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Long-term plan for the anchovy stock in the Bay of Biscay and the fisheries exploiting that stock ***I

P7_TA(2010)0420

European Parliament legislative resolution of 23 November 2010 on the proposal for a regulation of the European Parliament and of the Council establishing a long-term plan for the anchovy stock in the Bay of Biscay and the fisheries exploiting that stock (COM(2009)0399 – C7-0157/2009 – 2009/0112(COD))

(2012/C 99 E/41)

(Ordinary legislative procedure: first reading)

The European Parliament,

— having regard to the Commission proposal to the Council (COM(2009)0399),

— having regard to Article 37 of the EC Treaty, pursuant to which the Council consulted Parliament (C7-0157/2009),

— having regard to the Commission Communication to Parliament and the Council entitled 'Consequences of the entry into force of the Treaty of Lisbon for ongoing interinstitutional decision-making procedures' (COM(2009)0665),

— having regard to Article 294(3) and Article 43(2) of the Treaty on the Functioning of the European Union,

— having regard to the opinion of the European Economic and Social Committee of 17 March 2010 [1],

— having regard to Rule 55 of its Rules of Procedure,

— having regard to the report of the Committee on Fisheries (A7-0299/2010),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

[1] Not yet published in the Official Journal.

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P7_TC1-COD(2009)0112

Position of the European Parliament adopted at first reading on 23 November 2010 with a view to the adoption of Regulation (EU) No …/2011 of the European Parliament and of the Council establishing a long-term plan for the anchovy stock in the Bay of Biscay and the fisheries exploiting that stock

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Economic and Social Committee ([1]),

Acting in accordance with the ordinary legislative procedure ([2]),

Whereas:

(1) In view of the Plan of Implementation adopted at the United Nations World Summit on Sustainable Development held in Johannesburg in 2002, the European Union is committed *inter alia* to maintaining or restoring fisheries stocks to levels that can produce the maximum sustainable yield with the aim of achieving these goals for depleted stocks on an urgent basis and where possible not later than 2015.

(2) The anchovy fishery in Bay of Biscay has been closed since 2005 due to the poor state of the stock.

(3) In order to improve the stock of anchovy in the Bay of Biscay, at a level that allows its sustainable exploitation in accordance with maximum sustainable yield, it is necessary to provide for measures for the long-term management of the stock ensuring the exploitation of that stock at high yields consistent with maximum sustainable yield and guaranteeing, as far as possible, the stability of the fishery while maintaining a low risk of stock collapse.

(4) The season for fishing anchovy in the Bay of Biscay runs from 1 July of each year until 30 June of the following year. For the purposes of simplification, it is appropriate to provide for specific measures establishing the Total Allowable Catch (TAC) for each fishing season and the allocation of fishing opportunities between the Member States in a manner that complies with that management period and on the basis of the advice from the Scientific, Technical and Economic Committee for Fisheries (STECF) ([3]). ***According to Article 43(3) of the Treaty on the Functioning of the European Union (TFEU), it is incumbent upon the Council to adopt measures on the fixing and allocation of fishing opportunities. In view of the specificities of the anchovy fishery in the Bay of Biscay, it is appropriate that the Council establishes those measures in a way that allows the TACs and quotas to apply per fishing season.***

(5) It flows from the advice provided by the STECF that harvesting a constant proportion of the spawning stock biomass would provide for sustainable stock management. The STECF also advises that the minimum spawning biomass level at which the stock could start to be harvested should be set at 24 000 tonnes and the precautionary biomass levels at 33 000 tonnes. Furthermore, the appropriate harvest rate should be 30 % of the spawning stock biomass each year, subject to appropriate restrictions. That rate would minimize the risk of the stock falling below the minimum spawning biomass level, as well as the probability of a fishery closure, while maintaining high yields.

([1]) OJ C 354, 28.12.2010, p. 69
([2]) Position of the European Parliament of 23 November 2010.
([3]) OJ L 358, 31.12.2002, p. 59.

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(6) In the event that the STECF is not able to advise on a TAC due to lack of sufficiently accurate and representative information, provisions should be established to ensure that a TAC can be set in a consistent manner.

(7) Where an evaluation would show that the minimum spawning biomass level or the TAC levels established in the long-term plan would no longer be appropriate, adaptation of the plan should be ensured. ***The Commission should therefore be empowered to adopt delegated acts in accordance with Article 290 TFEU in respect of modifications to the precautionary biomass level or the TAC levels indicated in Annex I as corresponding to the respective biomass levels. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.***

(8) The exploitation rule for setting the TAC proposed in the plan is based on estimates of spawning biomass for anchovy made in May and June of each year, immediately prior to the management period for the fishing season from 1 July to 30 June. If improvements are made to the scientific monitoring of the stock, enabling a sufficiently reliable prediction to be made of recruitment at the start of each year, it may be possible to improve the exploitation strategy for the fishery that would justify adapting this long-term plan for anchovy.

(9) Control measures in addition to those provided for in ***Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy*** [1]***,*** should be introduced to ensure compliance with the measures laid down in this Regulation. Having regard to the large number of vessels of less than 15 metres' length that is involved in the anchovy fishery, it is appropriate to extend the obligations laid down in ***Article 9 of Regulation (EC) No 1224/2009 and in*** Commission Regulation (EC) No 2244/2003 of 18 December 2003 laying down detailed provisions regarding satellite-based Vessel Monitoring Systems [2] to all vessels fishing for anchovy.

(10) It is appropriate to ensure periodic evaluation of the plan and, where such evaluation showed that the harvest control rules no longer ensure a precautionary approach to stock management, adaptation of the plan should be ensured.

(11) For the purposes of points (i) and (iv) of Article 21(a) of Council Regulation (EC) No 1198/2006 of 27 July 2006 on the European Fisheries Fund [3], the plan should be a recovery plan within the meaning of Article 5 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy [4] when the stock is situated below the precautionary spawning biomass level, and a management plan within the meaning of Article 6 of the latter Regulation in all other situations,

HAVE ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1

Subject matter

This Regulation establishes a long-term plan for the conservation and management of the stock of anchovy in the Bay of Biscay (hereinafter referred to as 'the plan').

Article 2

Scope

This Regulation shall apply to the stock of anchovy which inhabits ICES Subarea VIII.

[1] ***OJ L 343, 22.12.2009, p. 1.***
[2] OJ L 333, 20.12.2003, p. 17.
[3] OJ L 223, 15.8.2006, p. 1.
[4] OJ L 358, 31.12.2002, p. 59.

Article 3

Definitions

For the purposes of this Regulation the following definitions shall apply:

(a) 'fishing season' means the period running from 1 July to 30 of June of the following year;

(b) 'total allowable catches' (TAC) means the quantity that can be taken and landed or used as live bait from the anchovy stock in the subarea referred to in Article 2 during each fishing season;

(c) 'quota' means a proportion of the TAC allocated to the Member States;

(d) 'precautionary biomass level' means a spawning biomass level of 33 000 tonnes;

(e) 'current biomass' means the median size of the biomass of the anchovy stock ***by reference to the May-June period immediately preceding the start of the*** fishing season ***for which the TAC is to be set;***

(f) 'monitoring system for the anchovy stock' means the procedures for the direct assessment of the anchovy stock that will enable the STECF to establish the level of current biomass; those procedures currently consist of the acoustic surveys in May and June and the daily egg production method.

CHAPTER II

OBJECTIVE FOR LONG TERM MANAGEMENT

Article 4

Objective of the plan

The objective of the plan shall be:

(a) to ensure the exploitation of the anchovy stock at high yields consistent with the maximum sustainable yield, and

(b) to guarantee, as far as possible, the ***long-term*** stability of the fishery, ***which is a prerequisite for ensuring the economic and ecological sustainability of the fisheries sector,*** while maintaining a low risk of stock collapse.

CHAPTER III

HARVESTING RULES

Article 5

TAC and allocation between Member States

1. The TAC and allocation between Member States for each fishing season shall be the level of tonnes indicated in Annex I as corresponding to the current biomass as estimated by the STECF.

2. Where, due to ***either a shortcoming in the monitoring system or insufficiently precise or inconsistent estimates of the current biomass level***, the STECF is not able to give an ***assessment of*** the current biomass, the TAC and quotas shall be as follows:

(a) where STECF advises that the catches of anchovy should be reduced to the lowest possible level, the TAC and quotas shall correspond to a reduction of 25 % compared to the TAC and quotas applicable for the previous fishing season;

(b) in all other cases the TAC and quotas shall correspond to the level of tonnes applicable for the previous fishing season.

3. Each year, the Commission shall inform the Member States concerned of the STECF advice and shall confirm the TAC and quotas corresponding thereto in accordance with Annex I and applicable for the fishing season starting as of 1 July of that year and publish that information in the C-edition of the *Official Journal of the European Union* and on the Commission's website. ***Where necessary, the Commission shall announce an indicative TAC by 1 July of each year, pending the setting of a definitive TAC within 15 days following the start of the season.***

Article 6

Delegation of powers

In the event that STECF advises that the precautionary biomass level as defined in Article 3 or the TAC levels indicated in Annex I as corresponding to the respective biomass levels are no longer appropriate to allow the sustainable exploitation of the anchovy stock, ***the Commission may adopt, by means of delegated acts in accordance with Articles 7 and subject to the conditions of Articles 8 and 9, new values for those levels.***

Article 7

Exercise of the delegation

1. The power to adopt delegated acts referred to in Article 6 shall be conferred on the Commission for a period of three years from … [1]. The Commission shall make a report in respect of the delegated power at the latest six months before the end of the three-year period. The delegation of power shall be automatically extended for periods of an identical duration, unless the European Parliament or the Council revokes it in accordance with Article 8.

2. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

3. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in Articles 8 and 9.

Article 8

Revocation of the delegation

1. The delegation of power referred to in Article 6 may be revoked at any time by the European Parliament or by the Council.

2. The institution which has commenced an internal procedure for deciding whether to revoke the delegation of power shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated power which could be subject to revocation and possible reasons for a revocation.

3. The decision of revocation shall put an end to the delegation of the power specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the Official Journal of the European Union.

Article 9

Objections to delegated acts

1. The European Parliament or the Council may object to a delegated act within a period of two months from the date of notification.

[1] ***Date of entry into force of this Regulation.***

At the initiative of the European Parliament or the Council, that period shall be extended by two months.

2. If, on expiry of the period referred to in paragraph 1, neither the European Parliament nor the Council has objected to the delegated act, it shall be published in the Official Journal of the European Union and shall enter into force on the date stated therein.

The delegated act may be published in the Official Journal of the European Union and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

3. If either the European Parliament or the Council objects to a delegated act within the period referred to in paragraph 1, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act.

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CHAPTER IV

MONITORING, INSPECTION AND SURVEILLANCE

Article 10

Relationship with ***Regulation (EC) No 1224/2009***

In addition to the control measures prescribed in ***Regulation (EC) No 1224/2009 and its*** implementing rules, the control measures provided for in this Chapter shall apply.

Article 11

Special fishing permit

1. In order to fish for anchovy in the Bay of Biscay, vessels shall hold a special fishing permit issued in accordance with Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing permits ([1]).

2. It shall be prohibited for any fishing vessel not holding a special fishing permit to fish for, or retain on board, any quantity of anchovy while the vessel is engaged on a fishing trip that has included the presence of that vessel in the ICES Subarea mentioned in Article 2.

3. Before the start of the fishing activities in any fishing season, Member States shall establish a list of vessels holding the special fishing permit and make it available, on its official website, to the Commission and other Member States, by providing the internet link to the relevant webpage. Member State shall keep the list up to date at all times and shall inform the Commission and other Member States without delay of any changes to the original link to the webpage.

Article 12

Vessel Monitoring Systems

In addition to ***Article 9 of Regulation (EC) No 1224/2009***, the obligations laid down in Commission Regulation (EC) No 2244/2003 shall apply to those vessels not exceeding 15 metres' length overall. ***Paragraph 5 of Article 9 of Regulation (EC) No 1224/2009 shall not apply.***

([1]) OJ L 171, 6.7.1994, p. 7.

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Article 13

Cross-checks

When carrying out the validation of data in accordance with Article 109(2) of Regulation (EC) No 1224/2009 with regard to anchovy, the ***authorities of the Member States responsible for fisheries monitoring*** shall ***place particular*** emphasis on the possibility of species other than anchovy being reported as anchovy, and vice versa.

Article 14

Prior notification

1. ***By way of derogation from Articles 17(1) and 18(1) of Regulation (EC) No 1224/2009, the time limit for prior notification to the competent authorities of the flag or coastal Member State shall be set at one hour before the estimated time of arrival at port.***

2. The competent authorities of a Member State in which a landing of more than one tonne of anchovy is to be made may require that the discharge of catch retained on board shall not commence until authorized by those authorities. ***However, the landings should not in any event be postponed or delayed beyond the time at which the fish quality or sale value is reduced.***

Article 15

Designated ports

The State and regional authorities of each Member State shall designate ports into which any landing of anchovy in excess of one tonne shall take place.

Article 16

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

In accordance with Article 14(3) of Regulation (EC) No 1224/2009, the permitted margin of tolerance, in the estimation of quantities, in kg retained on board, shall be ***10 %*** of the logbook figure.

Article 17

Separate stowage of anchovy

It shall be prohibited to retain on board a Union fishing vessel in any container any quantity of anchovy mixed with any other species of marine organisms. Containers with anchovy shall be stowed in the hold in such a way that they are kept separate from other containers.

Article 18

National control action programmes

▌

1. The Commission shall convene at least once a year a meeting of the Advisory Committee for Fisheries and Aquaculture to evaluate the application and results of the national control action programmes.

2. The Commission shall provide information to the South Western Waters Regional Advisory Council on the implementation of national control action programmes and the results obtained.

▌

Article 19

Specific control and inspection programme

The Commission may decide on a specific control and inspection programme in accordance with Article 95 of Regulation No (EC) 1224/2009.

CHAPTER V

FOLLOW UP

Article 20

Evaluation of the plan

The Commission shall, on the basis of advice from STECF and after consultation of the relevant Regional Advisory Council, evaluate the impact of the plan on the anchovy stock and the fisheries exploiting that stock, at the latest in the third year of application of this Regulation and then each third successive year of application of this Regulation and, where appropriate, propose relevant measures to amend the plan.

CHAPTER VII

FINAL PROVISIONS

Article 21

Assistance under the European Fisheries Fund

1. For those fishing seasons in which the stock is situated below the precautionary biomass level, the plan shall be deemed to be a recovery plan within the meaning of Article 5 of Regulation (EC) No 2371/2002, and for the purposes of Article 21(a)(i) of Regulation (EC) No 1198/2006.

2. For those fishing seasons in which the stock is situated at or above the precautionary biomass level, the plan shall be deemed to be a management plan within the meaning of Article 6 of Regulation (EC) No 2371/2002, and for the purposes of Article 21(a)(iv) of Regulation (EC) No 1198/2006.

Article 22

Entry into force

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

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

Done at

For the European Parliament
The President

For the Council
The President

ANNEX I

The TAC levels indicated in the table below have been calculated according to the following rule:

$$TAC_{\gamma} = \begin{cases} 0 & \text{if } S\hat{S}B_{\gamma} \leq 24\,000 \\ TAC\ min & \text{if } 24\,000 < S\hat{S}B_{\gamma} < B_{pa} \\ \textbf{MIN}\left\{y\ S\hat{S}B_{y},\ TAC\ max\right\} & \text{if } S\hat{S}B_{\gamma} \geq B_{pa} \end{cases}$$

Where:

TAC_y is the Total Allowable Catch for a management year y going from 1 July to 30 June of the following year.

TAC min is the minimum TAC

TAC max is the maximum TAC

B_{pa} is the precautionary spawning biomass level for the stock

Gamma ã is the harvest rate

SSB_y is the actual Spawning Biomass estimated in May of each year.

On the basis of the scientific advice, the appropriate parameters for use with the above formula with a view to the management of the stock of anchovy in Bay of Biscay should be the following:

TAC min = 7 000 tonnes;

TAC max = 33 000 tonnes;

B_{pa} = 33 000 tonnes;

ã = 0,3.

Current biomass levels and corresponding TAC and quota levels

Estimated current biomass (tonnes)	Corresponding TAC (tonnes)	Quotas (tonnes)	
		France	Spain
24 000 or less	0	0	0
24 001 – 33 000	7 000	700	6 300
33 001 – 34 000	10 200	1 020	9 180
34 001 – 35 000	10 500	1 050	9 450

Estimated current biomass (tonnes)	Corresponding TAC (tonnes)	Quotas (tonnes)	
		France	Spain
35 001 – 36 000	10 800	1 080	9 720
36 001 – 37 000	11 100	1 110	9 990
37 001 – 38 000	11 400	1 140	10 260
38 001 – 39 000	11 700	1 170	10 530
39 001 – 40 000	12 000	1 200	10 800
40 001 – 41 000	12 300	1 230	11 070
41 001 – 42 000	12 600	1 260	11 340
42 001 – 43 000	12 900	1 290	11 610
43 001 – 44 000	13 200	1 320	11 880
44 001 – 45 000	13 500	1 350	12 150
45 001 – 46 000	13 800	1 380	12 420
46 001 – 47 000	14 100	1 410	12 690
47 001 – 48 000	14 400	1 440	12 960
48 001 – 49 000	14 700	1 470	13 230
49 001 – 50 000	15 000	1 500	13 500
50 001 – 51 000	15 300	1 530	13 770
51 001 – 52 000	15 600	1 560	14 040
52 001 – 53 000	15 900	1 590	14 310
53 001 – 54 000	16 200	1 620	14 580
54 001 – 55 000	16 500	1 650	14 850
55 001 – 56 000	16 800	1 680	15 120
56 001 – 57 000	17 100	1 710	15 390
57 001 – 58 000	17 400	1 740	15 660
58 001 – 59 000	17 700	1 770	15 930
59 001 – 60 000	18 000	1 800	16 200
60 001 – 61 000	18 300	1 830	16 470
61 001 – 62 000	18 600	1 860	16 740
62 001 - 63 000	18 900	1 890	17 010
63 001 – 64 000	19 200	1 920	17 280
64 001 – 65 000	19 500	1 950	17 550
65 001 – 66 000	19 800	1 980	17 820
66 001 – 67 000	20 100	2 010	18 090
67 001 – 68 000	20 400	2 040	18 360
68 001 – 69 000	20 700	2 070	18 630
69 001 – 70 000	21 000	2 100	18 900
70 001 – 71 000	21 300	2 130	19 170
71 001 – 72 000	21 600	2 160	19 440

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Estimated current biomass (tonnes)	Corresponding TAC (tonnes)	Quotas (tonnes)	
		France	Spain
72 001 – 73 000	21 900	2 190	19 710
73 001 – 74 000	22 200	2 220	19 980
74 001 – 75 000	22 500	2 250	20 250
75 001 – 76 000	22 800	2 280	20 520
76 001 – 77 000	23 100	2 310	20 790
77 001 – 78 000	23 400	2 340	21 060
78 001 – 79 000	23 700	2 370	21 330
79 001 – 80 000	24 000	2 400	21 600
80 001 – 81 000	24 300	2 430	21 870
81 001 – 82 000	24 600	2 460	22 140
82 001 – 83 000	24 900	2 490	22 410
83 001 – 84 000	25 200	2 520	22 680
84 001 – 85 000	25 500	2 550	22 950
85 001 – 86 000	25 800	2 580	23 220
86 001 – 87 000	26 100	2 610	23 490
87 001 – 88 000	26 400	2 640	23 760
88 001 – 89 000	26 700	2 670	24 030
89 001 – 90 000	27 000	2 700	24 300
90 001 – 91 000	27 300	2 730	24 570
91 001 – 92 000	27 600	2 760	24 840
92 001 – 93 000	27 900	2 790	25 110
93 001 – 94 000	28 200	2 820	25 380
94 001 – 95 000	28 500	2 850	25 650
95 001 – 96 000	28 800	2 880	25 920
96 001 – 97 000	29 100	2 910	26 190
97 001 – 98 000	29 400	2 940	26 460
98 001 – 99 000	29 700	2 970	26 730
99 001 – 100 000	30 000	3 000	27 000
Larger than 100 000	33 000	3 300	29 700

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ANNEX II

CONTENTS OF NATIONAL CONTROL ACTION PROGRAMMES

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

1. MEANS OF CONTROL

Human resources

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

Technical resources

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

Financial resources

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

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

Description of the systems implemented to ensure compliance with Articles 13, 15 and 17

3. DESIGNATION OF PORTS

Where relevant, a list of ports designated for anchovy landings in accordance with Article 16.

4. NOFICATION PRIOR TO LANDING

Description of the systems implemented to ensure compliance with Article 14.

5. LANDINGS CONTROL

Description of any facilities and systems implemented to ensure compliance with Articles 14, 15, and 16.

6. INSPECTION PROCEDURES

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

(a) when conducting inspections at sea and on land;

(b) for communicating with the competent authorities designated by other Member States as responsible for the national control action programme for anchovy;

(c) for joint surveillance and exchange of inspectors, including specification of powers and authority of inspectors operating in other Member States' waters.

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ANNEX III

SPECIFIC INSPECTION BENCHMARKS

OBJECTIVE

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

STRATEGY

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

PRIORITIES

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

TARGET BENCHMARKS

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

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

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

(a) Level of inspection in ports

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

(b) Level of inspection of marketing

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

(c) Level of inspection at sea

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

(d) Level of aerial surveillance

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