

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(77) 515 final.

Brussels, 13 October 1977.

Proposal for a
COUNCIL REGULATION (EEC)

laying down technical measures for the
conservation of fishery resources

(submitted to the Council by the Commission)

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EXPLANATORY MEMORANDUM

1. The Community régime for conservation and management of fishery resources envisages various measures for protection of fishing grounds to achieve the objective of optimalization of exploitable resources.

They may include in particular for each species the establishment of zones where fishing is prohibited or restricted to certain periods, certain types of vessel, or certain fishing gear; the setting of standards as regards the mesh size of fishing nets, the setting of a minimum size or weight and so on.

Such measures have been so far applied by Member States as an implementation of existing Recommendations of the International Fisheries Commissions for the North Atlantic (ICNAF and NEAFC). Additional measures have been taken on a rational basis to cope with specific situations.

2. This proposal intends to insert those technical measures into Community Law. It is largely based on the existing Recommendations of the International Fishery Commissions for the North Atlantic mentioned as applied by Member States. However, additional conservation measures are proposed, some of which were already contained in Council Regulation (EEC) No. /77 of 1977, laying down certain interim measures for the conservation and management of fishery resources⁽¹⁾ and some of which derive from decisions of the Council to take further measures, laid down in the Proceedings of the Council of 18 February 1977.

3. Since the Proposal cannot be complete taking into account all measures for the conservation and management of fish stocks, including examination of those presently in force in Member States, Member States should be enabled to maintain their existing measures insofar as these do not interfere with the decisions made until now by the relevant International Fishery Commissions and this Proposal and are not discriminatory. The Commission intends to complete the Community Regulations after examination of the provisions of Member States, which have to be notified according to Article 2 of Council Regulation (EEC) No. 101/76 of 19 January 1976, laying down a common structural policy for the fishing industry.⁽²⁾

(1) OJ No. L

(2) OJ No. L 20 of 28.1.1976, p. 19

4. The Regulation should apply to all waters in the North Atlantic, where Member States have already and will have by 1 January 1978 extended their sovereignty or jurisdiction up to 200 miles.

5. The proposal does not include any reference to a closed area or period for the fishing of Norway pout, since the examination of the provisions necessary after 31 October 1977 has not yet been concluded. Neither does it deal with such other provisions contained in Council Regulation (EEC) No. /77 of , laying down certain interim measures for the conservation and management of fishery resources⁽¹⁾ which have to be amended on a yearly basis and are not of a permanent nature.

6. The Proposal does not deal with salmon fishing in the Northwest Atlantic as this matter has been or is currently being considered in negotiations with the other coastal States of that area.

(1) OJ No. L

of

laying down 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 Regulation (EEC) /77 of establishing a Community system for the conservation and management of fishery resources(1) and in particular Article 2 thereof,

Having regard to the proposal from the Commission,

Whereas Article 2 of Regulation (EEC) /77 of (1) requires the Council to adopt the conservation measures necessary to achieve the protection of fishing grounds and fish stocks and the balanced exploitation of fishery resources;

Whereas it is indispensable for avoiding discrimination and distortion of competition between Member States that the conservation measures are taken by the Community;

Whereas until now Member States have applied certain conservation measures either on their own initiative or as a result of Recommendations or Proposals of the relevant International Fishery Commissions;

Whereas these latter measures are largely based on scientific findings and have already been agreed upon by Member States;

Whereas, therefore, as a first step these measures should be taken over as far as consistent with the conservation aims of the Community;

Whereas measures which are not of a permanent nature should be taken by additional Regulations on a yearly basis;

Whereas the minimum mesh sizes for protected species in the North Sea should be increased and in that respect measures should be based on the scientific information given by the International Council for the Exploration of the Sea (ICES), but additional information on other areas seems necessary.

Whereas, according to the same information, Nephrops should be excluded from the species to be taken with small meshed nets but in a transitional period the mesh size for Nephrops should be increased in all parts of the North East Atlantic to the mesh size required already now in the most important areas;

(1) OJ No L

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Whereas, subject to Community examination, Member States may , under certain conditions, and pending further Community measures for the conservation of fishery resources, maintain conservation measures additional to those contained in the present Regulation;

Whereas urgent further conservation measures and detailed rules on the implementation of this Regulation may be necessary; such measures and rules should be adopted in accordance with the procedure laid down in Article 32 of Council Regulation (EEC) No 100/76 of 28 January 1976 on the common organisation of the market in fishery products (I);

HAS ADOPTED THIS REGULATION :

(I) OJ No L 20, 28.I.1976, p. I

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Article 1

1. This Regulation applies to the taking and landing of the living resources in all maritime waters under the sovereignty or jurisdiction of the Member States and subject to Community legislation insofar they are situated in the areas defined by article 10 of the North-East Atlantic Fisheries Convention of 24 January 1959 and Article I of the International Convention for the Northwest Atlantic Fisheries of 8 February 1949.
2. This area shall be divided into the Regions :
 - (a) 1 (All waters off the coasts of Greenland and St. Pierre et Miquelon),
 - (b) 2 (All waters north of 48 ° N except those defined under subparagraph (a)),
 - (c) 3 (All waters south of 48 ° N)
3. The Regions may be subdivided by Divisions according to Statistical Sub-Areas or Divisions of the International Council for the Exploration of the Sea (ICES) or Subareas or Divisions of the International Convention on the Northwest Atlantic Fisheries (ICNAF) or parts thereof.

Article 2

1. No vessel shall use any trawl, Danish seine or similar net towed or trawled through the sea which has in any part meshes of dimensions smaller than the minimum size specified in Annex 1 for the corresponding Region and type of net.
2. Until 31 December 1978, in the North Sea meshes may be used with dimensions smaller than those listed in Annex 1 for that area, provided they are not smaller than those listed for Region 2 outside North Sea.
3. Before 30 June 1978, the Council, acting by qualified majority on a proposal from the Commission, shall decide on a revision of the mesh size for Region 2 outside the North Sea and Region 3 or parts thereof and a revision of Annexes 5 and 6.

Article 3

1. Vessels may use nets having meshes of dimensions smaller than those specified in Annex 1, but not smaller than those specified in Annex 2 in fisheries for the species designated in that Annex in relation to particular Regions. This provision does not apply to trawlfisheries for the species designated in Annex 3 in relation to particular areas.
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2. In Region 2, no vessel shall carry on board or use any net having in the cod-end meshes of dimensions between 50mm and those specified in Annex 1 for that region, except in those waters east of a line drawn from Hanstholm to Lindesnes.

3. Nets used in accordance with paragraph 1 shall not be used for catching other species.

Article 4

1. Notwithstanding Article 3 paragraph 3

- on any voyage on which only nets not complying with Article 2 paragraph 1

are carried, not more than 20% by weight of all fish on board or any sample thereof of at least 100 kg after sorting or below deck, may consist of such species of fish as listed in Annex 6;

-- on any voyage where nets both complying and not complying with Article 2 paragraph 1 are carried, the percentage limitation mentioned in the preceding sub-paragraph applies only to that part of the catch that has been taken with a net not complying with Article 2 paragraph 1. Unless the master of the vessel has otherwise properly recorded according to Article 3 of Council Regulation (EEC) No. /77 of 1977, laying down certain measures of control for fishing activities by Community vessels, (I) all catch on board shall be treated as taken with a net not complying with Article 2 paragraph 1.

2: Notwithstanding Article 3 paragraph 3 in the sandeel fishery with nets having a mesh size of less than 16mm, not more than 10% by weight of the fish, or any sample thereof of at least 100 kg. on board may consist of other species.

Article 5

When fishing for species or in areas or during time periods where it is not allowed to use nets with meshes smaller than those specified, such nets must be stowed away in such a manner that they are not readily capable of being used.

Article 6

1. The appropriate minimum mesh size shall be measured in accordance with Annex 4.

2. No vessel shall use any device by means of which the mesh in any part of a fishing net is obstructed or otherwise in effect diminished. This provision does not exclude the use of the devices referred to in Annex 5.

Article 7

1. Undersized fish shall not be retained on board any vessel but shall be returned immediately to the sea and shall not be landed, transported or sold, exposed or offered for sale.
2. Fish shall be regarded as undersized if its size, measured from the tip of the snout to the end of the tail fin, is smaller than the minimum size specified in Annex 6 in relation to different species and Regions.
3. Notwithstanding paragraph 1, on any voyage on which any net not complying with Article 2 paragraph 1 is carried, not more than 10% by weight of all the fish not intended for human consumption in the form of fish, or any sample thereof of at least 100 kg, after sorting or below deck at any time or on landing, may consist of undersized fish as specified in paragraph 2.

Article 8

Article 2 paragraph 1 and Article 7 shall not apply to whiting fished by vessels of a bhp not exceeding 150 east of a line drawn from Hanstholm to Lindesnes provided that landings thereof shall not include such other species of fish as listed in Annex 6.

Article 9

1. Except in ICES Division IIIa east of a line drawn from Skagen to Pater Noster lighthouse it is prohibited to fish for herring of a size smaller than 20cm measured from the tip of the snout to the end of the tail fin or the corresponding number of herring per unit of weight (undersized herring). Article 7 paragraph 1 applies.
2. Notwithstanding paragraph 1, landings of herring or other species mentioned in Annex 2 may consist of 10% by weight of undersized or underweight herring.
3. It is prohibited to fish for industrial purposes mackerel of a size smaller than 30cm measured from the tip of the snout to the end of the tail fin. Article 7 paragraph 1 applies.
4. Notwithstanding paragraph 3, landings of mackerel for industrial purposes may consist of 20% by weight of undersized mackerel.

Article 10

1. No vessel fishing for Nephrops shall use any trawl which has in any part meshes of dimensions smaller than 70mm in Region 2 and 60mm in Region 3, both measured in single twine.
2. It is prohibited to fish for Nephrops of a total length smaller than 100mm measured from the tip of the rostral spine to the end of the telson, or the corresponding number of Nephrops per weight unit (undersized Nephrops). Article 7 paragraph 1 applies.
3. This provision applies from 1 January 1979. Until 31 December 1978, the minimum mesh dimensions shall be 40mm in Regions 2 and 3.

Article 11

Fishing for salmon in that part of Region 1 East of 44° W and in Regions 2 and 3 shall be prohibited outside the waters situated within a limit of twelve miles, measured from the base lines of the Member States .

Article 12

1. The use of vessels which carry out processing operations additional to salting, boiling of shrimps, filleting, freezing, reducing offal and reducing unavoidable by-catches made within the authorized maximum limit shall be prohibited.
2. (a) Inside an area within 12 miles of the mainland coasts of Belgium, the Netherlands, Germany, and the west coast of Denmark up to the latitude of 56°30' North, measured from the baselines from which the territorial sea is measured, no vessel exceeding 50 GRT or 300 bhp shall trawl for sale or plaice with any beam or other trawl specifically arranged for catching flat fish.
Nor shall it carry such beam or other trawl unless it is properly lashed and stowed in such a way that it may not be readily used;

2. (b) notwithstanding sub-paragraph (a) no such vessel fishing for other species in the area shall retain on board sole and plaice in an amount exceeding 10 % by weight of all catch on board.

Article 13

The use of purse seines for the fishing of herring within the area bound by 5° and 9° W longitude and 49° and 52°30' N latitude (Celtic Sea) is prohibited.

Article 14

The provisions of this Regulation shall not apply to fishing operations conducted solely for the purpose of scientific investigations or artificial propagation or transplantation by vessels authorized by a Member State for that purpose, or to fish taken in the course of such operations, Member States concerned shall communicate that authorization to the Commission. Fish taken under conditions other than those set out in the foregoing provisions may not be sold, exposed or offered for sale.

Article 15

1. Pending the adoption of further Community measures for the conservation of fishery resources as referred to in Article 2 of Council Regulation (EEC) No. /77,

Member States may maintain conservation measures relating to matters not covered by Community provisions provided these measures :

- are not inconsistent with the nature or the objectives of Community provisions and do not interfere with their proper working,
- do not discriminate in form or in fact against fishermen and vessels of other Member States,
- are not less restrictive than and are in conformity with the Proposals and Recommendations adopted by the relevant International Fishery Commissions.

2. If the Commission finds that a Member State measure does not meet the criteria mentioned in paragraph 1 it shall decide that the Member State concerned shall abolish or alter such measure, unless the Council, acting by a qualified majority on application of any Member State, decides otherwise within one month. Such application shall have the effect of suspending the decision of the Commission.

Article 16

At the request of a Member State or at the initiative of the Commission, when the conservation of fish stocks requires immediate action, measures derogating from this Regulation or further conservation measures may be taken in accordance with the procedure laid down in Article 32 of Regulation No. 100/76.

Article 17

Detailed rules for the implementation of Articles 3, 4, 5, 6, 7, 9, 10, 12 and 14 of this Regulation may be adopted in accordance with the procedure laid down in Article 32 of Regulation No. 100/76.

Article 18

This Regulation shall enter into force on the 1st January 1978.

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

Done at Brussels,

For the Council
The President

REGION	TYPE OF NET	MINIMUM MESH SIZE IN MM
1	Irrelevant	120
2 outside North Sea	Such part of any net as is made of single twine.	70
	Such part of any net as is made of double twine.	75
2 (North Sea) ^{2E}	Irrelevant	90
3	Such part of any net as is made of single twine.	60
	Such part of any net as is made of double twine.	65

^{2E} For the purpose of this Regulation, as North Sea shall be regarded ICES - Division VII d, Sub-Area IV and that adjoining part of Division II a, which is under the sovereignty or jurisdiction of a Member State.

MINIMUM MESH
SIZE IN MM

	SPECIES	MINIMUM MESH SIZE IN MM	
REGION 1	Polar cod (<i>Boreogadus saida</i>)	16	
	Capelin (<i>Mallotus villosus</i>)	"	
	Blue Whiting (<i>Micromesistius poutassou</i>)	"	
	Silver smelts (<i>Argentina</i> spp)	"	
	Herring (<i>Clupea harengus</i>)	"	
	Molluscs	"	
	Silver pout (<i>Gadiculus thorii</i>)	"	
	Nephrops	"	
	Norway Pout (<i>Trisopterus esmarkii</i>)	"	
	Prawns (<i>Pandalus</i> spp) except as specified below:	"	
	Prawns in ICNAF Subarea 1	40	
	Redfish in ICNAF Division 3P	none	
	Clupeoid fish other than herring	"	
	Eels	"	
	Great weevers (<i>Trachinus draco</i>)	"	
	Horse mackerel (<i>Trachurus trachurus</i>)	"	
	Mackerel (<i>Scomber scombrus</i>)	"	
	Sandeels (<i>Ammodytidae</i>)	"	
	Saury (<i>Scomberesox saurus</i>)	"	
	Shrimps (<i>Crangon</i> spp)	"	
	Smelts (<i>Osmerus</i> spp)	"	
	REGION 2	Herring (<i>Clupea harengus</i>)	16
		Mackerel (<i>Scomber scombrus</i>)	"
Horse mackerel (<i>Trachurus trachurus</i>)		"	
Sprat (<i>Clupea sprattus</i>)		"	
Norway pout (<i>Trisopterus esmarkii</i>)		"	
Blue whiting (<i>Micromesistius poutassou</i>)		"	
Silver smelts (<i>Argentina</i> spp)		"	
Prawns (<i>Pandalus</i> spp)		"	
Shrimps (<i>Crangon</i> spp)		"	
Shrimps within 12 miles of the mainland coast of Denmark and the Federal Republic of Germany to a northern boundary of 56°30'N		none	
Eels (adults)		16	
Great weevers (<i>Trachinus draco</i>)		"	
Molluscs		"	
Sandeels (<i>Ammodytidae</i>) except as specified below :		none	
Sandeels in ICES Statistical Area IV in the period 1 November to the last day of February inclusive		16	
Capelin (<i>Mallotus villosus</i>)		"	
Saury (<i>Scomberesox saurus</i>)		"	
Smelts (<i>Osmerus</i> spp)	"		
REGION 3	<i>Dicologlossa cuneata</i>	40	
	Sardine (<i>Sardina pilchardus</i>)	20	
	Prawns (<i>Pandalus</i> spp)	"	
	Shrimps (<i>Crangon</i> spp)	"	
	Eels (adults)	20	
	Sprat (<i>Clupea sprattus</i>)	16	
	Anchovy (<i>Engraulis encrassicholus</i>)	"	
Sandeel (<i>Ammodytidae</i>)	"		

SPECIES AND AREAS FOR WHICH SMALL MESH NETS ARE NOT AUTHORIZED

- (1) Blue Whiting in that part of Region 2 to the south of latitude 52°30'N and west of longitude 7°00'W;
- (2) *Dicologlossa cuneata* in all parts of Region 3 outside a line joining the following points, where Article 3 paragraph 1 phrase 1 applies for vessels not exceeding 150 HP :

Lat.	46°16'N	-	Long.	01°36'W	(Phare des baleines)
	46°05'N	-		01°44'W	
	45°40'N	-		01°34'W	
	44°40'N	-		01°34'W	

and then due east to the coast;
- (3) Shrimp and prawn outside the limit of 12 miles measured from the baselines of the territorial sea in Region 3.

The minimum mesh size shall be such that when the mesh is stretched diagonally lengthwise of the net a flat gauge 2mm thick of the appropriate width shall pass through it easily when the net is wet.

The mesh size of a net shall be taken by the average of the measurements of any series of twenty consecutive meshes, at least ten meshes from the lacings, and when measured in the cod-end of the net beginning at the aft end and running parallel to the long axis.

1. Any canvas, netting, or other material attached to the underside of the cod-end of a trawl net for the purpose of preventing wear or tear, fastened to the cod-end only along the forward and lateral edges of the device.
2. A strengthening bag made of heavier material than the cod-end and having a minimum mesh size of 80mm, attached to trawl nets with meshes of dimensions smaller than those specified in Annex 1.
3. Notwithstanding paragraph 2, a chafer or a cover made of a piece of netting, consisting of the same material as the cod-end, having in all its parts a mesh twice the mesh size of the cod-end and fastened to the cod-end along the forward, lateral and rear edges only of the netting in such a way that each mesh of the netting coincides with four meshes of the cod-end, attached to trawl nets with meshes of dimensions smaller than those specified in Annex 1 in Regions 2 and 3 and to all trawl nets in Region 1.

Minimum size (cm)
for areas described in
Article 1

	<u>That part of Region 1 in-</u> <u>side ICES Statistical Sub-</u> <u>areas II, V, XII and XIV.</u>	<u>Regions</u> <u>2 & 3</u>
Cod (<i>Gadus morhua</i>)	34	30
Haddock (<i>Melanogrammus aeglefinus</i>)	31	27
Hake (<i>Merluccius merluccius</i>)	30	30
Plaice (<i>Pleuronectes platessa</i>)	25	25
Witch (<i>Glyptocephalus cynoglossus</i>)	28	28
Lemon sole (<i>Microstomus kitt</i>)	25	25
Sole (<i>Solea solea</i>)	24	24
Turbot (<i>Scophthalmus maximus</i>)	30	30
Brill (<i>Scophthalmus rhombus</i>)	30	30
Mcgrim (<i>Lepidorhombus</i> spp)	25	25
Whiting (<i>Merlangius merlangus</i>)	23	23
Dab (<i>Limanda limanda</i>)	15	15
Saithe (<i>Pollachius virens</i>)	35	30*
Common sea bream (<i>Pagellus cantabricus</i>)	-	12
Red mullet (<i>Mullus surmulletus</i>)	-	15
Bass (<i>Dicentrarchus labrax</i>)	-	25
Conger eel (<i>Conger conger</i>)	-	58
Pollock (<i>Pollachius pollachius</i>)	-	22
Ling (<i>Molva molva</i>)	-	63
Shad (<i>Alosa</i> spp)	-	30
Sturgeon (<i>Acipenser sturio</i>)	-	145
Grey mullet (<i>Mugil</i> spp)	-	20
Salmon (<i>Salmo salar</i>)	-	48
Trout (<i>Salmo trutta</i>)	-	23

* Except landings of saithe taken from the area east of a line drawn from Hanstholm to Lindesnes.