

Council Regulation (EC) No 43/2009 of 16 January 2009 fixing for 2009 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

Changes to legislation: There are currently no known outstanding effects for the
Council Regulation (EC) No 43/2009, ANNEX II. (See end of Document for details)

ANNEX II

ANNEX IIA

FISHING EFFORT FOR VESSELS IN THE CONTEXT OF THE RECOVERY OF CERTAIN STOCKS IN ICES ZONES IIIa, IV, VIa, VIIa, VIId, AND EC WATERS OF ICES ZONES IIa AND Vb

GENERAL PROVISIONS

1. Scope

- 1.1. This Annex shall apply to Community vessels carrying on board any of the gears defined in point 4 and present in ICES zones IIIa, IV, VIa, VIIa, VIId, and EC waters of ICES zones IIa and Vb.
- 1.2. This Annex shall not apply to vessels with a length overall of less than 10 metres. These vessels shall not be required to carry special fishing permits issued in accordance with Article 7 of Regulation (EC) No 1627/94. The Member State concerned shall assess the fishing effort of those vessels by effort groups to which they belong, using appropriate sampling methods. In 2009, the Commission shall seek scientific advice for evaluating the development of effort deployment of those vessels, with a view to those vessels' future inclusion into the effort regime.

2. Definitions

For the purposes of this Annex:

- (a) 'effort group' means a management unit of a Member State for which a maximum allowable fishing effort is set. It is defined by a gear grouping as defined in point 4 and an area as defined in point 3;
- (b) '2009 management period' means the period from 1 February 2009 to 31 January 2010;
- (c) 'regulated gear' means a gear referred to in point 4;
- (d) 'unregulated gear' means a gear not referred to in point 4.

3. Geographical areas

For the purposes of this Annex the following geographical areas shall apply:

- (a) Kattegat;
- (b)
 - (i) Skagerrak,
 - (ii) that part of ICES zone IIIa not covered by the Skagerrak and the Kattegat, ICES zone IV, and EC waters of ICES zone IIa,
 - (iii) ICES zone VIId;
- (c) ICES zone VIIa;
- (d) ICES zone VIa and EC waters of ICES zone Vb.

4. Regulated gears

For the purpose of this Annex, the following groupings of fishing gears shall apply (regulated gears):

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 43/2009, ANNEX II. (See end of Document for details)

Bottom trawls, Danish seines and similar towed gear, excluding beam trawls, of mesh size:

TR1	equal to or larger than 100 mm;
TR2	equal to or larger than 70 mm and less than 100 mm;
TR3	equal to or larger than 16 mm and less than 32 mm;

Beam trawls of mesh size:

BT1	equal to or larger than 120 mm;
BT2	equal to or larger than 80 mm and less than 120 mm;

Gill nets and entangling nets, excluding trammel nets (^{X1}GN);

Editorial Information

- X1** Substituted by [Corrigendum to Council Regulation \(EC\) No 43/2009 of 16 January 2009 fixing for 2009 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 \(Official Journal of the European Union L 22 of 26 January 2009\)](#).

Trammel nets (^{X1}GT);

Longlines (^{X1}LL).

5. Calculation of fishing effort

Fishing effort shall be calculated as the product of the capacity and the activity of a fishing vessel. The fishing effort deployed by a group of vessels in an area shall be calculated as the sum of the products of kilowatt-values for each vessel and the number of days that each vessel has been present in the area.

The capacity of a vessel shall be measured in kilowatt and shall be the engine power of the vessel in accordance with Article 5 of Regulation (EC) No 2930/86, a value to which must be identical the value that the Member State the flag of which the vessel is flying has notified to the Community fishing fleet register.

The activity of a vessel shall be measured in days present within a geographical area referred to in point 3. A day present within an area shall be calculated as any continuous period of 24 hours (or part thereof) during which a vessel is present within any geographical area defined in point 3 and absent from port. The time from which the continuous period is measured is at the discretion of the Member State whose flag is flown by the vessel concerned, provided that the Member State determines the start of the period in a consistent manner for each grouping of gears during a management period. In case that the vessel is present in the same area within a period of 24 hours for several times, the presence shall count as one day only.

FISHING EFFORT LIMITATIONS

6 Maximum allowable fishing effort

6.1. For each of the effort groups of each Member State the maximum allowable fishing effort for the 2009 management period is set out in Appendix 1.

6.2. The maximum levels of annual fishing effort set in accordance with Regulation (EC) No 1954/2003 shall not affect the maximum allowable fishing effort set in this annex.

7. Variation in maximum allowable fishing effort as referred to in point 6.1

- 7.1. Where a Member State has increased the fishing effort concerning fishing activities of one or more vessels that use a highly selective gear in accordance with point (a) of Article 13(2) of Regulation (EC) No 1342/2008 or engage in cod-avoiding activities in accordance with points (b), (c) or (d) of Article 13(2) of that Regulation in order to offset effort adjustments that would have applied to those vessels in accordance with Article 12(4) of that Regulation, the maximum allowable fishing effort shall be increased for those effort groups to which the concerned activity of those vessels belongs, by the amount necessary to offset the effort adjustment for that activity.
- 7.2. Where a transfer of effort has taken place from a Member State to another Member State in accordance with Article 20(5) of Regulation (EC) No 2371/2002, the corresponding maximum allowable fishing effort shall be adapted for the donor and the receiving effort group or groups that are concerned by the exchange. Where the receiving Member State does not dispose of a corresponding effort group, the effort received shall be allocated to one or several new effort groups. The maximum allowable effort for those new groups shall be equal to the amount of effort received.
- 7.3. The maximum allowable fishing effort shall be adapted according to reallocations and/or deductions made pursuant to Article 23(4) of Regulation (EC) No 2371/2002 and Articles 21(4), 23(1) and 32(2) of Regulation (EEC) No 2847/93.
- 7.4. Where a Member State has reconstituted effort in accordance with Article 16(2) of Regulation (EC) No 1342/2008, the maximum allowable fishing effort shall be increased by the fishing effort needed in the effort groups in which the recovered fishing quota will be fished, and the maximum allowable fishing effort of the Member State which has returned the fishing quota shall be reduced in its effort groups reflecting the extent to which these effort groups have less quota available for fishing, unless the Member State returning the quota had not used the corresponding effort for establishing effort baselines.
- 7.5. Where a transfer of effort from one effort group to another has taken place within a Member State in accordance with Article 16(3) or Article 17 of Regulation (EC) No 1342/2008, the maximum allowable fishing effort for the donor effort group and the receiving effort group shall be adapted accordingly.
- 7.6. Amendments to the composition of effort groups decided by the Commission on the basis of Article 31 of Regulation (EC) No 1342/2008 may include adaptations of the maximum allowable fishing effort. Such adaptations shall not go beyond what is required to reflect the changes undertaken in the effort groups' composition.
8. Allocation of fishing effort
 - 8.1. Member States shall regulate the activity of their vessels concerned by allocating fishing effort to them.
 - 8.2. If a Member State deems so appropriate in order to reinforce the sustainable implementation of this effort regime, it shall not permit fishing in any of the geographical areas to which this Annex applies with a regulated gear by any of its vessels which has no record of such fishing activity, unless it ensures that equivalent capacity, measured in kilowatts, is prevented from fishing in the regulated area.
 - 8.3. A Member State may establish management periods at its discretion for allocating all or parts of the maximum allowable effort to individual vessels or groups of vessels. In such case, the number of days or hours for which a vessel may be present within the area during a management period shall be fixed at the discretion of the Member State

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 43/2009, ANNEX II. (See end of Document for details)

concerned. During any such management periods, the Member State may reallocate effort between individual vessels or groups of vessels.

- 8.4. In case that a Member State authorises vessels to be present within an area by hours, the Member State shall continue measuring the consumption of days as specified in point 5. Upon request by the Commission, the Member State shall demonstrate its precautionary measures taken to avoid an excessive consumption of effort within the area due to a vessel terminating presences in the area before the end of a 24-hour period.
9. General rule
- 9.1. Fishing effort deployed by a Community fishing vessel shall be counted by the Member State the flag of which the vessel is flying against the maximum allowable fishing effort for the effort group of the Member State when:
- (a) the vessel carries on board a gear that is included in the gear grouping of the effort group and
- (b) the vessel is present in the area of the effort group.
- 9.2. Where a vessel crosses between two or more areas on a fishing trip, the day shall be counted against the area in which the largest proportion of time was spent during that day.
10. Notification of fishing gear
- 10.1. Before the first day of each management period the master of a vessel or his representative shall notify to the authorities of the flag Member State which gear or gears he intends to use during the forthcoming management period. Until such notification is provided the vessel shall not be entitled to fish within the areas defined in point 3 with any of the regulated gears referred to in point 4.
- 10.2. The use of more than one fishing gear during a fishing trip needs prior authorisation by the flag Member State. When the authorisation has been given, the fishing effort deployed during that trip shall be counted simultaneously for each of the gears against all the maximum allowable fishing effort concerned. For gears belonging to the same effort group, the fishing effort deployed during that trip shall be counted for one fishing gear only.
- 10.3. A vessel wishing to combine the use of one or more of a regulated gear with any other fishing gear shall not be restricted in the use of the unregulated gear in the areas for which it has a special fishing permit. Such vessels must pre-notify when the regulated gear or gears are to be used. When no such notification has been given, all effort deployed by the vessel shall be counted against the maximum allowable fishing effort of the effort group to which the regulated gear or gears belong.
11. Exemptions
- 11.1. A Member State may not count against any maximum allowable fishing effort the activity of a vessel that is in transit across the area, provided that it has no special fishing permit to operate in the area or it has first notified its authorities of its intention to transit. While the vessel is within the area any fishing gears carried on board must be lashed and stowed in accordance with conditions laid down in Article 20(1) of Regulation (EC) No 2847/93.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 43/2009, ANNEX II. (See end of Document for details)

- 11.2. A Member State may not count against any maximum allowable fishing effort the activity of a vessel undertaking non-fishing related activities, provided that the vessel first notifies its flag Member State of its intention to do so, the nature of its activity and that it surrenders its special fishing permit for that time. Such vessels shall not carry any fishing gear or fish on board during that time.
- 11.3. A Member State may decide not to count against any maximum allowable fishing effort the activity of a vessel which has been present in the area concerned but was unable to fish because it was assisting another vessel in need of emergency aid or because it was transporting an injured person for emergency medical aid. Within one month after taking that decision, the flag Member State shall inform the Commission and provide evidence of the emergency supplied.

MONITORING OF FISHING EFFORT DEPLOYMENT

12. Management of effort consumption
- 12.1. Member States shall regulate the activity of their vessels concerned by monitoring fishing effort and by taking appropriate action, such as by closing the fishing for an effort group, to ensure that none of the maximum allowable fishing effort is exceeded.
- 12.2. Vessels using gears belonging to the grouping of fishing gears referred to in point 4 and fishing in an area defined in point 3 shall hold a special fishing permit for that area issued in accordance with Article 7 of Regulation (EC) No 1627/94.
- 12.3. In any given management period, a vessel that has exhausted the effort for which it is eligible shall remain in port or out of any of the areas in point 3 for the remainder of the management period unless using only unregulated gears or receiving an additional effort allocation.
13. Fishing effort messages
- 13.1. Articles 19b, 19c, 19d, 19e and 19k of Regulation (EEC) No 2847/93 shall apply to vessels carrying on board a regulated gear and operating in an area to which this Annex applies. The fishing area referred to in those provisions shall be understood, for the purpose of cod management, as each of the areas (a), (b), (c) and (d) mentioned in point 3 of this Annex and for the purpose of sole and plaice management, as ICES zone IV. In addition to the communication means listed in Article 19c of that Regulation, other secure electronic means may also be used. The reporting requirements laid down in Article 19b(1) of that Regulation shall be deemed to be fulfilled by those vessels using VMS or using an electronic logbook in accordance with Regulation (EC) No 1077/2008.
- 13.2. Member States may implement, in accordance with Member States concerned by the fishing activity of the former's vessels, alternative control measures to ensure compliance with effort reporting obligations. These measures shall be as effective and transparent as the reporting obligations laid down in Article 19c(2) of Regulation (EEC) No 2847/93 and shall be notified to the Commission before being implemented.

REPORTING OBLIGATIONS

14. Collection of relevant data

Member States shall record in electronic form the fishing effort allocated and fishing effort deployed by effort groups.

15. Communication of relevant data

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 43/2009, ANNEX II. (See end of Document for details)

- 15.1. Member States shall transmit to the Commission on its request the data on fishing effort deployed by their fishing vessels in the previous month and the months before, using the reporting format set out in Appendix 2.
- 15.2. The data shall be sent to the appropriate electronic mailbox address, which the Commission shall communicate to the Member States. When a data transfer to the Fisheries Data Exchange System (or any future data system decided by the Commission) will become operational, the Member State shall transmit the data to the system before the 15th of each month, referring to the effort deployed up to the end of the previous month. The Commission shall notify Member States the date at which the system shall be used for transmission at least two months in advance of the first due date. The first fishing effort declaration that will be sent to the system shall include the effort deployed since 1 February 2009. Member States shall transmit to the Commission on its request the data on fishing effort deployed by their fishing vessels during the month of January 2009.
- 15.3. A new format or communication frequency for making the data referred to in point 14 available to the Commission may be adopted in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.
- 15.4. A format and specific communication obligation concerning lists of vessels holding a special fishing permit in accordance with Article 14(2) of Regulation (EC) No 1342/2008 may be adopted in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.
- 15.5. A format and specific communication obligation concerning variations to maximum allowable fishing effort referred to in point 7 may be adopted in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 43/2009, ANNEX II. (See end of Document for details)

Appendix 1 to Annex IIa

Maximum allowable fishing effort in kilowatt days

Area: see point 3	Regulated gear: see point 4	DK	DE	SE
(a)	TR1	212 768	3 854	[^{F1} 16 609]
	TR2	2 070 883	16 611	[^{F1} 739 281]
	TR3	427 760	0	[^{F1} 55 853]
	BT1	0	0	[^{F1} 0]
	BT2	0	0	[^{F1} 0]
	[^{X1} GN]	101 048	27 454	[^{F1} 13 155]
	[^{X1} GT]	18 684	0	[^{F1} 22 130]
	[^{X1} LL]	140	0	[^{F1} 25 339]

Area: see point 3	Regulated gear: see point 4	BE	DK	DE	FR	IE	NL	SE	UK
(b)	TR1	498	6 911 144	2 226 533	2 553 909	261	405 985	[^{F1} 286 779]	10 295 134
	TR2	318 363	6 061 661	600 089	11 117 483	18 801	1 062 247	[^{F1} 830 400]	8 165 956
	TR3	0	3 920 732	3 501	107 041	0	15 886	[^{F1} 263 772]	5 824
	BT1	1 368 632	1 316 589	29 822	0	0	1 365 348	[^{F1} 0]	1 739 759
	BT2	6 468 447	106 658	1 893 044	829 504	0	33 633 978	[^{F1} 0]	5 970 903
	[^{X1} GN]	126 850	1 962 340	227 773	222 598	0	147 373	[^{F1} 80 781]	549 863
	[^{X1} GT]	0	198 783	516	2 374 073	0	0	[^{F1} 53 078]	11 027
	[^{X1} LL]	0	44 283	0	71 448	0	0	[^{F1} 110 468]	97 687

Area: see point 3	Regulated gear: see point 4	BE	FR	IE	UK
-------------------	-----------------------------	----	----	----	----

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 43/2009, ANNEX II. (See end of Document for details)

(c)	TR1	0	184 952	79 246	805 253
	TR2	26 622	735	1 120 977	2 602 936
	TR3	0	0	9 646	1 588
	BT1	0	0	0	0
	BT2	1 505 253	0	507 923	0
	[^{X1} GN]	0	210	24 713	4 412
	[^{X1} GT]	0	0	0	158
	[^{X1} LL]	0	0	62	52 067

Area: see point 3	Regulated gear: see point 4	BE	DE	ES	FR	IE	UK
(d)	TR1	0	25 075	[^{F1} 0]	3 398 102	310 005	2 398 481
	TR2	442	0	[^{F1} 0]	5 881	481 938	3 899 614
	TR3	0	0	[^{F1} 0]	0	21 327	29 844
	BT1	0	0	[^{F1} 0]	506	0	117 544
	BT2	10 361	0	[^{F1} 0]	11 692	3 914	0
	[^{X1} GN]	0	35 531	[^{F1} 13 836]	96 903	6 400	162 857
	[^{X1} GT]	0	0	[^{F1} 0]	0	1 946	145
	[^{X1} LL]	0	0	[^{F1} 1 402 142]	54 917	1 013	532 228

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 43/2009, ANNEX II. (See end of Document for details)

Appendix 2 to Annex IIa

Table II Reporting format

Country	Gear	Area	Year	Month	Cumulative declaration
(1)	(2)	(3)	(4)	(5)	(6)

Table III Data format

Name of field	Maximum number of characters/digits	Alignment ^a L(eft)/R(ight)	Definition and Comments
(1) Country	3	—	Member State (Alpha-3 ISO code) in which vessel is registered
(2) Gear	3	—	one of the following gear types TR1 TR2 TR3 BT1 BT2 [^{X1} GN] [^{X1} GT] [^{X1} LL]
(3) Area	8	L	one of the following areas 03AS 02A0407D 07A 06A
(4) Year	4	—	The year of the month for which the declaration is done
(5) Month	2	—	Month for which the fishing effort declaration is done (expressed by two digits between 01 and 12)
(6) Cumulative declaration	13	R	cumulative amount of fishing effort expressed in kilowatt days from the 1 of January of the year

^a relevant information for transmission of data by fixed-length formatting.

Changes to legislation: There are currently no known outstanding effects for the
Council Regulation (EC) No 43/2009, ANNEX II. (See end of Document for details)

		(4) until the end of the month (5)
--	--	---------------------------------------

a relevant information for transmission of data by fixed-length formatting.

ANNEX IIB

FISHING EFFORT FOR VESSELS IN THE CONTEXT OF THE RECOVERY OF CERTAIN SOUTHERN HAKE AND NORWAY LOBSTER STOCKS IN ICES ZONES VIIIC AND IXA EXCLUDING THE GULF OF CADIZ

1. Scope

The conditions laid down in this Annex shall apply to Community vessels of length overall equal to or greater than 10 metres, carrying on board towed and static gears defined in point 3 and present in zones VIIIC and IXa excluding the Gulf of Cadiz. For the purposes of this Annex, a reference to the 2009 management period means the period from 1 February 2009 to 31 January 2010.

2. Definition of day present within the area

For the purpose of this Annex, a day present within an area shall be any continuous period of 24 hours (or part thereof) during which a vessel is present within the geographical area defined in point 1 and absent from port. The time from which the continuous period is measured is at the discretion of the Member State whose flag is flown by the vessel concerned.

3. Fishing gear

For the purpose of this Annex, the following grouping of fishing gears shall apply:

- trawls, Danish seines and similar gears of mesh size equal to or larger than 32 mm and gill-nets of mesh size equal to or larger than 60 mm and bottom long-lines.

IMPLEMENTATION OF FISHING EFFORT LIMITATIONS

4. Vessels concerned by fishing effort limitations

- 4.1. Vessels using gears belonging to the grouping of fishing gears referred to in point 3 and fishing in areas defined in point 1 shall hold a special fishing permit issued in accordance with Article 7 of Regulation (EC) No 1627/94.
- 4.2. A Member State shall not permit fishing with any gear belonging to the grouping of fishing gears defined in point 3 in the area by any of its vessels which have no record of such fishing activity in the years 2002, 2003, 2004, 2005, 2006, 2007 or 2008 in the area, excluding the record of fishing activities as a result of transfer of days between fishing vessels, unless it ensures that equivalent capacity, measured in kilowatts, is prevented from fishing in the regulated area.
- 4.3. A vessel flying the flag of a Member State having no quotas in the area defined in point 1 shall not be permitted to fish in that area with a gear belonging to the grouping of fishing gears defined in point 3, unless the vessel is allocated a quota after a transfer as permitted according to the Article 20(5) of Regulation (EC) No 2371/2002 and is allocated days at sea according to point 12 or 13 of this Annex.

5. Limitations in activity

Each Member State shall ensure that, when carrying on board any gear belonging to the grouping of fishing gear referred to in point 3, fishing vessels flying its flag and registered in the Community shall be present within the area for no more than the number of days specified in point 7.

6. Exceptions

A Member State shall not count against the days allocated to any of its vessels under this Annex either any days when the vessel has been present within the area but unable to fish

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 43/2009, ANNEX II. (See end of Document for details)

because it was assisting another vessel in need of emergency aid or any days when a vessel has been present within the area but unable to fish because it is transporting an injured person for emergency medical aid. The Member State shall provide justification to the Commission within one month of any decisions taken on this basis with associated evidence of the emergency from the competent authorities.

NUMBER OF DAYS PRESENT WITHIN THE AREA ALLOCATED TO FISHING VESSELS

7. Maximum number of days
 - 7.1. During the 2009 management period, the maximum number of days at sea for which a Member State may authorise a vessel flying its flag to be present within the area having carried on board any gear belonging to the grouping of fishing gears referred to in point 3 is shown in Table I.
 - 7.2. For the purposes of fixing the maximum number of days at sea a fishing vessel may be authorised by its flag Member State to be present within the area, the following special conditions shall apply during the 2009 management period in accordance with Table I:
 - (a) The total landings of hake in the years 2001, 2002 and 2003 made by the vessel, or by the vessel or vessels using similar gears and qualifying for this special condition, *mutatis mutandis*, that it has replaced in accordance with Community law, shall represent less than 5 tonnes according to the landings in live weight consigned in the Community logbook, and;
 - (b) The total landings of Norway lobster in the years 2001, 2002 and 2003 made by the vessel, or by the vessel or vessels using similar gears and qualifying for this special condition, *mutatis mutandis*, that it has replaced in accordance with Community law, shall represent less than 2,5 tonnes according to the landings in live weight consigned in the Community logbook.
 - 7.3. During the 2009 management period, a Member State may manage its fishing effort allocations according to a kilowatt days system. By that system it may authorise any vessel concerned for any gear of the grouping of fishing gears and special conditions laid down in Table I to be present within the area for a maximum number of days which is different from that set out in that Table, provided that the overall amount of kilowatt days corresponding to the grouping and special condition is respected.

This overall amount of kilowatt days shall be the sum of all individual fishing efforts allocated to the vessels flying the flag of that Member State and qualified for the grouping of fishing gears referred to in point 3 and special condition. Such individual fishing efforts shall be calculated in kilowatt days by multiplying the engine power of each vessel by the number of days at sea it would benefit from, according to table I, if the provisions of this point were not applied.

- 7.4. A Member State wishing to benefit from the provisions laid down in point 7.3 shall submit a request to the Commission with reports in electronic format containing for the grouping of fishing gears and special condition as laid down in Table I the details of the calculation based on:
 - list of vessels authorised to fish by indicating their Community Fleet Register number (CFR) and their engine power,
 - track records of 2001, 2002 and 2003 for such vessels reflecting the catch composition defined in special conditions 7.2(a) or (b), if these vessels are qualified for such special conditions,

- the number of days at sea for which each vessel would have initially been authorised to fish according to Table I and the number of days at sea which each vessel would benefit from in application of point 7.3.

On the basis of that description, the Commission may authorise that Member State to benefit from the provisions defined in point 7.3.

8. Management periods

- 8.1. A Member State may divide the days present within the area given in Table I into management periods of durations of one or more calendar months.
- 8.2. The number of days or hours for which a vessel may be present within the area during a management period shall be fixed at the discretion of the Member State concerned.

In case that a Member State authorises vessels to be present within the area by hours, the Member State shall continue measuring the consumption of days as specified in point 2. Upon request by the Commission, the Member State shall demonstrate its precautionary measures taken to avoid an excessive consumption of days within the area due to a vessel terminating presences in the area that do not coincide with the end of a 24-hour period.

- 8.3. In any given management period a vessel may undertake non-fishing related activities, without that time being counted against its days allocated under point 7, provided that the vessel first notifies its flag Member State of its intention to do so, the nature of its activity and that it surrenders its fishing licence for this time. Such vessels shall not carry any fishing gear or fish on board during that time.

9. Allocation of additional days for permanent cessation of fishing activities

- 9.1. An additional number of days at sea on which a vessel may be authorised by its flag Member State to be present within the geographical area when carrying on board any gear belonging to the grouping of fishing gears referred to in point 3 may be allocated to Member States by the Commission on the basis of permanent cessations of fishing activities that have taken place since 1 January 2004 either in accordance with Article 7 of Regulation (EC) No 2792/1999 or in accordance with Article 23 of Regulation (EC) No 1198/2006 or resulting from other circumstances duly motivated by Member States. Any vessels that can be shown to have been definitively withdrawn from the area may also be considered. The effort expended in 2003 measured in kilowatt days of the withdrawn vessels using the gears in question shall be divided by the effort expended by all vessels using those gears during 2003.

The additional number of days at sea shall be then calculated by multiplying the ratio so obtained by the number of days that would have been allocated according to Table I. Any part of a day resulting from this calculation shall be rounded to the nearest whole day.

This point shall not apply where a vessel has been replaced in accordance with point 4.1 or when the withdrawal has already been used in previous years to obtain additional days at sea.

- 9.2. Member States wishing to benefit from the allocations referred to in point 9.1 shall submit a request to the Commission with reports in electronic format containing for the grouping of fishing gears and special condition as laid down in Table I the details of the calculation based on:
 - lists of withdrawn vessels with their Community Fleet Register number (CFR) and their engine power,
 - the fishing activity deployed by such vessels in 2003 calculated in days at sea according to the grouping of fishing gears and if necessary special condition.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 43/2009, ANNEX II. (See end of Document for details)

- 9.3. On the basis of such a request the Commission may amend the number of days defined in point 7.1 for that Member State in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.
- 9.4. During the 2009 management period, a Member State may re-allocate those additional numbers of days at sea to all the vessels remaining in fleet and qualified for the gears belonging to the grouping of fishing gears and special condition or to part of them by applying, *mutatis mutandis*, the provisions laid down in points 7.3 and 7.4.
- 9.5. Any additional number of days resulting from a permanent cessation of activity previously allocated by the Commission on the basis of previous definitions of groupings of fishing gears shall be reassessed on the basis of the grouping of fishing gears laid down in point 3. Any additional days so obtained shall remain allocated in 2009.
10. Allocation of additional days for enhanced observer coverage
- 10.1. Three additional days on which a vessel may be present within the area when carrying onboard any gear belonging to the grouping of fishing gears referred to in point 3 may be allocated between 1 February 2009 and 31 January 2010 to Member States by the Commission on the basis of an enhanced programme of observer coverage in partnership between scientists and the fishing industry. Such a programme shall focus in particular on levels of discarding and on catch composition and go beyond the requirements on data collection, as laid down in Council Regulation (EC) No 199/2008 of 25 February 2008 concerning the establishment of a Community framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the Common Fisheries Policy⁽¹⁾ and Commission Regulation (EC) No 665/2008 of 14 July 2008 laying down detailed rules for the application of Council Regulation (EC) No 199/2008⁽²⁾ for national programmes.

Observers shall be independent from the owner of the vessel and shall not be a member of the fishing vessel crew.

- 10.2. Member States wishing to benefit from the allocations referred to in point 10.1 shall submit a description of their enhanced observer coverage programme to the Commission.
- 10.3. On the basis of this description, and after consultation with STECF, the Commission may amend the number of days defined in point 7.1 for that Member State and for the vessels, the area and gear concerned by the enhanced programme of observers in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.
- 10.4. If such a programme submitted by a Member State has been approved by the Commission in the past and the Member State wishes to continue its application without changes, the Member State shall inform the Commission of the continuation of its enhanced observer coverage programme four weeks before the beginning of the period for which the programme applies.
11. Special conditions for the allocation of days
- 11.1. If a vessel has received an unlimited number of days resulting from compliance with the special conditions listed in points 7.2(a) and 7.2(b), the vessel's landings in 2009 shall not exceed 5 tonnes live weight of hake and 2,5 tonnes live weight of Norway lobster.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 43/2009, ANNEX II. (See end of Document for details)

- 11.2. The vessel shall not tranship any fish at sea to another vessel.
- 11.3. When either of these conditions is not met by a vessel, that vessel shall with immediate effect no longer be entitled to the allocation of days corresponding to the given special conditions.

Table I

Maximum number of days a vessel may be present within the area by fishing gear per year

Gear point 3	Special conditions point 7	Denomination Only the gear groupings as defined in point 3 and the special conditions as defined in point 7 are used.	Maximum number of days
3		Bottom trawls of mesh size \geq 32 mm, gill-nets of mesh size \geq 60 mm and bottom long-lines	175
3	7.2(a) and 7.2(b)	Bottom trawls of mesh size \geq 32 mm, gill-nets of mesh size \geq 60 mm and bottom long-lines	Unlimited

EXCHANGES OF FISHING EFFORT ALLOCATIONS

12. Transfer of days between vessels flying the flag of a Member State
- 12.1. A Member State may permit any fishing vessel flying its flag to transfer days present within the area for which it has been authorised to another vessel flying its flag within the area provided that the product of the days received by a vessel multiplied by its engine in kilowatts (kilowatt days) is equal to or less than the product of the days transferred by the donor vessel and the engine power in kilowatts of that vessel. The engine power in kilowatts of the vessels shall be that recorded for each vessel in the Community fishing fleet register.
- 12.2. The total number of days present within the area transferred under point 12.1 multiplied by the engine power in kilowatts of the donor vessel shall not be higher than the donor vessel's average annual days track record in the area as verified by the Community logbook in the years 2001, 2002, 2003, 2004 and 2005 multiplied by the engine power in kilowatts of that vessel.
- 12.3. The transfer of days as described in point 12.1 shall be permitted only between vessels operating with any gear belonging to the grouping of fishing gear and during the same management period.
- 12.4. Transfer of days is only permitted for vessels benefiting from an allocation of fishing days without special condition, as laid down in point 7.2.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 43/2009, ANNEX II. (See end of Document for details)

12.5. On request from the Commission, Member States shall provide information on the transfers that have taken place. Formats of spreadsheet for the collection and transmission of information referred to in the present point may be adopted in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.

13. Transfer of days between fishing vessels flying the flag of different member states

Member States may permit transfer of days present within the area for the same management period and within the area between any fishing vessels flying their flags provided the same provisions as laid down in points 4.2, 4.3, 6 and 12 apply. Where Member States decide to authorise such a transfer, they shall notify the Commission, before such transfers take place, the details of the transfer, including the number of days, the fishing effort and, where applicable, the fishing quotas relating thereto.

USE OF FISHING GEAR

14. Notification of fishing gear

Before the first day of each management period the master of a vessel or his representative shall notify to the authorities of the flag Member State which gear or gears he intends to use during the forthcoming management period. Until such notification is provided the vessel shall not be entitled to fish within the area defined in point 1 with any gear belonging to the grouping of fishing gear referred to in point 3.

15. Combined used of regulated and unregulated fishing gear

A vessel wishing to combine the use of one or more of the fishing gear belonging to the grouping of fishing gears referred to in point 3 (regulated gears) with any other grouping of fishing gear not referred to in point 3 (unregulated gears) will not be restricted in their use of the unregulated gear. Such vessels must pre-notify when the regulated gear is to be used. When no such notification has been given, none of the fishing gear belonging to the grouping of fishing gear referred to in point 3 may be carried on board. Such vessels must be authorised and equipped to undertake the alternative fishing activity with the unregulated gears.

TRANSIT

16. Transit

A vessel is allowed to transit across the area provided that it has no fishing permit to operate in the area or it has first notified its authorities of its intention to do so. While that vessel is within the area any fishing gears carried on board must be lashed and stowed in accordance with conditions laid down in Article 20(1) of Regulation (EEC) No 2847/93.

MONITORING, INSPECTION AND SURVEILLANCE

17. Fishing effort messages

Articles 19b, 19c, 19d, 19e and 19k of Regulation (EEC) No 2847/93 shall apply to vessels carrying on board gears belonging to the grouping of fishing gear defined in point 3 of this Annex and operating in the area defined in point 1 of this Annex. Vessels equipped with vessel monitoring systems in accordance with Article 5 and 6 of Regulation (EC) No 2244/2003 shall be excluded from these hailing requirements set out in Article 19(c) of Regulation (EEC) No 2847/93.

18. Recording of relevant data

Member States shall ensure that the following data received pursuant to Articles 8, 10(1) and 11(1) of Regulation (EC) No 2244/2003 are recorded in a computer-readable form:

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 43/2009, ANNEX II. (See end of Document for details)

- (a) entry into, and exit from port;
- (b) each entry into, and exit from maritime areas where specific rules on access to waters and resources apply.

19. Cross-checks

Member States shall verify the submission of logbooks and relevant information recorded in the logbook by using VMS data. Such cross-checks shall be recorded and made available to the Commission on request.

REPORTING OBLIGATIONS

20. Collection of relevant data

Member States, on the basis of information used for the management of fishing days present within the area as set out in this Annex, shall collect for each annual quarter the information about total fishing effort deployed within the area for towed gears and static gears and effort deployed by vessels using different types of gear in the area concerned by this Annex.

21. Communication of relevant data

21.1. On request of the Commission, Member States shall make available to the Commission a spreadsheet with the data referred to in point 20 in the format specified in Tables II and III by sending it to the appropriate electronic mailbox address, which shall be communicated to the Member States by the Commission.

21.2. A new format of spreadsheet for making the data referred to in point 20 available to the Commission may be adopted in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.

TABLE II

Reporting format

Country	Extension marking period	Fishing area	Special condition applying to notified gear(s)	Days eligible using notified gear(s)				Days spent with notified gear(s)				Transfer of days					
				N°1	N°2	N°3	...	N°1	N°2	N°3	...						
(1)	(2)	(3)	(4)	(5)	(6)	(6)	(6)	(6)	(7)	(7)	(7)	(7)	(8)	(8)	(8)	(8)	(9)

TABLE III

Data format

Name of field	Maximum number of characters/digits	Alignment ^a L(eft)/R(ight)	Definition and Comments
(1) Country	3	n/r	Member State (Alpha-3 ISO code) in which vessel is registered for fishing under Council Regulation (EC) No 2371/2002.

^a relevant information for transmission of data by fixed-length formatting.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 43/2009, ANNEX II. (See end of Document for details)

			In the case of the donor Vessel, it is always the reporting country.	
(2)	CFR	12	n/r	Community Fleet Register number Unique identification number of a fishing vessel. Member State (Alpha-3 ISO code) followed by an identifying series (9 characters). Where a series has fewer than 9 characters additional zeros must be inserted on the left hand side.
(3)	External marking	14	L	Under Commission Regulation (EEC) No 1381/87.
(4)	Length of management period	2	L	Length of the management period measured in months.
(5)	Area fished	1	L	Non relevant information in the case of Annex IIB.
(6)	Special condition applying to notified gear(s)	2	L	Indication of which, if any, of the special condition a-b referred to in point 7.2 of Annex IIB that apply.
(7)	Days eligible using notified gear(s)	3	L	Number of days for which the vessel is eligible under Annex IIB for the choice of gears and length of management period notified.
(8)	Days spent with notified gear(s)	3	L	Number of days the vessel actually spent present within the area and using a gear corresponding to gear notified during the

a relevant information for transmission of data by fixed-length formatting.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 43/2009, ANNEX II. (See end of Document for details)

			notified management period according to Annex IIB.
(9)	Transfers of days	4	L
			For days transferred indicate ‘– number of days transferred’ and for days received indicate ‘+ number of days transferred’.

a relevant information for transmission of data by fixed-length formatting.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 43/2009, ANNEX II. (See end of Document for details)

ANNEX IIC

FISHING EFFORT FOR VESSELS IN THE CONTEXT OF THE RECOVERY OF WESTERN CHANNEL SOLE STOCKS ICES ZONE VIIe

GENERAL PROVISIONS

1. Scope

- 1.1. The conditions laid down in this Annex shall apply to Community vessels of length overall equal to or greater than 10 metres carrying on board any of the gears defined in point 3, and present in zone VIIe. For the purposes of this Annex, a reference to the 2009 management period means the period from 1 February 2009 to 31 January 2010.
- 1.2. Vessels fishing with static nets with mesh size equal to or larger than 120 mm and with track records of less than 300 kg live weight of sole according to the EC logbook in 2004 shall be exempt from the provisions of this Annex on the conditions that:
 - (a) such vessels catch less than 300 kg live weight of sole during the 2009 management period; and
 - (b) such vessels shall not tranship any fish at sea to another vessel; and
 - (c) each Member State concerned makes a report to the Commission by 31 July 2009 and 31 January 2010 on these vessels' track records for sole in 2004 and catches of sole in 2009.

When either of these conditions is not met, the concerned vessels shall with immediate effect no longer be exempted from the provisions of this Annex.

2. Definition of day present with the area

For the purpose of this Annex, a day present within an area shall be any continuous period of 24 hours (or part thereof) during which a vessel is present within zone VIIe and absent from port. The time from which the continuous period is measured is at the discretion of the Member State whose flag is flown by the vessel concerned.

3. Fishing gear

For the purposes of this Annex, the following groupings of fishing gears shall apply:

- (a) Beam trawls of mesh size equal to or greater than 80 mm;
- (b) Static nets including gill-nets, trammel-nets and tangle-nets with mesh size less than 220 mm.

IMPLEMENTATION OF FISHING EFFORT LIMITATIONS

4. Vessels concerned by fishing effort limitations

- 4.1. Vessels using gear types identified in point 3 and fishing in areas defined in point 1 shall hold a special fishing permit issued in accordance with Article 7 of Regulation (EC) No 1627/94.
- 4.2. A Member State shall not permit fishing with a gear belonging to a grouping of fishing gears defined in point 3 in the area by any of its vessels which have no record of such fishing activity in the years 2002, 2003, 2004, 2005, 2006, 2007 or 2008 in that area unless it ensures that equivalent capacity, measured in kilowatts, is prevented from fishing in the regulated area.

4.3. However, a vessel with a track record of using a gear belonging to a grouping of fishing gears defined in point 3 may be authorised to use a different fishing gear, provided that the number of days allocated to this latter gear is greater than or equal to the number of days allocated to the first gear.

4.4. A vessel flying the flag of a Member State having no quotas in the area defined in point 1 shall not be permitted to fish in that area with a gear belonging to a grouping of fishing gear defined in point 3, unless the vessel is allocated a quota after a transfer as permitted according to the Article 20(5) of Regulation (EC) No 2371/2002 and is allocated days at sea according to point 11 or 12 of this Annex.

5. Limitations in activity

Each Member State shall ensure that, when carrying on board any of the groupings of fishing gears referred to in point 3, fishing vessels flying its flag and registered in the Community shall be present within the area for no more than the number of days set out in point 7.

6. Exceptions

A Member State shall not count against the days allocated to any of its vessels under this Annex either any days when the vessel has been present within the area but unable to fish because it was assisting another vessel in need of emergency aid or any days when a vessel has been present within the area but unable to fish because it is transporting an injured person for emergency medical aid. The Member State shall provide justification to the Commission within one month of any decisions taken on this basis with associated evidence of the emergency from the competent authorities.

NUMBER OF DAYS PRESENT WITHIN THE AREA ALLOCATED TO FISHING VESSELS

7. Maximum number of days

7.1. During the 2009 management period, the maximum number of days at sea for which a Member State may authorise a vessel flying its flag to be present within the area having carried on board and used any one of the fishing gears referred to in point 3 is shown in Table I.

7.2. During the 2009 management period, the number of days at sea for which a vessel is present within the total area covered by this Annex and Annex IIA shall not exceed the number shown in Table I of this Annex. However, where the vessel is subject to allocations of maximum effort for its presence in areas covered by Annex IIA alone, it shall comply with the maximum effort thus fixed.

7.3. During the 2009 management period, a Member State may manage its fishing effort allocation according to a kilowatt days system. By that system it may authorise any vessel concerned to be present within the area for a maximum number of days which is different from that set out in Table I for any one of the groupings of fishing gears laid down in that Table, provided that the overall amount of kilowatt days corresponding to such a grouping is respected.

For a specific grouping of fishing gears, the overall amount of kilowatt days shall be the sum of all individual fishing efforts allocated to the vessels flying the flag of the Member State concerned and qualified for that specific grouping. Such individual fishing efforts shall be calculated in kilowatt days by multiplying the engine power of each vessel by the number of days at sea it would benefit from, according to Table I, if the provisions of this point were not applied.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 43/2009, ANNEX II. (See end of Document for details)

- 7.4. A Member State wishing to benefit from the provisions laid down in point 7.3 shall submit a request to the Commission with reports in electronic format containing for each grouping of fishing gears the details of the calculation based on:
- list of vessels authorised to fish by indicating their Community Fleet Register number (CFR) and their engine power,
 - the number of days at sea for which each vessel would had initially been authorised to fish according to Table I and the number of days at sea which each vessel would benefit from in application of point 7.3.

On the basis of that description, the Commission may authorise that Member State to benefit from the provisions defined in point 7.3.

8. Management periods

- 8.1. A Member State may divide the days present within the area given in Table I into management periods of durations of one or more calendar months.
- 8.2. The number of days or hours for which a vessel may be present within the area during a management period shall be fixed at the discretion of the Member State concerned.

In case that a Member State authorises vessels to be present within the area by hours, the Member State shall continue measuring the consumption of days as specified in point 2. Upon request by the Commission, the Member State shall demonstrate its precautionary measures taken to avoid an excessive consumption of days within the area due to a vessel terminating presences in the area that do not coincide with the end of a 24-hour period.

- 8.3. In any given management period a vessel that has used the number of days present within the area for which it is eligible shall remain in port or out of the area for the remainder of the management period unless it is using a gear for which no maximum number of days has been fixed.

9. Allocation of additional days for permanent cessations of fishing activities

- 9.1. An additional number of days at sea on which a vessel may be authorised by its flag Member State to be present within the geographical area when carrying on board any of the gears referred to in point 3 may be allocated to Member States by the Commission on the basis of permanent cessations of fishing activities that have taken place since 1 January 2004 either in accordance with Article 7 of Regulation (EC) No 2792/1999 or in accordance with Article 23 of Regulation (EC) No 1198/2006 or resulting from other circumstances duly motivated by Member States. The effort expended in 2003 measured in kilowatt days of the withdrawn vessels using the gear in question shall be divided by the effort expended by all vessels using that gear during 2003.

The additional number of days at sea shall be then calculated by multiplying the ratio so obtained by the number of days that would have been allocated according to Table I. Any part of a day resulting from this calculation shall be rounded to the nearest whole day.

This point shall not apply where a vessel has been replaced in accordance with point 4.2 or when the withdrawal has already been used in previous years to obtain additional days at sea.

- 9.2. Member States wishing to benefit from the allocations referred to in point 9.1 shall submit a request to the Commission with reports in electronic format containing for each grouping of fishing gears the details of the calculation based on:

Changes to legislation: There are currently no known outstanding effects for the
Council Regulation (EC) No 43/2009, ANNEX II. (See end of Document for details)

- lists of withdrawn vessels with their Community Fleet Register number (CFR) and their engine power,
 - the fishing activity deployed by such vessels in 2003 calculated in days at sea by concerned grouping of fishing gears.
- 9.3. On the basis of such a request the Commission may amend the number of days defined in point 7.2 for that Member State in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.
- 9.4. During the 2009 management period, a Member State may re-allocate those additional numbers of days at sea to all the vessels remaining in fleet and qualified for the relevant grouping of fishing gears or to part of them by applying, *mutatis mutandis*, the provisions laid down in points 7.3 and 7.4.
- 9.5. Any additional number of days resulting from a permanent cessation of activity previously allocated by the Commission remains allocated in 2009.
10. Allocation of additional days for enhanced observer coverage
- 10.1. Three additional days on which a vessel may be present within the area when carrying onboard any of the groupings of fishing gear referred to in point 3 may be allocated between 1 February 2009 and 31 January 2010 to Member States by the Commission on the basis of an enhanced programme of observer coverage in partnership between scientists and the fishing industry. Such a programme shall focus in particular on levels of discarding and on catch composition and go beyond the requirements on data collection, as laid down in Regulation (EC) No 199/2008 and Regulation (EC) No 665/2008 for national programmes.
- Observers shall be independent from the owner of the vessel and shall not be a member of the fishing vessel crew.
- 10.2. Member States wishing to benefit from the allocations referred to in point 10.1 shall submit a description of their enhanced observer coverage programme to the Commission for approval.
- 10.3. On the basis of this description, and after consultation with STECF, the Commission may amend the number of days defined in point 7.1 for that Member State and for the vessels, the area and gear concerned by the enhanced programme of observers in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.
- 10.4. If such a programme submitted by a Member State has been approved by the Commission in the past and the Member State wishes to continue its application without changes, the Member State shall inform the Commission of the continuation of its enhanced observer coverage programme four weeks before the beginning of the period for which the programme applies.

TABLE I

Maximum number of days a vessel may be present within the area by fishing gear per year

Gearpoint 3	DenominationOnly the gear groupings as defined in point 3 are used	Western Channel
3.a.	Beam trawls of mesh size \geq 80 mm	192

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 43/2009, ANNEX II. (See end of Document for details)

3.b.	Static nets with mesh size < 220 mm	192
------	-------------------------------------	-----

EXCHANGES OF FISHING EFFORT ALLOCATIONS

11. Transfer of days between fishing vessels flying the flag of a Member State
 - 11.1. A Member State may permit any of its fishing vessels flying its flag to transfer days present within the area for which it has been authorised to another of its vessels flying its flag within the area provided that the product of the days received by a vessel and its engine power in kilowatts (kilowatt days) is equal to or less than the product of the days transferred by the donor vessel and the engine power in kilowatts of that vessel. The engine power in kilowatts of the vessels shall be that recorded for each vessel in the Community fishing fleet register.
 - 11.2. The total number of days present within the area, multiplied by the engine power in kilowatts of the donor vessel, shall not be higher than the donor vessel's average annual days track record in the area as verified by the Community logbook in the years 2001, 2002, 2003, 2004 and 2005 multiplied by the engine power in kilowatts of that vessel.
 - 11.3. The transfer of days as described in point 11.1 shall be permitted only between vessels operating within the same gear grouping referred to in point 3 and during the same management period.
 - 11.4. On request from the Commission, Member States shall provide reports on the transfers that have taken place. A detailed format of spreadsheet for making these reports available to the Commission may be adopted in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.

12. Transfer of days between fishing vessels flying the flag of different Member States

Member States may permit transfer of days present within the area for the same management period and within the area between any fishing vessels flying their flags provided the same provisions as laid down in points 4.2, 4.4, 6 and 11 apply. Where Member States decide to authorise such a transfer, as a preliminary they shall notify the Commission before such transfers take place, the details of the transfer, including the number of days transferred, the fishing effort and, where applicable, the fishing quotas relating thereto, as agreed between them.

USE OF FISHING GEAR

13. Notification of fishing gear

Before the first day of each management period the master of a vessel or his representative shall notify to the authorities of the flag Member State which gear or gears he intends to use during the forthcoming management period. Until such notification is provided the vessel shall not be entitled to fish within the area defined in point 1 with any of the groupings of fishing gear referred to in point 3.

14. Non-fishing related activities

In any given management period a vessel may undertake non-fishing related activities, without that time being counted against its days allocated under point 7, provided that the vessel first notifies its flag Member State of its intention to do so, the nature of its activity and that it surrenders its fishing licence for that time. Such vessels shall not carry any fishing gear or fish on board during that time.

TRANSIT

15. Transit

A vessel shall be allowed to transit across the area provided that it has no fishing permit to operate in the area or it has first notified its authorities of its intention to do so. While that vessel is within the area any fishing gears carried on board must be lashed and stowed in accordance with conditions laid down in Article 20(1) of Regulation (EEC) No 2847/93.

MONITORING, INSPECTION AND SURVEILLANCE

16. Fishing effort messages

Articles 19b, 19c, 19d, 19e and 19k of Regulation (EEC) No 2847/93 shall apply to vessels carrying on board the groupings of fishing gear defined in point 3 of this Annex and operating in the area defined in point 1 of this Annex. Vessels equipped with vessel monitoring systems in accordance with Articles 5 and 6 of Regulation (EC) No 2244/2003 shall be excluded from these hailing requirements set out in Article 19(c) of Regulation (EEC) No 2847/93.

17. Recording of relevant data

Member States shall ensure that the following data received pursuant to Articles 8, 10(1) and 11(1) of Regulation (EC) No 2244/2003 are recorded in a computer-readable form:

- (a) entry into, and exit from port;
- (b) each entry into, and exit from maritime areas where specific rules on access to waters and resources apply.

18. Cross-checks

Member States shall verify the submission of logbooks and relevant information recorded in the logbook by using VMS data. Such cross-checks shall be recorded and made available to the Commission on request.

19. Alternative control measures

Member States may implement alternative control measures to ensure compliance with the obligations referred to in point 16 which are as effective and transparent as these reporting obligations. Such alternative measures shall be notified to the Commission before being implemented.

20. Prior notification of transshipments and landings

The master of a Community vessel or his representative wishing to tranship any quantity retained on board or to land in a port or landing location of a third country shall inform the competent authorities of the flag Member State at least 24 hours prior to transshipping or to landing in a third country the information referred to in Article 19b of Regulation (EEC) No 2847/93.

21. Margin of tolerance in the estimation of quantities reported in the logbook

By way of derogation from Article 5(2) of Regulation (EEC) No 2807/83, the permitted margin of tolerance, when estimating quantities, in kilograms retained on board of vessels referred to in point 16 shall be 8 % of the logbook figure. Where no conversion factors are laid down in Community legislation, the conversion factors adopted by the Member states whose flag the vessel is flying shall apply.

22. Separate stowage

When quantities of sole greater than 50 kg are stowed on board a vessel, it shall be prohibited to retain on board a fishing vessel in any container any quantity of Sole mixed with any other

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 43/2009, ANNEX II. (See end of Document for details)

species of marine organism. The masters of Community vessels shall give inspectors of Member States such assistance as will enable the quantities declared in the logbook and the catches of sole retained on board to be cross checked.

23. Weighing

23.1. The competent authorities of a Member State shall ensure that any quantity of sole exceeding 300 kg caught in the area shall be weighed before sale. The scales used for the weighing shall be approved by the competent national authorities.

23.2. The competent authorities of a Member State may require that any quantity of sole exceeding 300 kg caught in the area and first landed in that Member State is weighed in the presence of controllers before being transported from the port of first landing.

REPORTING OBLIGATIONS

24. Collection of relevant data

Member States, on the basis of information used for the management of fishing days present within the area as set out in this Annex, shall collect for each annual quarter the information about total fishing effort deployed within the area for towed gears and static gears and effort deployed by vessels using different types of gear in the area concerned by this Annex.

25. Communication of relevant data

25.1. On request of the Commission, Member States shall make available to the Commission a spreadsheet with the data referred to in point 24 in the format specified in Tables II and III by sending it to the appropriate electronic mailbox address, which shall be communicated to the Member States by the Commission.

25.2. A new format of spreadsheet for the purpose of making the data referred to in point 26 available to the Commission may be adopted in accordance with the procedure laid down in Article 30(2) of Regulation (EC) No 2371/2002.

TABLE II

Reporting format

Country	Extension of the management period	Gear(s) notified	Special condition applying to notified gear(s)	Days eligible using notified gear(s)	Days spent with notified gear(s)	Transfer of days															
							N°1	N°2	N°3	...	N°1	N°2	N°3	...	N°1	N°2	N°3	...			
(1)	(2)	(3)	(4)	(5)	(6)	(6)	(6)	(6)	(7)	(7)	(7)	(7)	(8)	(8)	(8)	(8)	(9)	(9)	(9)	(9)	(10)

TABLE III

Data format

Name of field	Maximum number of characters/digits	Alignment ^a L(eft)/R(ight)	Definition and Comments
(1) Country	3	n/r	Member State (Alpha-3 ISO code) in which vessel is registered for

^a relevant information for transmission of data by fixed-length formatting.

Changes to legislation: There are currently no known outstanding effects for the Council Regulation (EC) No 43/2009, ANNEX II. (See end of Document for details)

			<p>fishing under Council Regulation (EC) No 2371/2002.</p> <p>In the case of the donor Vessel, it is always the reporting country.</p>	
(2)	CFR	12	n/r	<p>Community Fleet Register number</p> <p>Unique identification number of a fishing vessel.</p> <p>Member State (Alpha-3 ISO code) followed by an identifying series (9 characters). Where a series has fewer than 9 characters additional zeros must be inserted on the left hand side.</p>
(3)	External marking	14	L	Under Commission Regulation (EEC) No 1381/87.
(4)	Length of management period	2	L	Length of the management period measured in months.
(5)	Area fished	1	L	Non relevant information in the case of Annex IIC.
(6)	gear(s) notified	5	L	Indication of gear grouping notified in accordance with point 3 to Annex IIC (a or b).
(7)	Special condition applying to notified gear(s)	2	L	Non relevant information in the case of Annex IIC.
(8)	Days eligible using notified gear(s)	3	L	Number of days for which the vessel is eligible under Annex IIC for the choice of gear

a relevant information for transmission of data by fixed-length formatting.

Changes to legislation: There are currently no known outstanding effects for the
Council Regulation (EC) No 43/2009, ANNEX II. (See end of Document for details)

			groupings and length of management period notified.
(9)	Days spent with notified gear(s)	3	L
(10)	Transfers of days	4	L

a relevant information for transmission of data by fixed-length formatting.

ANNEX IID

FISHING OPPORTUNITIES AND FISHING EFFORT FOR VESSELS FISHING FOR SANDEEL IN ICES ZONES IIIA AND IV AND IN EC WATERS OF ICES ZONE IIa

1. The conditions laid down in this Annex shall apply to Community vessels fishing in ICES zones IIIa and IV and in EC waters of ICES zone IIa with demersal trawl, seine or similar towed gears with a mesh size of less than 16 mm.
2. The conditions laid down in this Annex shall apply to third-country vessels authorised to fish for sandeel in EC waters of ICES zone IV unless otherwise specified, or as a consequence of consultations between the Community and Norway as set out in point 7.3 of the Agreed Record of conclusions between the European Community and Norway of 10 December 2008.
3. For the purposes of this Annex a day present within the area shall be:
 - (a) the 24-hour period between 00:00 hours of a calendar day and 24:00 hours of the same calendar day or any part of such a period or;
 - (b) any continuous period of 24 hours as recorded in the Community logbook between the date and time of departure and the date and time of arrival or any part of any such time period.
4. Each Member State concerned shall maintain a data base containing for ICES zones IIIa and IV and for each vessel flying its flag or registered within the Community which have been fishing with demersal trawl, seine or similar towed gears with a mesh size of less than 16 mm, the following information:
 - (a) the name and internal registration number of the vessel;
 - (b) the installed engine power of the vessel in kilowatts measured in accordance with Article 5 of Regulation (EEC) No 2930/86;
 - (c) the number of days present within the area when fishing with demersal trawl, seine or similar towed gear with a mesh size of less than 16 mm;
 - (d) the kilowatt-days as the product of the number of days present within the area and the installed engine power in kilowatts.
5. Exploratory fishery relating to sandeel abundance shall start no earlier than 1 April 2009 and end no later than 6 May 2009.

The total ceiling of fishing effort allowed in the exploratory fishery relating to sandeel abundance in 2009 shall be determined on the basis of the total fishing effort deployed by Community vessels in 2007 established in accordance with point 4 and shall be divided among Member States in accordance with the quota allocations for this TAC.

6. The TAC and quotas for sandeel in ICES zone IIIa and IV and in EC waters of ICES zones IIa as laid down in Annex I shall be revised by the Commission as early as possible based on advice from ICES and the STECF on the size of the 2008 year class of North Sea sandeel, taking into account the following principles as well as other relevant elements contained in the scientific advice:

The TAC for EC waters of ICES zones IIa and IV shall be established according to the following function:

*Changes to legislation: There are currently no known outstanding effects for the
Council Regulation (EC) No 43/2009, ANNEX II. (See end of Document for details)*

$$\text{TAC}_{2009} = -287 + 3,98 \times N1 \times W_{\text{obs}} W_m$$

N1 is the real-time estimate of age group 1 in billions derived from the exploratory fishery in 2009; the TAC is expressed in 1,0 tonnes; Wobs is the observed mean weight of age group 1 during the exploratory fishery; and Wm (3.8 g) is the long-term mean weight of age group 1.

7. If the TAC calculated in point 6 exceeds 400 000 tonnes, the TAC shall be set at 400 000 tonnes.
8. Commercial fishing with demersal trawl, seine or similar towed gears with a mesh size of less than 16 mm, shall be prohibited from 1 August 2009 until 31 December 2009.

Changes to legislation: There are currently no known outstanding effects for the
Council Regulation (EC) No 43/2009, ANNEX II. (See end of Document for details)

- (1) OJ L 60, 5.3.2008, p. 1.
- (2) OJ L 186, 15.7.2008, p. 3.

Changes to legislation:

There are currently no known outstanding effects for the Council Regulation (EC) No 43/2009, ANNEX II.