

## COUNCIL REGULATION (EEC) No 345/92

of 27 January 1992

amending for the eleventh time Regulation (EEC) No 3094/86 laying down certain technical measures for the conservation of fishery resources

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 170/83 of 25 January 1983 establishing a Community system for the conservation and management of fishery resources <sup>(1)</sup>, as amended by the Act of Accession of Spain and Portugal, and in particular Article 11 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas Article 2 of Regulation (EEC) No 170/83 provides that the conservation measures necessary to achieve the aims set out in Article 1 thereof are to be formulated in the light of the available scientific advice;

Whereas Regulation (EEC) No 3094/86 <sup>(2)</sup>, as last amended by Regulation (EEC) No 3500/91 <sup>(3)</sup>, lays down certain technical measures for the catching and landing of fisheries resources;

Whereas many fish stocks in Community waters are in a disturbing situation which requires conservation measures appropriate to the circumstances in order to safeguard the economic sector which depends on these fishery resources, whilst taking into account the already precarious situation of that sector;

Whereas developments in gear technology have had the consequence that the selectivity of trawls, Danish seines and similar towed nets is less than that on which the technical measures laid down in Regulation (EEC) No 3094/86, are based; whereas, in consequence, it is necessary to lay down certain technical specifications for such gear in order to ensure that their selectivity corresponds to that on which the aforementioned technical measures for conservation are based;

Whereas there is a need to clarify the rules governing minimum sizes where several methods are allowed for measuring the required sizes;

Whereas measures for protecting juveniles and immature fish should not only be known and implemented in the trade but

should be disseminated as widely as possible to the public;

Whereas that information is essential if it is intended to avoid secret and illicit trade and consumption; whereas such information enables better compliance of the rules to be enforced;

Whereas compliance with the rules governing minimum sizes should not involve fishermen in needless complications;

Whereas mackerel and anchovies meeting the minimum-size requirements are too large for use as live bait; whereas therefore, it is appropriate to allow fish of smaller sizes to be kept on board for use as live bait;

Whereas discards currently account for unacceptable wastage on a large scale; whereas a ban on fishing using insufficiently selective techniques or practised in areas where juveniles are concentrated, together with increases in mesh sizes and the prohibition of gear conducive to discarding, constitute a first step towards the final elimination of practices which are incompatible with conservation and the proper use of resources; whereas it is necessary to introduce a coherent system of management and exploitation which reduces discards to a minimum;

Whereas particular attention should be paid to industrial fishing, which is an activity of economic importance to the Community, with regard to its impact on fishery resources; whereas the Community rules should be adapted to allow better management of this activity and its impact on other fisheries;

Whereas industrial fishing is a continuous activity and, accordingly, the conditions governing it should also be stable;

Whereas in the light of the latest scientific advice it is necessary to set seasonal restrictions in certain zones off the Spanish and Portuguese coasts so as to limit catches of juvenile hake;

Whereas on 22 December 1989 the General Assembly of the United Nations adopted Resolution 44/225 on large-scale pelagic driftnet fishing and its impact on the living marine resources of the world's oceans and seas;

<sup>(1)</sup> OJ No L 24, 27. 1. 1983, p. 1.

<sup>(2)</sup> OJ No L 288, 11. 10. 1986, p. 1.

<sup>(3)</sup> OJ No L 331, 9. 12. 1991, p. 2.

Whereas the use of such nets has been the subject of discussions and resolutions in various international fora;

Whereas by Decision 82/72/EEC <sup>(1)</sup> the Council approved the Convention on the conservation of European wildlife and natural habitats (Berne Convention);

Whereas the Community has signed the United Nations Convention on the Law of the Sea which requires all the members of the international community to cooperate in the conservation and management of the living resources of the high seas;

Whereas the uncontrolled expansion and growth of driftnetting may entail serious disadvantages in terms of increased fishing effort and increased by-catches of species other than the target species; whereas it is therefore desirable to regulate fishing with driftnets;

Considering the interest aroused at international level and the concern expressed by ecological organizations and many fishermen, including those of the Community, with regard to the use of driftnets;

Whereas provision should be made for phases of adjustment for fishermen who are economically dependent on the use of driftnets, whilst limiting and analysing the ecological impact of corresponding fishing;

Whereas decisions relating to driftnets should be capable of adjustment, where effective conservation and management measures are adopted on the basis of reliable statistical analyses;

Whereas management measures concerning fishing in the Baltic Sea should be adopted within the International Baltic Sea Fishery Commission;

Whereas it is necessary to provide more time in order that measures submitted pursuant to Article 13 of Regulation (EEC) No 3094/86 may be technically examined;

Whereas the adjustment of technical measures applicable in the Skagerrak and Kattegat must be made in consultation with Norway and Sweden;

Whereas a balance needs to be struck between adjusting technical conservation measures to the diversity of the fisheries and the need for homogeneous rules which are easier to apply;

Whereas the rules governing some fisheries are obsolete and should be updated;

Whereas some fisheries using small mesh sizes make by-catches of juveniles of species which should be given special attention; whereas increasing mesh sizes in these fisheries would afford greater protection to the said species;

Whereby producers organizations, Member States and the Community itself should make the necessary effort to provide information to that end and to contribute to a positive and practical promotion campaign, likely to persuade all sectors to accept the proposed measures favourably and implement them in an appropriate fashion;

Whereas, taking account of the latest scientific advice, the definition of fishing for sole should be retained for large vessels;

Whereas with the present standard mesh size large quantities of fish less than the minimum landing size are caught and discarded in Regions 1 and 2; whereas these catches represent a waste of resources; and could be reduced by increasing the standard mesh size to 100 mm in Region 2, except in the Skagerrak and Kattegat where fishery rules are decided in consultation with Norway and Sweden; whereas such consultation on this measure has not yet taken place;

Whereas extensive trials have shown that the use of square mesh panels ahead of and above the cod-end can play a significant part in reducing the capture of undersize fish;

Whereas such measures would increase the abundance of whiting; whereas the latest scientific advice indicates that whiting is a major predator of other species of fish used for human consumption and that an increase in the abundance of whiting could therefore have a negative impact on these other species; whereas, therefore, measures should be implemented to limit preying by whiting;

Whereas the minimum landing size for certain species should be increased; whereas minimum landing sizes should be introduced for other species to ensure better conservation of fishery resources,

HAS ADOPTED THIS REGULATION:

*Article 1*

Regulation (EEC) No 3094/86 is hereby amended as follows:

1. the following paragraph shall be added to Article 2:

'11. It shall be prohibited to have on board or to use any trawl, Danish seine or similar towed net of which

<sup>(1)</sup> OJ No L 38, 10. 2. 1982, p. 1.

the minimum mesh size is equal to or greater than 90 mm having more than 100 meshes in the circumference at least of the cod-end *sensu stricto*, excluding the joinings and selvedges.

Any trawl, Danish seine or similar towed net of which the mesh size is equal to or greater than 100 mm may be equipped, in the upper part of the cod-end, with a section (panel or window) of square-meshed netting attached to the joinings or selvedges, having a mesh size equal to or greater than 90 mm.

"Square-meshed netting" shall mean netting which is mounted so that the two AB directions of the meshes forming the panel are in one direction, parallel to the longitudinal axis of the cod-end and, in the other direction, at right angles to its longitudinal axis. The AB direction is the direction parallel to a rectilinear sequence of mesh bars, each from adjacent meshes.;

2. Article 5 (1) shall be replaced by the following:

'1. A fish, crustacean or mollusc is undersized, if its dimensions are smaller than the minimum dimensions specified in Annexes II or III for the relevant species and region or particular geographical area, if specified. Where more than one method of measuring the minimum size is provided for, the fish, crustacean or mollusc is deemed to be of the minimum size if at least one of the dimensions found is greater than the corresponding minimum dimension.;

3. Article 5 (2) (b) and (c) shall be replaced by the following:

'(b) The size of Norway lobster and lobsters shall be measured, as shown in Annex IV:

- as the length of the carapace, parallel to the mid-line from the back of either eye socket to the distal edge of the carapace,
- as the total length, from the tip of the rostrum to the rear end of the telson, not including the setae.

Detached Norway lobster tails shall be measured from the front edge of the first segment present of the tail to the rear end of the telson, not including the setae. The tail shall be measured flat and unstretched.

(c) The size of edible crabs shall be measured, as shown in Annex IV:

- as the length of the carapace measured along the mid-line from the interorbital space to the rear edge of the carapace,
- as the maximum width of the carapace measured perpendicular to the mid-line of the carapace,
- as the maximum length of the last two segments of any of the pincer legs.;

4. point (c) of the second subparagraph of Article 5 (3) shall be replaced by the following:

'horse mackerel (*Trachurus* spp.), mackerel (*Scomber* spp.) and anchovies (*Engraulis encrasicolus*) intended for use as live bait.;

5. the following subparagraph shall be added to Article 5 (4):

'Only whole scallops (*Pecten* spp.) may be landed.;

6. the following Article shall be inserted:

'Article 7a

**Sprats**

1. Trawling for sprat using a mesh size less than 32 mm shall be prohibited all year round in the Skaggerak and Kattegat.

2. Fishing for sprat shall be prohibited:

(a) from 1 July to 31 October in an area bounded by the following points:

- the west coast of Denmark at 55°30' N,
- latitude 55°30' N, longitude 7°00' E,
- latitude 57°00' N, longitude 7°00' E,
- the west coast of Denmark at 57°00' N;

(b) in ICES statistical area 39E8, from 1 January to 31 March and from 1 October to 31 December. For the purpose of this Regulation, this ICES area shall be that bounded by a line due east from the United Kingdom east coast along latitude 55°00' N to a point at longitude 1°00' W, from there due north to a point at latitude 55°30' N and from there due west to the United Kingdom coast;

(c) in the inner waters of the Moray Firth west of longitude 3°30' W and in the inner waters of the Firth of Forth west of longitude 3°00' W, from 1 January to 31 March and from 1 October to 31 December.;

7. the following paragraphs shall be added to Article 9:

'15. (a) From 1 September to 31 December, it shall be prohibited to fish with any trawl, Danish seine or similar towed net in the geographical areas bounded by a line joining the following coordinates:

- the point on the north coast of Spain called Cabo Prior (latitude 43°34' N, longitude 8°19' W),

- latitude 43°50' N, longitude 8°19' W,
  - latitude 43°25' N, longitude 9°12' W,
  - the point on the west coast of Spain called Cabo Villano (latitude 43°10' N, longitude 9°12' W).
- (b) From 1 October to 31 December, it shall be prohibited to fish with any trawl, Danish seine or similar towed net in the geographical areas bounded by a line joining the following coordinates:
- the point on the west coast of Spain called Cabo Corrubedo (latitude 42°35' N, longitude 9°05' W,
  - latitude 42°35' N, longitude 9°25' W,
  - latitude 43°00' N, longitude 9°30' W,
  - the point on the west coast of Spain at latitude 43°00' N.
- (c) From 1 December to the last day of February in the ensuing year, it shall be prohibited to fish with any trawl, Danish seine or similar towed net in the geographical areas bounded by a line joining the following coordinates:
- a point on the west coast of Portugal at latitude 37°50' N,
  - latitude 37°50' N, longitude 9°03' W,
  - latitude 37°00' N, longitude 9°06' W,
  - a point on the west coast of Portugal at latitude 37°00' N.

16. It shall be prohibited for vessels using purse seines or towed gear with a mesh size permitted exceptionally for fishing mackerel, herring and horse mackerel, to carry automatic sorting equipment on board.

Notwithstanding the preceding subparagraph, freezer vessels shall be authorized to carry automatic sorting equipment on board, provided that its sole function is commercial grading of all the fish caught and intended for freezing. Automatic sorting equipment must be installed in such a way that the catch resulting from the grading is immediately frozen for marketing and cannot easily be thrown back into the sea.;

8. the following Article shall be inserted:

*'Article 9a*

1. No vessel may keep on board, or use for fishing, one or more driftnets whose individual or total length is more than 2,5 kilometres.
2. A derogation shall be granted until 31 December 1993 to vessels that have fished for long finned albacore tuna with driftnets in the north east Atlantic during at least the two years immediately preceding the entry into force of this Regulation. These vessels shall be entered in a Community register and may use driftnets whose length may attain 2,5 kilometres, but whose total resulting length may not exceed 5 kilometres. The headline shall be submerged at a minimum depth of two metres. This derogation shall expire on the abovementioned date, unless the Council, acting by a qualified majority on a proposal from the Commission, decides to extend it in the light of scientific evidence showing the absence of any ecological risk linked thereto.
3. Throughout the fishing referred to in paragraph 1, the net must, if it is longer than one kilometre, remain attached to the vessel. However, within the 12 mile coastal band, a vessel may detach itself from the net, provided it keeps it under constant observation.
4. Notwithstanding Article 1 (1), this Article shall apply in all waters, with the exception of the Baltic Sea, the Belts and the Sound, under the sovereignty or jurisdiction of the Member States and, outside those waters, to all fishing vessels flying the flag of a Member State or registered in a Member State.;
9. in Article 13 (4) and (5) the expression '10 calendar days' shall be replaced by '10 working days';
10. Annex I shall be replaced by Annex I to this Regulation;
11. in Annex II the figures for whiting (*Merlangius merlangus*) for Region 2 except Skagerrak and Kattegat and Region 3 shall be replaced by the figure '23';
12. the specifications in Annex III regarding horse mackerel (*Trachurus trachurus*) and (*Trachurus picturatus*), mackerel (*Scomber scombrus*), Spanish mackerel (*Scomber japonicus*), anchovy (*Engraulis encrasicolus*), and scallop (*Pecten maximus*) shall be replaced by the specifications in Annex II hereto.

*Article 2*

This Regulation shall enter into force on 1 June 1992.

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

Done at Brussels, 27 January 1992.

*For the Council*  
*The President*  
Arlindo MARQUES CUNHA

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## ANNEX I

Region	Geographical area	Additional conditions	Minimum mesh size	Authorized target species	Minimum percentage of target species	Maximum percentage of protected species
1 and 2	Entire region		100 diamond <sup>(1)</sup>	All		100
	North Sea, south of latitude 55°N		80 <sup>(2)</sup>	Sole ( <i>Solea vulgaris</i> )	5	100 of which not more than 10% cod, haddock and saithe
	West of Scotland and Rockall (ICES sub-area VI) <sup>(3)</sup>		80	All		100
	ICES sub-area VII		80	All		100
	Entire region		70	Norway lobster ( <i>Nephrops norvegicus</i> )	30	60
	Entire region except Skagerrak and Kattegat		90	Whiting ( <i>Merlangius merlangus</i> )	50	100 of which not more than 10% cod, saithe and haddock
	Entire region except Skagerrak and Kattegat		40	Mackerel ( <i>Scomber scombrus</i> ) Horse mackerel ( <i>Trachurus trachurus</i> ) Herring ( <i>Clupea harengus</i> ) Pelagic cephalopods Pilchards ( <i>Sardina pilchardus</i> ) Blue whiting <sup>(4)</sup> ( <i>Micromesistius poutassou</i> )	50 50 50 50 50 50 50 or 80 cumulative	10 10 10 10 10 10
	Entire region except Skagerrak and Kattegat		40	Prawns ( <i>Pandalus</i> spp. excluding <i>Pandalus montagui</i> )	30	50
	Skagerrak and Kattegat		32	Herring ( <i>Clupea harengus</i> ) Sprat ( <i>Sprattus sprattus</i> )	50	10
	Entire region		30	Argentines ( <i>Argentina</i> spp.)	50	10
	Entire region except Skagerrak and Kattegat		20	Prawns/shrimps ( <i>Pandalus montagui</i> and <i>Crangon</i> spp.)	30	50

Region	Geographical area	Additional conditions	Minimum mesh size	Authorized target species	Minimum percentage of target species	Maximum percentage of protected species
1 and 2 (cont'd)	Entire region except Skagerrak and Kattegat		16	Sprat ( <i>Sprattus sprattus</i> )	50	10
	Entire region		16	Eels ( <i>Anguilla anguilla</i> )	20	10
	Skagerrak and Kattegat outside four miles from the baselines		35	Shrimps/prawns ( <i>Crangon</i> spp. and <i>Palaemon adspersus</i> )	20	50
	Skagerrak and Kattegat within four miles of the baselines		16	Shrimps/prawns ( <i>Crangon</i> spp. and <i>Palaemon adspersus</i> )	50	10
			16	Greater weever ( <i>Trachinus draco</i> ) Molluscs except cuttlefish ( <i>Sepia officinalis</i> ) Garfish ( <i>Belone belone</i> ) Grey gurnard ( <i>Eutrigla gurnardus</i> )		
	Skagerrak and Kattegat		16	Blue whiting ( <i>Micromesistius poutassou</i> )	50	10
	Skagerrak	From 1 November to last day of February	16	Sand-eels ( <i>Ammodytidae</i> )	50	10
	Kattegat	From 1 August to last day of February	16	Sand-eels ( <i>Ammodytidae</i> )	50	10
		From 1 March to 31 July	—	Sand-eels ( <i>Ammodytidae</i> )	50	10
	Entire region except fishing sector for Norway pout ( <sup>5</sup> )		16	Norway pout ( <i>Trisopterus esmarkii</i> )	50	10
	North Sea	From 1 November to last day of February	16	Sand-eels ( <i>Ammodytidae</i> )	50	10
		From 1 March to 31 October	—	Sand-eels ( <i>Ammodytidae</i> )	50	10
Entire region except North Sea and Skagerrak and Kattegat		—	Sand-eels ( <i>Ammodytidae</i> )	50	10	
Skagerrak and Kattegat		90	All		100	
		70	Whiting ( <i>Merlangius merlangus</i> )	50	30 except whiting	

Region	Geographical area	Additional conditions	Minimum mesh size	Authorized target species	Minimum percentage of target species	Maximum percentage of protected species	
1 and 2 (cont'd)			35	Prawns ( <i>Pandalus borealis</i> )	20	50	
			32	Mackerel ( <i>Scomber scombrus</i> ) Horse mackerel ( <i>Trachurus trachurus</i> )	50	10	
3	Entire region		65	All		100	
			40	Mackerel ( <i>Scomber</i> spp.) Blue whiting ( <i>Micromesistius poutassou</i> ) Herring ( <i>Clupea harengus</i> ) Pelagic cephalopods Horse mackerel ( <i>Trachurus</i> spp.)	50 50 50 50 50	or 80 cumulative	10
		Selective trawls	65 <sup>(6)</sup> 50 <sup>(6)</sup>	Norway lobster ( <i>Nephrops norvegicus</i> )	30 <sup>(7)</sup>	60 <sup>(8)</sup>	
		Non-selective trawls	55	Norway lobster ( <i>Nephrops norvegicus</i> )	30 <sup>(7)</sup>	60 <sup>(8)</sup>	
			55	Shrimps ( <i>Parapenaeus longirostris</i> , <i>Aristeus antennatus</i> and <i>Aristaeomorpha foliacea</i> )	30	50	
	Gulf of Cadiz <sup>(9)</sup>		40	All species except those listed in Annex II for Region 3	50	10	
	Entire region		20	Pilchards ( <i>Sardina pilchardus</i> ) Eels ( <i>Anguilla anguilla</i> )	50	10	
	Within 12 miles of the Member States' baselines	20	Shrimps ( <i>Crangon</i> spp. and <i>Palaemon</i> spp.)	30	50		
		16	Sprat ( <i>Clupea sprattus</i> ) Anchovies ( <i>Engraulis encrasicolus</i> ) Sand-eels ( <i>Ammodytidae</i> )	50	10		
4	Entire region						

Region	Geographical area	Additional conditions	Minimum mesh size	Authorized target species	Minimum percentage of target species	Maximum percentage of protected species
5	Entire region		65	All		100
			40	Mackerel ( <i>Scomber</i> spp.) and Horse Mackerel ( <i>Trachurus</i> spp.)	80	10
			20	Bogue ( <i>Boops boops</i> ) Pilchards ( <i>Sardina pilchardus</i> )	50	10
6	Entire region		100	All		100
			45	Shrimps ( <i>Penaeus subtilis</i> , <i>Penaeus brasiliensis</i> , <i>Xiphopenaeus kroyeri</i> )	30	50
7	Entire region					
8	Entire region					

(1) The upper half of the trawl cod-end may comprise a section (panel or window) of square mesh netting with a mesh size equal to or greater than 90 mm attached to the selvages and joinings.

(2) It is forbidden to carry on board any trawl or netting with a mesh size smaller than that of the net being used for fishing.

(3) South of a line running west from the east coast of the Sound of Jura at latitude 56°00'N.

(4) Blue whiting is not an authorized target species in the area bounded to the North by latitude 52°30'N and to the east by longitude 7°00'W.

(5) The fishing sector for Norway pout is understood as that part of the North Sea within the sovereignty or jurisdiction of a Member State and bounded to the south by a line starting from a point at 56°N on the east coast of Scotland as far as 2°E, then running north to 58°N, west to 0°30'W, north to 59°15'N, east to 1°E, north to 60°N, west to longitude 0°00', from there north to 60°30'N, west to the coast of the Shetland Isles, then west from 60°N on the west coast of the Shetlands to 3°W, south to 58°30'N and finally west to the coast of Scotland.

(6) Selective trawls must comprise top cod-end with a minimum mesh size of 65 mm and a bottom cod-end with a minimum mesh size of 50 mm, separated by a horizontal panel of netting.

(7) 25% between 1 January and 31 March.

(8) By way of derogation from Article 2 (4) of this Regulation, and until 31 December 1991, this percentage shall not be calculated until the third trawl has been made.

(9) The Gulf of Cadiz is defined as the area within ICES division IX a east of a line drawn due south from a point at longitude 7°52'W on the south coast of Portugal.

## ANNEX II

Species	Region	Geographical area	Minimum size
Mackerel ( <i>Scomber</i> spp.)	1, 2, 3 and 5	Except North Sea	20 cm
	2	North Sea	30 cm
Anchovy ( <i>Engraulis encrasicolus</i> )	3	Except Division IX a	12 cm
	3	Division IX a	10 cm
Horse mackerel ( <i>Trachurus</i> spp.)	1, 2, 3 and 5		15 cm
Scallop ( <i>Pecten maximus</i> )	2 and 3	Except Division VII d	100 mm
	2	Division VII d	110 mm