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SCIENTIFIC, TECHNICAL AND ECONOMIC COMMITTEE FOR FISHERIES (STECF)

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Evaluation of requests from Member States to exclude certain groups of vessels from the effort regime under provision of Article 11(2) of Council Regulation 1342/2008 of 18 December 2008

MARCH 2009, WRITTEN PROCEDURE

Edited by John Casey & Hendrik Dörner

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European Commission
Joint Research Centre
Institute for the Protection and Security of the Citizen

Contact information

Address: TP 051, 21027 Ispra (VA), Italy
E-mail: stecf-secretariat@jrc.it
Tel.: 0039 0332 789343
Fax: 0039 0332 789658

<https://stecf.jrc.ec.europa.eu/home>
<http://ipsc.jrc.ec.europa.eu/>
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**OPINION OF THE SCIENTIFIC, TECHNICAL AND ECONOMIC COMMITTEE FOR
FISHERIES BY WRITTEN PROCEDURE**

**Requests from Member States exclude certain groups of vessels from the effort regime under
provision of Article 11(2) of Council Regulation 1342/2008 of 18 December 2008**

MARCH 2009

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1. Background

Article 11(2) of Council Regulation 1342/2008 of 18 December 2008 (long-term management plan for cod), makes provision for The Council, acting on a Commission proposal and on the basis of the information provided by Member States and the advice of STECF, to exclude certain groups of vessels from the effort regime provided certain conditions are met. Following a request to Member States on 20 February 2009 (reference: D(2009) 01764), the Commission has received submissions from the UK, Irish, Swedish, and German Authorities containing data and information in support of their requests to exempt certain groups of vessels from the effort management regime under the provisions of that Article. At that time, the Spanish authorities had already submitted to the Commission a request supported by the a specific report.

2. STECF general comments

STECF makes the following general comments relating to the provisions of Article 11 of Council Regulation 1342/2008 of 18 December 2008 and evaluations of submissions made by Member

States. STECF considers that catches of cod <1.5% at a fleet or individual vessel level, can be achieved through three possible mechanisms:

- (i) Technical decoupling through the application of modifications to the fishing gear that inhibits or reduces cod catches;
- (ii) Spatial and/or seasonal decoupling, where the fishing activity is conducted in areas and/or seasons that are historically not associated with cod catches; and;
- (iii) Decoupling through cod stock depletion, where historically, cod catches in the area where the fleet/metier operates are likely to have exceeded 1.5% if the cod biomass was at a higher level.

STECF further notes that while fleets may technically meet the provisions of Article 11, if this is achieved principally through point (iii) above this may inhibit cod recovery and could result in an increase in cod catches from current levels due to the removal of effort capping as defined under previous cod recovery plans/effort regime.

Unless spatial or technical reasons for maintaining catch levels at or below 1.5% are demonstrated and/or proposed, and that evidence presented that demonstrates points (i) and (ii) are the primary reason why cod catches are below the threshold levels, caution should be applied when evaluating submissions that are based solely on recent catch and/or landings data. Applying the precautionary principal, in the absence of technical or spatial/temporal supporting data, it should be assumed that, given the low biomass levels of all cod stocks, that decoupling has been achieved largely as a consequence of stock depletion. Assuming that cod catches will increase in response to increases in cod stock biomass, STECF notes that vessels may be unable to meet the criteria for exemption from the effort regime provided for by Article 11. Under these circumstances, it would be necessary for vessels to lose their exemption and that adequate monitoring is required to determine if the vessel group remains exempt or not.

STECF further notes that it would require additional data to assess the likely impact that article 11 may have on cod catches if a member state expects that the application of the article would result in a transfer of effort into métiers availing of article 11. To assess the potential impact STECF will require an assessment of what the likely increase in effort would be and the cod catches associated with the additional vessels prior to application of article 11.

STECF specific observations, conclusions and recommendations on the Member States' requests are to be found in Sections 3-7 below.

3. REQUEST FROM UK AUTHORITIES

Request to STECF

Pursuant to Article 11(2) of Council Regulation 1342/2008 of 18 December 2008 (long-term management plan for cod), the UK has submitted a request to exempt certain groups of vessels from the effort management regime. STECF is requested to review the submission by the UK Authorities and advise the Commission on the following:

- Does the submission provide appropriate data on cod catches and discards to allow STECF to assess the percentage of cod catches made by each group of vessels concerned?
- Whether the percentage of cod catches (including those subsequently discarded) as assessed by STECF, is less than or equal to 1.5 % of the total catches (including those subsequently discarded) of each group of vessels concerned.

STECF is requested to pay particular attention to the following elements:

- Do the data and information submitted permit STECF to identify a discrete group of vessels to which the provisions of Article 11(2) of Council Regulation 1342/2008 of 18 December 2008 apply?
- Does the group or groups of vessels identified exhibit similar types of fishing activity during specific management periods within specific cod conservation area(s)?
- Taking into account time period, spatial coverage and fishing pattern, are the observed catches of cod (landings and discards) considered representative of the catches of cod for the groups of vessels identified in the Member States' submission?
- Does the submission contain appropriate catch data for the groups of vessels identified to permit STECF to evaluate whether the catch of cod is less than or equal to 1.5% of the total catch for those vessels?
- If STECF concludes that the data and information are insufficient to assess whether the catch of cod is less than or equal to 1.5% of the total catch for the vessel groups identified in the submission, STECF is requested to specify the data that are required in order to permit such an assessment.

STECF Observations

The submission by the UK Authorities contains a cover letter seeking the exclusion of a group of vessels using bottom trawls and seines (effort groups TR1 and TR2) from the effort management system, and two annexes listing these vessels with corresponding effort (and landings) data. The reference period chosen for the effort baseline (according to Article 12(2)(a) of Reg. 1342/2008) was 2004-2006.

The letter also briefly lines out the UK control and monitoring measures within the cod conservation scheme which all vessels have to comply with, i.e. also in the case when vessels will be excluded from the effort management system.

Data presented

Annex 1 presents effort data (kW days) by vessel and 'sea area' (West of Scotland, Irish Sea, North Sea) for the baseline years 2004-2006, for those vessels that "landed less than 0.5% cod in both 2007 and 2008", as "a precautionary proxy for the fulfilment of the 1.5% threshold". Whether or not this 'proxy' is valid or not, however, could not be evaluated by STECF, as no catch data (i.e. landings and discards) were given. These are predominantly vessels in the group TR2 (n = 219 vessels), with only a few TR1 vessels (n = 30). Seventeen of these vessels were present in both effort groups. There are 30 additional vessels listed with the note "effort contributions for the following vessels will follow with supplementary information". For some vessels, the effort data

show large variation between years. For all vessels in this annex, only the UK Registry of Shipping and Seamen (RSS) numbers are given for individual identification. The cover letter notes that “comprehensive catch data is not available for the requisite vessels at this time” and that “the UK will wish, in due course, to provide additional information from scientific observer data, in particular evidence of different discard rates in different sea areas”.

In Annex 2, landings by weight (total and cod) for 2007-2008 and effort data (kW days) for 2004-2006 are given by ‘sea area’ (West of Scotland, Irish Sea, North Sea) for 59 Northern Ireland based *Nephrops* vessels for which observer data are available. Five vessels listed in Annex 2 are also listed in Annex 1. These vessels are exclusively allocated to effort group TR2 (whereas the cover letter also mentions TR1). Most of the vessels were operating in the areas West of Scotland and Irish Sea, and only 11 vessels in the North Sea. In cases where vessels were operating in more than one area, exactly the same landings data are given for each area, whereas effort data for a given vessel are largely varying between areas. The validity of the landings data provided, therefore, appears doubtful. The vessels are individually listed by RSS and PLN (Port Lettering Number) codes.

Annex 2 also provides the percentage of cod landed by these vessels in 2007-2008, which is in a few cases >1.5% (up to 2.4%) in one of the years 2007 and 2008, but in all cases <1.5% on average for both years combined. The overall average percentage cod landed is 0.79% (while the cover letter mentions “0.89%”).

STECF conclusions and recommendations

The STECF conclusions and recommendations are listed according to each of the specific elements of the request below:

1. Do the data and information submitted permit STECF to identify a discrete group of vessels to which the provisions of Article 11(2) of Council Regulation 1342/2008 of 18 December 2008 apply?

Only the data and information presented in Annex 2 of the UK submission indicate the proportion of cod in the landings of a group of vessels belonging to the effort group TR2. While the cover letter notes that “observer catch data is available” for these vessels, it is not clear which of the listed vessels were covered by the observer scheme, and at which sampling intensity. As no further technical characteristics (gears, mesh size ranges etc.) and only coarse geographical information are provided,

STECF is unable to identify a group or groups of vessels with similar exploitation patterns. STECF therefore concludes that the data and information submitted does not permit the identification of a discrete group of vessels to which the provisions of Article 11(2) of Reg. 1342/2008 apply.

2. Does the group or groups of vessels identified exhibit similar types of fishing activity during specific management periods within specific cod conservation area(s)?

As information on fishing activities is only given on an annual aggregation level and by ‘sea areas’ (West of Scotland, Irish Sea, North Sea), the similarity of these activities within the (non-identifiable) group of vessels cannot be assessed by STECF.

3. Taking into account time period, spatial coverage and fishing pattern, are the observed catches of cod (landings and discards) considered representative of the catches of cod for the groups of vessels identified in the Member States’ submission?

The submission does not include discard information and thus does not permit STECF to assess the catches of cod for the group(s) of vessels.

4. Does the submission contain appropriate catch data for the groups of vessels identified to permit STECF to evaluate whether the catch of cod is less than or equal to 1.5% of the total catch for those vessels?

STECF concludes that the landings data from the on-board observer scheme is inappropriate to indicate that over the period of the observer programme, the annual average catches of cod by the vessels listed in Annex 2 of the UK submission are estimated to be less than 1.5% of the total catch.

5. If STECF concludes that the data and information are insufficient to assess whether the catch of cod is less than or equal to 1.5% of the total catch for the vessel groups identified in the submission, STECF is requested to specify the data that are required in order to permit such an assessment.

In order to advise on the proportion of cod in the catch of a specific group or groups of vessels in future, STECF recommends that UK authorities provide the following information:

Catches (landings and discards) in weight of cod and all other fish, crustaceans and molluscs by all vessels identified as belonging to the group(s) of vessels together with the fishing effort (kW days) deployed to obtain those catches. Spatial and temporal coverage, sampling intensity (e.g. sampled effort vs. total effort for a given vessel) should be given for onboard observer schemes for the considered group(s) of vessels.

Catch and effort data should be provided by vessel by month of the year and for the most recent three calendar years. Any information on technical characteristics (gear, mesh sizes etc.) and exploitation patterns (e.g. target species) of these vessels will help identifying the grouping of the vessels. Individual vessel data are required in order to assess between-vessel variation within the group. If individual vessel data are not available, then the data should be aggregated over vessels within the group by month of the year. The vessels belonging to each group should be listed together with their Community Fishing Register (CFR) number.

Conclusions

STECF consider that the submission does not present sufficient data to grant the exclusion of vessels listed in Annexes 1 and 2 from the effort management system under the provisions of Article 11.2 of the 'Long-term plan for cod stocks' Regulation (EC) No 1342/2008.

STECF also consider that MS should refer to point 5 of this evaluation for which information should be provided to allow an assessment whether the catch of cod is less than or equal to 1.5% of the total catch for the vessel groups identified in the submission.

4. REQUEST FROM IRISH AUTHORITIES

Request to STECF

Pursuant to Article 11(2) of Council Regulation 1342/2008 of 18 December 2008 (long-term management plan for cod), Ireland has submitted a request to exempt certain groups of vessels from the effort management regime. STECF is requested to review the submission from the Irish Authorities and advise the Commission on the following:

- Does the submission provide appropriate data on cod catches and discards to allow STECF to assess the percentage of cod catches made by each group of vessels concerned?
- Whether the percentage of cod catches (including those subsequently discarded) as assessed by STECF, is less than or equal to 1.5 % of the total catches (including those subsequently discarded) of each group of vessels concerned.

STECF is requested to pay particular attention to the following elements:

- Do the data and information submitted permit STECF to identify a discrete group of vessels to which the provisions of Article 11(2) of Council Regulation 1342/2008 of 18 December 2008 apply?
- Does the group or groups of vessels identified exhibit similar types of fishing activity during specific management periods within specific cod conservation area(s)?
- Taking into account time period, spatial coverage and fishing pattern are the observed catches of cod (landings and discards) considered representative of the catches of cod for the groups of vessels identified in the Member States' submission.
- Does the submission contain appropriate catch data for the groups of vessels identified to permit STECF to evaluate whether the catch of cod is less than or equal to 1.5% of the total catch for those vessels?
- If STECF concludes that the data and information are insufficient to assess whether the catch of cod is less than or equal to 1.5% of the total catch for the vessel groups identified in the submission, STECF is requested to specify the data that are required in order to permit such an assessment.

STECF Observations

The submission by the Irish Authorities comprises a list of vessels divided by areas that the Irish Authorities indicate having less than 1.5% cod by weight and describe the scientific basis and results of the historical catch sampling programme in VIIa and VIa during the reference years (2004-2007).

Using the gear groupings as defined under EC regulation 1342/2008, 'groups of vessels' have been identified as conforming to the 1.5% threshold stipulated under Article 11.2 (b). The vessels have been identified on the basis of data obtained from sampled trips with scientific observers present under the Irish National data collection programme and log book returns for vessels in 2007 and 2008.

Data presented

A summary of the results of scientific discard sampling programme is presented in Table 1. Cod landings, cod catch, total landings, total catch and proportion of cod (% by weight) in the landings and catch are given by ICES Division, "Effort Group" and metier. The number of trips in each metier and by each of the cod catch % categories identified in Article 13 of Reg. 1342/2008 are also shown. Article 13, however, does not specify a 1.5% threshold, but 1% (highly selective gear) and 5% (cod-avoiding fishing trips).

Catch sampling in VIIa

In VIIa a total of 34 scientific observer trips were conducted during the reference period, 2004 to 2006. Half the trips conformed to a catch composition of less than 1.5% cod by weight. Some metiers had catch composition less than 1.5% during the reference periods though sampling levels are low.

Catch sampling in VIa

A total of 18 observed trips were conducted in ICES Division VIa during the reference period 2004 to 2006 for vessels grouped into TR1 (Trawl $\geq 100\text{mm}$) and during 2005 – 2007 in TR2 (Trawl $\geq 70\text{mm} < 100\text{mm}$). All trips in VIa are below the catch 1.5% threshold. For TR1, cod makes 1.1% of the overall catch (Table 1). These vessels are typically engaged in mixed species demersal fisheries with an emphasis on targeting megrim and monkfish. In TR2, three metiers have been identified. A generic mixed demersal fleet, a mixed fish/Nephrops fleet and a Nephrops targeted fleet. The relative contribution cod makes to the catches of these fleets are 0.2, 0.3 and 0.6% respectively, based on observed trips.

Table 1 presents Cod catches and landings, total catches and landings and % of cod in the catch and landings by effort grouping and metier for observer trips during 2004-2007.

Table 2 identifies a list of Irish Vessels with CFR numbers operating in VIIa in 2007 and 2008 with cod landings $< 1.5\%$ of total landings. STECF understands that the Irish authorities propose that the vessels listed in Table 2 be excluded from the effort management system under the provisions of Article 11 of Regulation (EC) No 1342/2008.

Table 3 presents a list of Irish Vessels with CFR numbers operating in VIa in 2007 and 2008 with cod landings $< 1.5\%$ of total landings. STECF understands that the Irish authorities propose that the vessels listed in Table 3 be excluded from the effort management system Regulation (EC) No 1342/2008.

Table 4 presents the average effort during the base-line years for Irish Vessels listed in Tables 2 and 3.

STECF conclusions and recommendations.

The STECF conclusions and recommendations are listed according to each of the specific elements of the request below:

1. Do the data and information submitted permit STECF to identify a discrete group of vessels to which the provisions of Article 11(2) of Council Regulation 1342/2008 of 18 December 2008 apply?

In relation to the provisions of Article 11(2) of Council Regulation 1342/2008 of 18 December 2008, only the data arising from the Irish on-board observer scheme permit an evaluation of the proportion of cod in the catches of certain vessels. Although the data presented in Table 1 refer to on-board observer sampling, the vessels participating in the on-board scheme are not identified in the submission. Furthermore, while the sampling intensity of the on-board observer scheme is presented in absolute terms (number of trips), STECF is unable to ascertain the precision of the estimates or whether the observed proportions of cod in the catches from the observer programme are representative of the proportions of cod in the catches of the vessels listed in tables 2 and 3. In addition, Tables 2 and 3 only indicate the annual proportions of cod in the landed catch of the vessels listed and not the proportions of cod caught. STECF is also unable to deduce from the information presented, whether the vessels listed in tables 2 and 3 are ascribable to the métiers and/or gear groups given in Table 1 or whether any of the vessels in Tables 2 and 3 were covered as part of the sea-going observer programme.

Given the above observations, STECF therefore concludes that the data and information submitted does not fully permit the identification of a discrete group of vessels to which the provisions of Article 11(2) of Council Regulation 1342/2008 of 18 December 2008 applies.

2. Does the group or groups of vessels identified exhibit similar types of fishing activity during specific management periods within specific cod conservation area(s)?

The submission does not contain any spatial and temporal information of the fishing activity conducted by the vessels listed in Tables 2 and 4 other than annual landings of cod and other

species from ICES Division (VIa or VIIa). Thus, STECF is unable to evaluate if vessels identified exhibit similar types of fishing activity during specific management periods within specific cod conservation areas.

3. Taking into account time period, spatial coverage and fishing pattern, are the observed catches of cod (landings and discards) considered representative of the catches of cod for the groups of vessels identified in the Member States' submission.

The submission does not contain any spatial and temporal information of the fishing activity conducted by the vessels listed in Tables 2, 3 and 4 other than annual landings of cod and other species from ICES Division (VIa or VIIa). Furthermore, there is insufficient information to discern whether the vessels listed in Tables 2 and 3 can be ascribed to any of the métiers sampled under the sea-going observer scheme. Thus, the submission does not include sufficient information to permit STECF to assess whether the observed catches of cod from observer trips can be considered representative of the catches of all of the vessels listed in tables 2 and 3 (see also answer 1).

4. Does the submission contain appropriate catch data for the groups of vessels identified to permit STECF to evaluate whether the catch of cod is less than or equal to 1.5% of the total catch for those vessels?

STECF considers that the data from the on-board observer scheme is appropriate to indicate whether the annual average proportion of cod in the catches for the métiers identified was less than 1.5% of the total catch for those métiers over the period of the observer programme. However, as for answer 1 and 3, STECF is unable to ascribe the vessels identified in Tables 2 and 3 to the sampled métiers given in Table 1. However, the data submitted is insufficient to determine what proportion of the overall number of trips were sampled for each métier, the precision levels of the estimated proportions of cod caught or whether any of the vessels listed in Tables 2 and 3 were included in the observer programme.

5. If STECF concludes that the data and information are insufficient to assess whether the catch of cod is less than or equal to 1.5% of the total catch for the vessel groups identified in the submission, STECF is requested to specify the data that are required in order to permit such an assessment.

In order to advise on the proportion of cod in the catch of a specific group or groups of vessels in future, STECF recommends that Member State provide the following information:

1. Spatial and temporal information of the fishing activity conducted by the vessels exempted from the effort management regime.
2. Catches (landings and discards) in weight of cod and all other fish, crustaceans and mollusks by all vessels included in the observer programme together with the fishing effort (kW days) deployed to obtain those catches and spatial and temporal information of the trips. Individual vessel data are required in order to assess between-vessel variation within the group together with their Community Fishing Register (CFR) number to assess if some of the vessels exempted have been included in the observer programme.
3. How large has been the coverage of the observer programme in relation to the total number of trips of the fleet (i.e. métiers) and related precision level of the estimate.
4. To which métiers the vessels exempted from the effort management regime belong together with their Community Fishing Register (CFR) number.

Conclusions

STECF consider that the submission does not present sufficient data to grant the exclusion of vessels listed in Tables 2 and 3 from the effort management system under the provisions of Article 11.2 of the 'Long-term plan for cod stocks' Regulation (EC) No 1342/2008.

STECF also consider that MS should refer to point 5 of this evaluation for which information should be provided to allow an assessment whether the catch of cod is less than or equal to 1.5% of the total catch for the vessel groups identified in the submission.

5. REQUEST FROM THE SPANISH AUTHORITIES

Request to STECF

Pursuant to Article 11(2) of Council Regulation 1342/2008 of 18 December 2008 (long-term management plan for cod), Spain has submitted a request to exempt certain groups of vessels from the effort management regime. STECF is requested to review the submission by the Spanish Authorities and advise the Commission on the following:

- Does the submission provide appropriate data on cod catches and discards to allow STECF to assess the percentage of cod catches made by each group of vessels concerned?
- Whether the percentage of cod catches (including those subsequently discarded) as assessed by STECF, is less than or equal to 1.5 % of the total catches (including those subsequently discarded) of each group of vessels concerned.

STECF is requested to pay particular attention to the following elements:

- Do the data and information submitted permit STECF to identify a discrete group of vessels to which the provisions of Article 11(2) of Council Regulation 1342/2008 of 18 December 2008 apply?
- Does the group or groups of vessels identified exhibit similar types of fishing activity during specific management periods within specific cod conservation area(s)?
- Taking into account time period, spatial coverage and fishing pattern, are the observed catches of cod (landings and discards) considered representative of the catches of cod for the groups of vessels identified in the Member States' submission.
- Does the submission contain appropriate catch-data for the groups of vessels identified to permit STECF to evaluate whether the catch of cod is less than or equal to 1.5% of the total catch for those vessels?
- If STECF concludes that the data and information are insufficient to assess whether the catch of cod is less than or equal to 1.5% of the total catch for the vessel groups identified in the submission, STECF is requested to specify the data that are required in order to permit such an assessment.

STECF Observations

The submission by the Spanish Authorities comprises a paper by Fernández et al. entitled "Cod by-catch of the Spanish fleets operating from Northern of Scotland to the Celtic Sea (ICES Divisions VIab and VIIbc,e-k)". The paper was prepared as a working document to the North Western Waters RAC and the focus group on Cod avoidance Plans of the NWW RAC held in Dublin on 13 February 2008.

The paper presents a brief descriptive overview of the ecosystem in ICES Divisions VIab and VIIbc,e-k and a historical description with tables of the international landed catch of cod from the fisheries in these areas. The paper also provided an overview of the evolution of the composition and activity of the Spanish fleets in these areas.

Data presented

The paper presents time series of data on landings of cod and other species into the port of A Coruña and on the proportion of cod in the catches of vessels identified as targeting hake (the hake fleet) and megrim (the megrim fleet) from an on-board observer programme.

Several on-board observer programmes between 1988 onwards but not systematically until 2003. Between 1988 and 2006 average 10 vessels per year = 101 trips 3517 hauls and 15420 fishing hours in total. 2 Metiers identified according to target species either hake or megrim.

Table 1 presents cod landings from these ICES Divisions VIab and VIIbc,e-k areas since 1903.

Table 2 indicates landings of cod to the port of A Coruña from 1976-1989 by all gear types. The data indicate that the annual proportion of cod as a percentage of the total landings of fish,

crustaceans and molluscs ranges from 0.01% to 1.69%. Table 3 indicates landings of cod and other species by fishing gear to the port of A Coruña from 1982-2006 and indicates that the proportion of cod in the landings to this port has not exceeded 2.22% by any gear. Since these data relate to the annual proportion of cod landed, the proportion of cod caught by vessels landing their catch to the port of A Coruña cannot be assessed by STECF.

Table 4 shows the sampling intensity of the on-board observer programme for the hake and megrim Spanish fleets identified as targeting hake or megrim and Table 5 presents data from the on-board observer programme. These data indicate that over the period 1988 to 2006, the average the proportion of cod caught as a percentage of the total catch for vessels was 0.59% for the megrim fleet and 0.05% for the hake fleet. However the observed cod catches may be influenced by seasonal variations in fishing pattern relative to the distribution of the cod stock and by the seasonal observer coverage and no information on these details is provided.

STECF conclusions and recommendations

The STECF conclusions and recommendations are listed according to each of the specific elements of the request below:

1. Do the data and information submitted permit STECF to identify a discrete group of vessels to which the provisions of Article 11(2) of Council Regulation 1342/2008 of 18 December 2008 apply?

The data and information presented relates to a group of vessels that are identified only in general terms e.g. vessels landing into the port of A Coruña, the hake fleet, the megrim fleet. Longline vessels, trawl vessels etc. In relation to the provisions of Article 11(2) of Council Regulation 1342/2008 of 18 December 2008, only the data arising from the Spanish on-board observer scheme permit an evaluation of the proportion of cod in the catches of certain vessels. However, the vessels participating in the on-board scheme are not identified in the submission and there is no clear indication as to which group or groups of vessels exemption from the effort management regime is being sought. While the sampling intensity of the on-board observer scheme is presented in absolute terms and the results of the scheme may be representative of a wider group or groups of vessels, STECF is unable to identify such a group or groups. STECF therefore concludes that the data and information submitted does not permit the identification of a discrete group of vessels to which the provisions of Article 11(2) of Council Regulation 1342/2008 of 18 December 2008 applies.

2. Does the group or groups of vessels identified exhibit similar types of fishing activity during specific management periods within specific cod conservation area(s)?

The graphical information presented allows STECF to conclude that the distribution of the Spanish fleet in ICES Divisions VIab and VIIbc, e-k in 2006 and 2007 was relatively consistent between years and seasons. No information from other years is presented and the reported activity does not discriminate between different groups of vessels or fishing activities.

3. Taking into account time period, spatial coverage and fishing pattern, are the observed catches of cod (landings and discards) considered representative of the catches of cod for the groups of vessels identified in the Member States' submission.

The submission does not include sufficient information to permit STECF to assess whether the observed catches of cod from observer trips on vessels identified as belonging to the hake fleet or the megrim fleet can be considered representative of the catches of all of the vessels that can be ascribed to such fleets.

4. Does the submission contain appropriate catch data for the groups of vessels identified to permit STECF to evaluate whether the catch of cod is less than or equal to 1.5% of the total catch for those vessels?

STECF considers that the data from the on-board observer scheme is appropriate to indicate that over the period of the observer programme, the annual average catches of cod by vessels identified as belonging to the hake fleet and megrim fleet is estimated to be less than 1.5% of the total catch.

5. If STECF concludes that the data and information are insufficient to assess whether the catch of cod is less than or equal to 1.5% of the total catch for the vessel groups identified in the submission, STECF is requested to specify the data that are required in order to permit such an assessment.

In order to advise on the proportion of cod in the catch of a specific group or groups of vessels in future, STECF recommends that Member States provide the following information :

Catches (landings and discards separately) in weight of cod and all other fish, crustaceans and molluscs by all vessels identified as belonging to the groups of vessels for together with the fishing effort (kW days) deployed to obtain those catches. Spatial and temporal coverage, sampling intensity (e.g. sampled effort vs. total effort for a given vessel) should be given for onboard observer schemes for the considered group(s) of vessels. Catch and effort data should ideally be provided by vessel by month of the year and for the most recent three calendar years. Any information on technical characteristics (gear, mesh sizes etc.) and exploitation patterns (e.g. target species) of these vessels will help identifying the grouping of the vessels. Individual vessel data are required in order to assess between-vessel variation within the group. If individual vessel data are not available then the data should be aggregated over vessels within the group by month of the year. The vessels belonging to each group should be listed together with their Community Fishing Register (CFR) number.

Conclusions

STECF consider that in the Spanish submission there is no clear indication as to which group or groups of vessels seek exemption from the effort management regime; therefore no exclusion can be granted to any group of vessels from the effort management system under the provisions of Article 11.2 of the 'Long-term plan for cod stocks' Regulation (EC) No 1342/2008. Moreover, as noted under (3), the submission does not include sufficient information to permit STECF to assess whether the observed catches from observer trips can be considered representative of the catches of all of the vessels that can be ascribed to such fleets.

STECF also consider that MS should refer to point 5 of this evaluation for which information should be provided to allow an assessment whether any group of vessels can be exempted from the effort management regime.

6. REQUEST FROM THE SWEDISH AUTHORITIES

Request to STECF

Pursuant to Article 11(2) of Council Regulation 1342/2008 of 18 December 2008 (long-term management plan for cod), Sweden has submitted a request to exempt certain groups of vessels from the effort management regime. STECF is requested to review the submission by the Swedish Authorities and advise the Commission on the following:

- Does the submission provide appropriate data on cod catches and discards to allow STECF to assess the percentage of cod catches made by each group of vessels concerned?
- Whether the percentage of cod catches (including those subsequently discarded) as assessed by STECF, is less than or equal to 1.5 % of the total catches (including those subsequently discarded) of each group of vessels concerned.

STECF is requested to pay particular attention to the following elements:

- Do the data and information submitted permit STECF to identify a discrete group of vessels to which the provisions of Article 11(2) of Council Regulation 1342/2008 of 18 December 2008 apply?
- Does the group or groups of vessels identified exhibit similar types of fishing activity during specific management periods within specific cod conservation area(s)?
- Taking into account time period, spatial coverage and fishing pattern, are the observed catches of cod (landings and discards) considered representative of the catches of cod for the groups of vessels identified in the Member States' submission.
- Does the submission contain appropriate catch-data for the groups of vessels identified to permit STECF to evaluate whether the catch of cod is less than or equal to 1.5% of the total catch for those vessels?
- If STECF concludes that the data and information are insufficient to assess whether the catch of cod is less than or equal to 1.5% of the total catch for the vessel groups identified in the submission, STECF is requested to specify the data that are required in order to permit such an assessment.

○

STECF Observations

The submission by the Swedish Authorities comprises the following documents:

- A letter formulating the Swedish request to exempt from the effort regime a group of vessels using the species selective *Nephrops* grid, which is defined in Appendix 2 to Annex III to the TAC and quota regulation for 2009 (Council Regulation (EC) no 43/2009 of 16 January 2009), and was introduced in 2004. The gear is since 2005 mandatory in EU legislation (Appendix 1 of Annex III to the TAC and quota regulation for 2009), in Skagerrak and Kattegatt in the mesh size range 70-89 mm. The gear has since 2006, based on recommendations by STECF, had unlimited days in the effort regime. The Swedish request letter claims that this gear has been evaluated by STECF annually since 2004, and that it has been found not to contribute to cod fishing mortality. The letter concludes stating that from 2009 onwards the discard sampling will be carried out in accordance with Council Reg. 199/2008, Commission Reg. 665/2008 and Commission Dec. 2008/949/EC, and that Sweden has planned to carry out 24 sampling trips a year for the métier using the sorting grid. The request is supported by the following 10 Annexes (note that Annexes 5 and 6 are articles published in peer-reviewed scientific journals):
 1. Annex 1: Vessel list with CFR numbers, overall **landings** 2005-2007, days at sea (in their cover letter the Swedes speak of 'catches', but in the document itself it is clear that it refers to landings only).
 2. Annex 2: List of vessels that would potentially be qualified to use the *Nephrops* grid during 2009.

3. Annex 3: Data from observer program in accordance with the Data Collection Regulation regarding discards of the gear.
4. Annex 4: Swedish national regulation (FIFS) regarding access and control, regulating the one net rule for the *Nephrops* grid.
5. Annex 5: Valentinsson, D., Ulmestrand, M., 2008. Species-selective *Nephrops* trawling: Swedish grid experiments. *Fish. Res.* 90,109-117. This study shows that a trawl equipped with a sorting-grid and a square-mesh codend sorts out close to 100% of cod of marketable sizes (> 35 cm) and reduces catches of undersized cod by 60-70% as compared to the conventional 90 mm trawl.
6. Annex 6: Catchpole, T.L., Tidd, AN., Kell, L.T., Revill, AS., Dunlin, G., 2007. The potential for new *Nephrops* trawl designs to positively effect North Sea stocks of cod, haddock and whiting. *Fish. Res.* 86, 262-267. This is a simulation study whose results suggest that introduction of the *Nephrops* trawl with a grid with a square-mesh codend may result in an increase of the cod stock in the course of 10 years.
7. Annex 7: Swedish control program for cod stocks in the North Sea, Skagerrak and Kattegatt.
8. Annex 8: Swedish control program for cod stocks in the North Sea, Skagerrak and Kattegatt (2. Alternative control measures).
9. Annex 9: Swedish control program for cod stocks in the North Sea, Skagerrak and Kattegatt (3. Inspection program SB).
10. Annex 10: Swedish control program for cod stocks in the North Sea, Skagerrak and Kattegatt (4. Inspection program CG).

Data presented

Annex 1 presents total effort and total landings (by species) per vessel of the group of vessels (72 in 2005, 88 in 2006, and 108 in 2007) using the *Nephrops* grid in each of the three reference years 2005-2007. Annual cod landings per vessel varied from 0 to 345 kg, and the total cod landings by this group of vessels over the 3 years sums up to 2980 kg, although the document itself states it is 3114 kg. Whereas only 0.2% of the total landings by all vessels in these 3 years consisted of cod, in 2005, 5 of the vessels had > 1.5% cod in their annual landings (the highest annual percentage was 9.6%) ; in 2006 3 vessels landed > 1.5% cod (up to 2.7%); and in 2007 5 vessels landed > 1.5% cod (highest was 27.2%). Although the Swedish letter states that "by-catches of cod exceeding 1% of the total catch would indicate tampering with the grid and will be followed up by inspections to the extent possible", there is no explanation provided for these high annual excesses of 1.5% by some vessels.

Annex 3 presents discards estimates by *Nephrops* trawls with sorting grid, based on 115 hauls under the observer programme raised to métier level. Cod discards were respectively 2, 4, and 20 tonnes, and comprised respectively 0.4%, 0.9%, and 1.4% of the total discards of all species together in the respective years 2005, 2006, and 2007.

Other evidence presented

From the two peer-reviewed articles submitted with the request, it can be concluded that the use of the Swedish grid – if effectively enforced – avoids catching marketable cod and reduces catching undersized cod significantly. STECF notes however, that it has not been established that cod catches at an individual vessel level would be below 1.5% at all times. The grid and square mesh cod-end combination will also results in significant reductions for a range of other species.

STECF conclusions and recommendations

The STECF conclusions and recommendations are listed according to each of the specific elements of the request below:

1. Do the data and information submitted permit STECF to identify a discrete group of vessels to which the provisions of Article 11(2) of Council Regulation 1342/2008 of 18 December 2008 apply?

Annex 1 identifies 72, 88, and 108 vessels respectively that used the Swedish grid and square mesh cod-end in respectively 2005, 2006, and 2007.

Annex 2 identifies 156 vessels potentially qualified to use the *Nephrops* grid during 2009.

The vessel grouping could be considered as a discrete métier based on likely catch composition and technical attributes of the gear. The use of the grid results in *Nephrops* contributing to catches >95% based on the data presented. The exploitation pattern would be expected to be significantly different to other *Nephrops* (crustacean) métiers using mesh sizes >90mm.

The Swedish authorities note that there may be a potential increase in the vessels using the grid in 2009 from 2005-2007 levels (up to 156 from 108 in 2007). The inclusion of these 'additional' vessels may increase the catches of cod associated with the 'grid-fleet', particularly if they are currently engaged in a fishery with no cod catches. However, it is not possible to quantify to what extent this may be the case and how it may contribute to cod mortality. As no data is presented on the current exploitation pattern of the 'additional' vessels, STECF is not in the position to estimate what the net impact on cod catches associated with these 'additional' vessels will be due to a lack of catch data and what the actual transfer of effort may be in practice. Such data should be made available if this is to be quantified.

2. Does the group or groups of vessels identified exhibit similar types of fishing activity during specific management periods within specific cod conservation area(s)?

The submission does not contain any spatial and temporal information of the fishing activity conducted by the vessels other than annual landings of cod and other species from ICES Division. Thus, STECF is unable to evaluate if vessels identified exhibit similar types of fishing activity during specific management periods within specific cod conservation areas. However, STECF notes that due to the spatially discrete nature of *Nephrops*, the activity of the fleets is likely to be broadly homogenous.

In summary, the use of the grid and square mesh cod-end presents a technical means of decoupling the fleet from catching cod to a significant degree and the use of this gear option will also offer significant advantages in the reduction in catches of other species.

3. Taking into account time period, spatial coverage and fishing pattern, are the observed catches of cod (landings and discards) considered representative of the catches of cod for the groups of vessels identified in the Member States' submission.

The data can be considered representative for any vessels that will use the Swedish grid and the square-mesh cod end in the *Nephrops* fishery in the above mentioned area. The technical data presented is sufficient to conclude that the exploitation pattern exhibited by the fleet is representative. The gear configuration exhibits a dual selection process where ~100% of large cod (>35cm) are excluded by the grid and ~71% of smaller cod (<35cm) escape through the cod-end. The lower exclusion of cod <35cm is a consequence of cod failing to escape through the cod-end once they have passed through the grid bars.

The relative escapement is population dependent and it should be noted that a small size range of fish, which pass through the grid, will be unable to escape through the cod-end (hence the lower escape rate). If the population of cod in the area comprise mainly of cod in this size band, then the retention may be greater than 1.5% in some circumstances.

4. Does the submission contain appropriate catch data for the groups of vessels identified to permit STECF to evaluate whether the catch of cod is less than or equal to 1.5% of the total catch for those vessels?

While it is possible to conclude from these data that, on an annual basis and **as a group**, vessels using the grid together with a square mesh cod-end will have catches of cod less than or equal to 1.5% of total catches, nothing can be said about catch composition of the individual vessels, let alone of the individual trips.

On the level of individual vessels, the data submitted clearly show that in each reference year some vessels (5 out of 72 in 2005, 3 out of 88 in 2006, and 5 out of 108 in 2007) landed percentages of cod higher than 1.5% on an annual basis. It is not known what the discard levels of these vessels were because the discards data are not disaggregated by individual vessel. Therefore it is not known

whether these vessels had catches of cod less than or equal to 1.5% of the total catch for those vessels. One vessel had a very high percentage of cod landings (27.2%) and it is unlikely that the catch percentage of that vessel would be less than 1.5%. Given the results presented by Valentinsson and Ulmestrand (2008) it is difficult to reconcile how a vessel, if using the grid and square mesh cod-end, could have cod landings of 27% without tampering of the gear or removing it all together to fish in areas outside the area where this gear is mandatory. The Member State is encouraged to assess such anomalies.

It is concluded that at a fleet level, the submission presents sufficient data to support the application by the Member State to avail of the provisions under article 11 of the Long Term Management Plan for Cod Stocks. The data presented demonstrate that the use of selection grids with a bar spacing of 35mm and combined with a square mesh cod-end with a mesh size of 70mm affords sufficient means to technically de-couple the activity of the group of vessels from the capture of cod to levels below 1.5%. The member state is encouraged to monitor the catches of cod and to quantify the effects on cod catches associated with the group of vessels and the uptake (effort displacement) from other fleets.

5. If STECF concludes that the data and information are insufficient to assess whether the catch of cod is less than or equal to 1.5% of the total catch for the vessel groups identified in the submission, STECF is requested to specify the data that are required in order to permit such an assessment.

The data are sufficient to evaluate the proposal by Sweden. As noted in the submission, reporting of cod landings in excess of 1% of the total landings should be used as a trigger to initiate targeted inspections by the control and enforcement authority.

In order to advise on the proportion of cod in the catch of a specific group or groups of vessels in future, STECF recommends that Member States provide the following information:

Catches (landings and discards) in weight of cod and all other fish, crustaceans and molluscs by all vessels identified as belonging to the groups of vessels together with the fishing effort (kW days) deployed to obtain those catches. Spatial and temporal coverage, sampling intensity (e.g. sampled effort vs. total effort for a given vessel) should be given for onboard observer schemes for the considered group(s) of vessels. Catch and effort data should be provided by vessel by month of the year and for the most recent three calendar years. Individual vessel data are required in order to assess between-vessel variation within the group. If individual vessel data are not available then the data should be aggregated over vessels within the group by month of the year.

The vessels belonging to each group should be listed together with their Community Fishing Register (CFR) number.

Conclusions

STECF consider that the submission presents sufficient data to grant the exclusion of vessels using the species selective *Nephrops* grid from the effort management system under the provisions of Article 11.2 of the 'Long-term plan for cod stocks' Regulation (EC) No 1342/2008.

STECF also consider that MS should closer monitor the catches of this sector of the fleet in order to quantify the effects on cod and assess eventual anomalies of the cod proportion in the catches.

7. REQUEST FROM THE GERMAN AUTHORITIES

Request to STECF

Pursuant to Article 11(2) of Council Regulation 1342/2008 of 18 December 2008 (long-term management plan for cod), Germany has submitted a request to exempt a group of vessels from the effort management regime. STECF is requested to review the submission by the German Authorities and advise the Commission on the following:

- o Does the submission provide appropriate data on cod catches and discards to allow STECF to assess the percentage of cod catches made by each group of vessels concerned?
- o Whether the percentage of cod catches (including those subsequently discarded) as assessed by STECF, is less than or equal to 1.5 % of the total catches (including those subsequently discarded) of each group of vessels concerned.

STECF is requested to pay particular attention to the following elements:

- o Do the data and information submitted permit STECF to identify a discrete group of vessels to which the provisions of Article 11(2) of Council Regulation 1342/2008 of 18 December 2008 apply?
- o Does the group or groups of vessels identified exhibit similar types of fishing activity during specific management periods within specific cod conservation area(s)?
- o Taking into account time period, spatial coverage and fishing pattern, are the observed catches of cod (landings and discards) considered representative of the catches of cod for the groups of vessels identified in the Member States' submission.
- o Does the submission contain appropriate catch-data for the groups of vessels identified to permit STECF to evaluate whether the catch of cod is less than or equal to 1.5% of the total catch for those vessels?
- o If STECF concludes that the data and information are insufficient to assess whether the catch of cod is less than or equal to 1.5% of the total catch for the vessel groups identified in the submission, STECF is requested to specify the data that are required in order to permit such an assessment.

STECF Observations

The submission by the German Authorities includes a covering letter (signed Walter Dubner) accompanied by lists of vessels. The submission seeks exemption for a group of beam trawl vessels using 80-120mm mesh (BT2). A short note is also provided by Gerd Kraus (of the Johann Heinrich von Thünen-Institut) with figures and tables showing results of observer trips carried out on vessels using this gear (Annex II)

Data presented

a) Effort and landings

The data provided on the group of vessels for which exemption is sought, consists of two tables, one providing landings information for the years 2006 to 2008 and one providing average effort in the reference period 2004 to 2006. , Most vessels have power ratings of 221kW or less, one vessel exceeds 1000kW. Both lists contain 67 vessels, The vessel ID codes however do not always match in the two tables (3 vessels are unique to the landings table and 3 are unique to the effort table). Some clarification of the exact list is required¹.

The group was assembled on the basis of those vessels recording the use of the BT2 gear in the reference period, although in general, the group did not make extensive use of this gear. The text table below provides a summary of the numbers of vessels at sea in the coastal areas of ICES Div. IVb for different amounts of days:

¹ A recent indirect communication from the German authorities suggests that the issue can be clarified quite quickly

Average days at sea 2004 to 2006	Number of vessels
<= 1	24
>1 <= 5	26
>5 <= 10	9
>10	8

Almost 75% of the vessels used the gear for 5 days or less and only 5 vessels used the gear for more than 20 days. The German submission indicates that the vessels mainly conduct brown shrimp fisheries. It is presumed that this involves the use of smaller mesh beam trawls (<80mm) which are not regulated in the effort management system, although the submission does not explicitly state this. Furthermore, the submission does not say whether any regulated gears other than BT2 were or are used by these vessels at any time.

The landings information for these vessels when using BT2 gear in the more recent period (2006-2008) suggests that the relatively low usage of this gear has continued. Almost 18% of the vessels made no landings at all with this gear and the average annual landings of almost 60% of the boats were less than 1 tonne. Most of the remaining vessels had average landings of less than 10 tonnes and only 2 vessels exceeded 20 tonnes.

The boats making landings with this gear sometimes recorded a landing of cod but not in all years and not by all vessels; only 15 vessels landed cod using this gear at some point in the period 2004-2006. In all cases the percentage cod in the landing never exceeded 1.2 % and was mostly below 0.5%. Catch information including discards was not provided for these vessels.

b) Observer data

Observations of catches on board flatfish vessels using the 80-120mm beam trawl gear in ICES IVb were carried out by scientists from the Johann Heinrich von Thünen-Institut. The narrative accompanying the observer data suggested that 4 commercial flatfish trips were sampled, whereas Table 1 indicates a total of 10 trips between 2006 and 2008 with most (6) occurring in the first year. Data are presented for each year and include detailed tabular material of the species composition by weight in the catch and summary pie charts of the main species caught (plaice, dab, grey gurnard, sole and whiting). In each year, total cod catches observed on the sampled vessels were small (<110kg) and did not exceed 1.3% of the total overall catch. The lowest value, 0.28%, was obtained in 2007 but based on only 1 observed trip.

Observed cod catches may be influenced by seasonal variations in fishing pattern relative to the distribution of the cod stock and by the seasonal observer coverage. No information is given on the seasonal timing of the observed trips or on the significance of the sampled vessels in terms of the amount of effort expended by them or their contribution to the total overall catches by the group of vessels as a whole.

STECF conclusions and recommendations

The STECF conclusions and recommendations are listed according to each of the specific elements of the request below:

1. Do the data and information submitted permit STECF to identify a discrete group of vessels to which the provisions of Article 11(2) of Council Regulation 1342/2008 of 18 December 2008 apply?

The data and information presented relates to a group of vessels that are individually listed and for which relevant identifiers and vessel characteristics are provided. STECF therefore concludes that (subject to a small clarification – see under data presented above) the data and information submitted permits the identification of a discrete group of vessels to which the provisions of Article 11(2) of Council Regulation 1342/2008 of 18 December 2008 applies.

2. Does the group or groups of vessels identified exhibit similar types of fishing activity during specific management periods within specific cod conservation area(s)?

The information presented relates to a group of vessels which used the BT2 gear during the reference period 2004-2006. However, the majority of vessels only used this gear for limited amounts of time and in the recent period (2006-2008) some did not make any landings using this gear. The submission suggests they mainly fish for brown shrimps but detailed information was not provided on the activity patterns or gear use by these vessels when not using BT2 gear.

No information was given on the seasonality in the use of the BT2 gear or on the detailed spatial distribution of activity although the submissions refer to activity limited to the coastal parts of IVb. It appears that the group mainly comprises vessels dependent on brown shrimp which occasionally operate larger mesh beam trawls targeting flatfish. This implies they operate in an unregulated gear category for much of the time and use regulated gear only to a limited extent. Based on the information available it is difficult for STECF to say with certainty how homogeneous the fishing activity by this group of vessels is.

3. Taking into account time period, spatial coverage and fishing pattern, are the observed catches of cod (landings and discards) considered representative of the catches of cod for the groups of vessels identified in the Member States' submission.

The submission does not include sufficient information to permit STECF to assess whether the observed catches of cod from observer trips on vessels identified as belonging to the listed BT2 80-120mm can be considered representative of the catches of all of the vessels that can be ascribed to such fleets. The 6 observed trips in 2006 is potentially the most useful but without details of timing, location and vessel characteristics it is difficult to say how representative this is. Only 1 observed trip was available for 2007.

4. Does the submission contain appropriate catch data for the groups of vessels identified to permit STECF to evaluate whether the catch of cod is less than or equal to 1.5% of the total catch for those vessels ?

STECF considers that the type of data collected and presented from the on-board observer scheme is appropriate for evaluating whether the catch of cod is less than 1.5%. Subject to providing the detail outlined under item 3) to help determine if sampling was representative of the group as a whole, then it should be possible for STECF to evaluate whether the catch of cod is equal to or less than 1.5% of the total catch.

5. If STECF concludes that the data and information are insufficient to assess whether the catch of cod is less than or equal to 1.5% of the total catch for the vessel groups identified in the submission, STECF is requested to specify the data that are required in order to permit such an assessment.

In order to complete its advice on the proportion of cod in the catch of this group of vessels, STECF recommends that the German authorities provide additional information on the observer trips carried out:

In addition to the observer catch data provided, information on the discarded quantities observed would be helpful together with the effort expended during the sampling trips. Details of individual vessel characteristics, timings and locations of each sampling should also be supplied. Spatial and temporal coverage, as well as sampling intensity of sampling (e.g. sampled effort vs. total effort for a given vessel), and the precision of the estimation of the cod proportions in the catches should be given for onboard observer schemes for the considered group(s) of vessels.

In view of the fact that the average time spent during a year using the BT2 gear by this group of vessels appears to be relatively short, STECF considers that detail of the activity and catch composition at other times would be very valuable.

The submission from the German authorities makes general comments about the nature of the controls and sampling that the group of vessels are subjected to. STECF recommends that a more detailed outline of these procedures should be provided in particular focussing on plans for observer sampling of catch by this group of vessels so as to ascertain whether catches of cod continue to be below or equal to 1.5% of total catch.

Conclusions

STECF consider that the submission does not present sufficient data to grant the exclusion of vessels listed in Annexes 1 and 2 from the effort management system under the provisions of Article 11.2 of the 'Long-term plan for cod stocks' Regulation (EC) No 1342/2008.

STECF also consider that MS should refer to point 5 of this evaluation for which information should be provided to allow an assessment whether the catch of cod is less than or equal to 1.5% of the total catch for the vessel groups identified in the submission.

European Commission

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Author(s): Casey, J., Abella, J. A., Andersen, J.L., Bailey, N., Balguerias, E., Cardinale, M., Curtis, H., Dures, F., Di Natale, A., Dobby, H., Döring, R., Figueiredo, I., Graham, N., Gascuel, D., Gustavsson, T., Hatcher, A., Kirkegaard, E., Kraak, S., Kuikka, S., Martin, P., Parkes, G., Polet, H., Prellezzo, R., Sabatella, E., Somarakis, S., Stransky, C., Vanhee, W., Van Hoof, L., Van Oostenbrugge & Virtanen, J.

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Abstract

The Scientific, Technical and Economic Committee for Fisheries gave its opinion by written procedure in March 2009 on requests by the European Commission to evaluate the requests from Member States exclude certain groups of vessels from the effort regime under provision of Article 11(2) of Council Regulation 1342/2008 of 18 December 2008.

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