluate the impact of the management measures on the stocks concerned and on the fisheries exploiting those stocks in the third year of application of this Regulation and in each of the following years.

2. The Commission shall seek scientific advice from STECF on the rate of progress towards the targets specified in Article 4 in the third year of application of this Regulation and every third successive year of its application. Where the advice indicates that the targets are unlikely to be met, the Council shall decide by a qualified majority on a proposal from the Commission on additional and/or alternative measures required to ensure that the objectives are met.

*Article 27***Revision of minimum fishing mortality rates**

Where the Commission, on the basis of advice from STECF, finds that the minimum fishing mortality rates given in Article 4 are disaccording with the objectives of the management plan, the Council shall on the basis of a Commission proposal decide by a qualified majority on revised minimum fishing mortality rates that are in accordance with the objective.

*Article 28***European Fisheries Fund**

During the first three years of its application, the multiannual plan shall be deemed to be a recovery plan within the meaning of Article 5 of Regulation (EC) No 2371/2002, and for the purpose of Article 21(a)(i) of Regulation (EC) No 1198/2006.

*Article 29***ICES Subdivisions 27 and 28**

1. Each year, and no later than 31 October, Member States fishing in Area B, shall submit a report of all catches and by-catches of cod taken during the preceding 12 months in Area B as well as the discards of that species specified by ICES Subdivision and by gear types referred to in Article 8(1) to the Commission.
2. Each year, and no later than 15 December, the Commission shall decide in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002 and on the basis of the report from Member States referred to in paragraph 1 and the advice from the Scientific, Technical and Economic Committee for Fisheries to exclude ICES Subdivisions 27 and/or 28.2 from the restrictions provided for in Article 8(1)(b), (3), (4) and (5) and Article 13 if there is evidence that catches of cod in these ICES Subdivisions are lower than 3 % of the total catches of cod in Area B.
3. The exclusion of ICES Subdivisions 27 and/or 28.2 shall take effect from 1 January to 31 December of the following year.
4. Article 8(1)(b), (3), (4) and (5) shall not apply to ICES Subdivision 28.1. However, if there is evidence that catches of cod are higher than 1,5 % of the total catches of cod in Area B, Article 8(1)(b), (3), (4) and (5) shall apply and paragraphs 1, 2 and 3 of this Article are applicable.

CHAPTER VII

FINAL PROVISIONS*Article 30***Repeal**

1. Council Regulation (EC) No 779/97 is hereby repealed.
2. Paragraph 1a of Article 19a of Regulation (EEC) No 2847/93 is hereby repealed.

*Article 31***Entry into force**

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

It shall apply from 1 January 2008.

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

*ANNEX I***SPECIFIC INSPECTION BENCHMARKS****Objective**

1. Each Member State shall set specific inspection benchmarks in accordance with this Annex.

Strategy

2. Inspection and surveillance of fishing activities shall concentrate on vessels likely to catch cod. Random inspections of transport and marketing of cod shall be used as a complementary cross-checking mechanism to test the effectiveness of inspection and surveillance.

Priorities

3. Different gear types shall be subject to different levels of prioritisation, depending on the extent to which the fleets are affected by fishing opportunity limits. For that reason, each Member State shall set specific priorities.

Target benchmarks

4. Not later than one month from the date of entry into force of this Regulation, 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 can 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.

▼ B*ANNEX II***CONTENTS OF NATIONAL CONTROL ACTION PROGRAMMES**

National control action programmes shall aim, *inter alia*, to specify the following.

1. MEANS OF CONTROL

Human resources

- 1.1. The numbers of shore-based and seagoing inspectors and the periods and zones where they are to be deployed.

Technical resources

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

Financial resources

- 1.3. The budgetary allocation for deployment of human resources, patrol vessels and aircraft.

2. ELECTRONIC RECORDING AND REPORTING OF INFORMATION RELATING TO FISHING ACTIVITIES

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Description of the systems implemented to ensure compliance with Articles 12, 13, 14 and 17.

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3. DESIGNATION OF PORTS

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Where relevant, a list of ports designated for cod landings in accordance with Article 18.

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4. ENTRY INTO OR EXIT FROM SPECIFIC AREAS

▼ C1

Description of the systems implemented to ensure compliance with Article 16.

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5. LANDINGS CONTROL

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Description of any facilities and/or systems implemented to ensure compliance with the provisions in Articles 11, 15, 19, 21 and 22.

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6. INSPECTION PROCEDURES

The national control action programmes shall specify the procedures that will be followed:

- (a) when conducting inspections at sea and on land;
- (b) for communicating with the competent authorities designated by other Member States as responsible for the national control action programme for cod;
- (c) for joint surveillance and exchange of inspectors, including specification of powers and authority of inspectors operating in other Member States' waters.