

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(94) 481 final
Brussels, 09.11.1994

94/0253 (CNS)

Proposal for a

COUNCIL REGULATION (EC)

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

(presented by the Commission)

EXPLANATORY MEMORANDUM

This proposal is designed firstly to introduce technical measures for passive gear and secondly to introduce a provision banning the use of engine power higher than that authorized within the protected area for flatfish. The opportunity is also taken to make a technical amendment to the Annex to the Regulation in question.

I. Provisions concerning passive gear

The use of passive gear has developed rapidly in recent years, and is now widespread in Community waters. Fixed net fishing, whether with gillnets, entangling nets or trammel nets, has expanded fastest. This has resulted in a significant increase in the mortality rate per fishery for resources exploited, in particular for demersal species.

Council Regulation (EEC) No 3094/86 laying down certain technical measures for the conservation of fishery resources focuses on towed nets (trawl nets and similar). At present it does not contain specific provisions regarding the technical characteristics of passive gear.

Fixed nets can be selective regarding the size of fish caught. But in certain fisheries the mesh sizes have been reduced as the average size of catches has fallen.

There are various ways of promoting the use of selective fixed nets; in particular, this can be done by adopting legislation on mesh size. This can make a significant contribution to maintaining or improving selectiveness, while avoiding complicated technical measures based on other elements influencing selectiveness. Moreover, imposing restrictions on the mesh size for fixed nets depending on the species they are used to fish can help to improve the pattern of exploitation of such species, to back up measures regarding minimum landing sizes and to reduce the number of under-size fish discarded.

Since the use of fixed nets can be planned and carried out in such a way as to catch only a certain size category of the target species, the imposition of a minimum percentage of the target species or group of target species is one way of promoting the use of such nets with the proper degree of selectiveness. Moreover, such percentages are in line with the rules on the composition of catches already laid down in Regulation 3094/86 for other fishing techniques exploiting the same resources.

Points 1 to 4 of Article 1 of this proposal are therefore designed to improve the selectivity of nets for target species or groups of target species by establishing minimum mesh sizes designed to guarantee selectivity and by fixing a minimum percentage of the species or groups of species which are being fished.

II. Provisions concerning the use of engine power in the protected area for flatfish

Under Article 9(3) of Council Regulation (EEC) No 3094/86, only beam trawlers included in a list provided for in Commission Regulation (EEC) No 55/87 of 30 December 1986 are

authorized to fish in the protected area for flatfish. Inclusion in this list is conditional upon compliance with certain criteria.

One of the conditions that a fishing vessel must fulfil in order to be entered on this list is that its engine power must not exceed 221 kW.

However, the inspection authorities appointed by the Member States have found that in certain cases fishermen increased the engine power of their vessels once they had been entered on the list, which enabled them to illegally improve their catches to the detriment of the stocks.

This increase of engine power is not formally forbidden by Regulation (EEC) No 3094/86, which seems to pose certain problems for the Member State authorities responsible for prosecuting these infringements.

The second point of Article 1 therefore introduces a formal ban on using vessels whose engine power exceeds 221 kW (300CV) in the flatfish protected area in order to ensure effective prosecution of these infringements and thus contribute to the enforcement of Community law.

III. Traditionally, the annual Regulation on TAC quotas has introduced some temporary derogations to the technical rules laid down in Annex I to Regulation (EEC) No 3094/86 regarding fishing for whiting in Regions 1 and 2 and certain mackerel, horse mackerel, herring, cephalopod, sardine, blue whiting and prawn fisheries. Scientific opinion indicates that these derogations may be made multiannual without putting resources at risk.

An appropriate amendment is therefore proposed.

COUNCIL REGULATION (EC) No/94

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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Parliament²,

Having regard to the opinion of the Economic and Social Committee³,

Whereas under Articles 2 and 4 of Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture⁴, the Council must adopt, in the light of available scientific opinion, the conservation measures needed to guarantee the rational and responsible exploitation of living marine aquatic resources on a sustainable basis; whereas, to this end, the Council may establish technical measures regarding fishing gear and methods of using it;

¹ OJ No

² Opinion delivered on....

³ Opinion delivered on

⁴ OJ No L 389, 31.12.1992, p. 1.

Whereas it is necessary to define principles and certain procedures for establishing these technical measures at Community level, so that each Member State can manage fishing activities in the maritime waters under its jurisdiction or sovereignty;

Whereas Council Regulation (EEC) No 3094/86⁵, as last amended by Council Regulation (EC) No 1796/94⁶, lays down the general technical rules for catching and landing biological resources in the waters which it defines;

Whereas fishing activities using passive gear, in particular bottom set gillnets, entangling nets and trammel nets, have increased sharply over recent decades in the waters of the European Union;

Whereas there is an increasing tendency to use smaller and smaller mesh sizes for bottom set gillnets, entangling nets and trammel nets, which is resulting in increasing mortality rates for juveniles of the target species of the fisheries concerned;

Whereas this trend should be checked and the mesh sizes used for passive gear such as bottom set gillnets, entangling nets and trammel nets should be designed to achieve selective catches of the target species or group of target species,

Whereas under Article 9(3) and (4) of Regulation (EEC) No 3094/86, only Community beam trawlers meeting certain criteria may be entered on a list authorizing them to fish in the flatfish protected area;

Whereas one of these criteria is the restriction of engine power and it is now necessary, in order to enforce compliance with this criterion, to ban beam trawlers whose engine power

⁵ OJ No L 288, 11.10.1986, p.1.

⁶ OJ No L 187, 22.07.1994, p.1.

exceeds the levels authorized in paragraphs 3 and 4 of Article 9 after they have been entered on the list from fishing in the fishing area referred to in that Article;

Whereas, in the light of scientific opinion certain derogations from technical measures established in Annex I to Regulation (EEC) No 3094/86, decided on an annual basis, may now be permanently incorporated into that Annex;

Whereas Regulation (EEC) No 3094/86 should therefore be amended,

HAS ADOPTED THIS REGULATION:

ARTICLE 1

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

1. The following paragraph 12 shall be added to to Article 2:

"12. a) When catches are made in regions 1 and/or 2 by Community fishing vessels using bottom set gillnets, entangling nets and/or trammel nets with mesh sizes corresponding to one of the categories set out in Annex VI, the percentage of quantities landed expressed in live weight, for one or any combination of species or groups of species mentioned in the corresponding mesh size category, may not be less than 70%.

b) When catches have been made in region 3 by Community fishing vessels using bottom set gillnets, entangling nets and/or trammel nets with mesh sizes corresponding to one of the categories set out in Annex VII, the percentage of quantities landed expressed in live weight, for one or any combination of species or groups of species mentioned in the corresponding mesh size category, may not be less than 70%.

c) Bottom set gillnets, entangling nets and trammel nets with mesh sizes that do not correspond to any of the categories set out in Annexes VI or VII are prohibited and may not be kept on board Community fishing vessels.

d) For the purposes of this Regulation, the following definitions apply:

(i) "bottom set gillnets or entangling nets" are any gear made up of a single piece of net, fixed by any means to the bottom of the sea and deployed at right angles to the bottom;

(ii) "trammel nets" are any gear made up of two or more pieces of net one on top of the other, fixed by any means to the bottom of the sea and deployed at right angles to the bottom.

e) Letters a), b), c) and d) do not apply to catches of salmon or sea trout.

2. The following sub-paragraph 4a) shall be inserted in Article 9:

"4a). Fishing vessels which do not satisfy the criteria permitting them to be entered on the lists established pursuant to Paragraphs 3 and 4 shall be forbidden to engage in the fishing activities referred to in those paragraphs."

3. Annex I shall be amended in accordance with Annex A to this Regulation.

4. Annexes VI and VII shall be added in accordance with Annex B to this Regulation.

ARTICLE 2

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

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

Done at Brussels

For the Council
The President

ANNEX A

In Annex I:

a) The sixth, seventh and eighth headings of the section "Regions 1 and 2" are replaced by the following text:

"

ICES sub-areas II, IV, V & VI north of latitude 56°N	(11)	90 (12)	Whiting (<i>merlangus merlangus</i>)	70 % (13)	100 of which not more than 10% of cod, haddock & saithe and not more than 10% of plaice
Entire region except Skagerrak and Kattegat		32	Mackerel (<i>Scomber scombrus</i>)	50 :	10
			Horse mackerel (<i>Trachurus trachurus</i>)	: 50 :	10
			Herring (<i>Clupea harengus</i>)	: 50 : or 80	10
			Pelagic cephalopods	: : > cumulated	10
			Sardine (<i>Sardina pilchardus</i>)	50 : :	10
			Blue whiting (<i>Micromesistius poutassou</i>)	50 : : :	10
Entire region except Skagerrak and Kattegat		35	Prawn (<i>Pandalus spp.</i> except <i>Pandalus montagui</i>)	30	50

"

b) Footnotes ⁽¹⁴⁾, ⁽¹⁵⁾ and ⁽¹⁶⁾ become ⁽¹¹⁾, ⁽¹²⁾ and ⁽¹³⁾

ANNEXE B

"ANNEXE VI

Species	MINIMUM MESH SIZE (Stretched mesh) mm				
	Less than 30	Between 30 and 75	Between 80 and 110	Between 115 and 205	Greater than 210
Sprat (<i>Sprattus sprattus</i>)	*				
Herring (<i>Clupea harengus</i>)		*			
Mackerel (<i>Scomber spp.</i>)		*			
Red Mullet (<i>Mullus spp.</i>)		*			
Bass (<i>Dicentrarchus spp.</i>)			*		
Grey Mullet (<i>Mugil cephalus</i>)			*		
Sole (<i>Solea spp.</i>)			*		
Plaice (<i>Pleuronectes platessa</i>)				*	
Flounder (<i>Platichthys flesus</i>)				*	
Cod (<i>Gadus morhua</i>)				*	
Pollock (<i>Pollachius pollachius</i>)				*	
Ling (<i>Molva molva</i>)				*	
Saithe (<i>Pollachius virens</i>)				*	
Hake (<i>Merluccius merluccius</i>)				*	
Spurdog (<i>Squalus acanthias</i>)				*	
Others					*

ANNEXE VII

Species	MINIMUM MESH SIZE (Stretched mesh) mm		
	Less than 30	Between 60 and 75	Greater than 80
Sardine (<i>Sardina pilchardus</i>)	*		
Horse Mackerel (<i>Trachurus spp.</i>)		*	
Mackerel (<i>Scomber spp.</i>)		*	
Red Mullet (<i>Mullus spp.</i>)		*	
Gurnards (<i>Triglidae</i>)		*	
Others			*

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DOCUMENTS

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8