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COUNCIL REGULATION (EC) No 894/97

of 29 April 1997

laying down certain technical measures for the conservation of fishery resources

(OJ L 132, 23.5.1997, p. 1)

Amended by:

		Official Journal		
		No	page	date
► <u>M1</u>	Council Regulation (EC) No 850/98 of 30 March 1998	L 125	1	27.4.1998
► <u>M2</u>	Council Regulation (EC) No 1239/98 of 8 June 1998	L 171	1	17.6.1998
► <u>M3</u>	Council Regulation (EC) No 809/2007 of 28 June 2007	L 182	1	12.7.2007

**COUNCIL REGULATION (EC) No 894/97****of 29 April 1997****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 Commission,

Having regard to the opinion of the European Parliament ⁽¹⁾,Having regard to the opinion of the Economic and Social Committee ⁽²⁾,

- (1) Whereas Council Regulation (EEC) No 3094/86 of 7 October 1986 laying down certain technical measures for the conservation of fishery resources ⁽³⁾, has been frequently and substantially amended; whereas for reasons of clarity and rationality that Regulation should be codified;
- (2) Whereas, in order to ensure the protection of marine biological resources and the balanced exploitation of fishery resources in the interests of both fishermen and consumers, technical measures should be laid down for the conservation of fishery resources specifying *inter alia* the mesh sizes, by-catch rates and fish sizes permitted, as well as the limitation of fishing within certain areas and periods and with certain gear;
- (3) 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;
- (4) Whereas the rules governing fishing operations in the Skagerrak and Kattegat, agreed between the Community and Norway and Sweden, should be included in this Regulation; whereas, taking account of scientific advice, it is therefore necessary to establish seasonal limitations on certain fishing activities in the Skagerrak and the Kattegat;
- (5) Whereas management measures concerning fishing in the Baltic Sea should be adopted by the International Baltic Sea Fishery Commission;
- (6) 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;
- (7) Whereas it is appropriate to define directed fishing for certain species of fish as well as by-catches and protected species;

⁽¹⁾ OJ No C 362, 2. 12. 1996, p. 318.

⁽²⁾ OJ No C 30, 30. 1. 1997, p. 93.

⁽³⁾ OJ No L 288, 11. 10. 1986, p. 1. Regulation as last amended by Regulation (EC) No 3071/95 (OJ No L 329, 30. 12. 1995, p. 14).

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- (8) 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 under-size fish;
- (9) Whereas industrial fishing is a continuous activity and whereas, accordingly, the conditions governing it should also be stable;
- (10) Whereas the catching of certain species to be transformed into fish-meal or oil can be carried out with a derogatory mesh size provided that such catching operations do not have a negative influence on other demersal stocks, in particular cod and haddock;
- (11) 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;
- (12) 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;
- (13) Whereas biological parameters for the species concerned differ between geographical areas; whereas these differences justify the application of different measures in those areas;
- (14) Whereas in order to permit fishermen adequate time to adapt existing gear to the new requirements, a sufficient transition period should be provided;
- (15) Whereas the manner in which the size of crustaceans and molluscs are to be measured should be defined;
- (16) Whereas the rules concerning fishing within the 12-mile coastal zone should be defined in terms which are enforceable;
- (17) Whereas in this respect, protection of nursery areas should be provided for in the coastal zone of Member States, taking into account the specific biological conditions on those various zones;
- (18) Whereas the non-selective use of purse seines on schools of tuna and other species of fish found in association with or in close proximity to marine mammals may result in the pointless catching and killing of such mammals;
- (19) Whereas, when properly and responsibly conducted the use of purse seines is an effective method of fishing solely for desired target species; whereas under such circumstances it no longer represents a threat to the conservation of marine mammals;
- (20) 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;
- (21) Whereas by Decision 82/72 EEC ⁽¹⁾ the Council approved the Convention on the conservation of European wildlife and natural habitats (Berne Convention);
- (22) 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;
- (23) Whereas the uncontrolled expansion and growth of drift-netting may entail serious disadvantages in terms of increased fishing effort and increased by-catches of species other than the target

⁽¹⁾ OJ No L 38, 10. 2. 1982, p. 1.

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species; whereas it is therefore desirable to regulate fishing with driftnets;

- (24) Whereas, in order not to hinder scientific research, this Regulation should not apply to operations which may be necessitated, even incidentally, by the conduct of such research;
- (25) Whereas, where conservation is seriously threatened, Member States should be permitted to take appropriate provisional measures;
- (26) Whereas additional national measures of a strictly local character should not be invalidated or hampered by the adoption of this Regulation;
- (27) Whereas, therefore, such measures may be maintained or adopted subject to consideration by the Commission of their compatibility with Community law and conformity with the common fisheries policy;
- (28) Whereas this Regulation should apply without prejudice to certain national measures going beyond the minimum requirements which it lays down;
- (29) Whereas urgent new conservation measures and detailed rules on the implementation of this Regulation may be necessary; whereas such measures and rules should be adopted in accordance with the procedure laid down in Article 18 of Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture ⁽¹⁾,

HAS ADOPTED THIS REGULATION:

▼M1

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TITLE I

NETS AND CONDITIONS FOR THEIR USE

▼M1

▼B

TITLE II

MINIMUM SIZE OF FISH, CRUSTACEANS AND MOLLUSCS

▼M1

▼B

TITLE III

PROHIBITION OF FISHING

▼M1

⁽¹⁾ OJ No L 389, 31. 12. 1992, p. 1. Regulation as last amended by the 1994 Act of Accession.

▼ B

TITLE IV

RESTRICTIONS ON CERTAIN TYPES OF FISHING**▼ M1****▼ M3***Article 11*

1. 'Drift net' means: any gillnet held on the sea surface or at a certain distance below it by floating devices, drifting with the current, either independently or with the boat to which it may be attached. It may be equipped with devices aiming to stabilise the net or to limit its drift.
2. No vessel may keep on board, or use for fishing, one or more drift nets whose individual or total length is more than 2,5 kilometres.

▼ M2*Article 11a*

1. From 1 January 2002, no vessel may keep on board, or use for fishing, one or more drift-nets intended for the capture of species listed in Annex VIII.
2. From 1 January 2002, it is prohibited to land species listed in Annex VIII which have been caught in drift-nets.
3. Until 31 December 2001, a vessel may keep on board, or use for fishing, one or more drift-nets referred to in paragraph 1 after receiving authorisation from the competent authorities of the flag Member State. In 1998, the maximum number of vessels which may be authorised by a Member State to keep on board, or use for fishing, one or more drift-nets shall not exceed 60 % of the fishing vessels which used one or more drift-nets during the period 1995 to 1997.
4. Member States shall communicate to the Commission for each target species by 30 April of each year, the list of vessels authorised to carry out fishing activities using the drift-nets referred to in paragraph 3; for 1998, the information shall be sent not later than 31 July 1998.

Article 11b

1. All fishing vessels using one or more drift-nets intended for the capture of species listed in Annex VIII shall operate under the following conditions:
 - during fishing activity, the vessel must keep the net under constant visual observation,
 - floating buoys, with radar reflectors, must be moored to each end of the netting, so that its position can be determined at any time. The buoys must be permanently marked with the registration letter(s) and number of the vessel to which they belong.
2. The master of a fishing vessel using one or more drift-nets referred to in paragraph 1 shall keep a logbook in which he must record the following information on a day-to-day basis:
 - the total length of the nets on board,
 - the total length of the nets used in each fishing operation,
 - the quantity of each species caught during each fishing operation, including by-catches and discards at sea, in particular cetaceans, reptiles and sea-birds,
 - the quantity of each species held on board,

▼M2

— the date and position of such catches.

3. All masters referred to in paragraph 2 shall forward to the competent authorities of the Member State of landing a declaration giving at least the quantities of each species landed and the catch dates and zones.

4. Masters of vessels using one or more drift-nets referred to in paragraph 1 who wish to use a landing location in a Member State shall notify the competent authorities in the Member State concerned, at least two hours before arrival in port, of the planned landing location and time of arrival.

5. All fishing vessels using one or more drift-nets referred to in paragraph 1 shall keep on board the prior authorisation to fish issued by the competent authorities of the flag Member State.

6. In the case of failure to comply with the obligations laid down in Articles 11 and 11a and this Article, the competent authorities shall take appropriate measures in respect of the vessels concerned, in accordance with Article 31 of Regulation (EEC) No 2847/93.

Article 11c

With the exception of waters covered by Council Regulation (EC) No 88/98 of 18 December 1997 laying down certain technical measures for the conservation of fishery resources in the waters of the Baltic Sea, the Belts and the Sound ⁽¹⁾ and notwithstanding Article 1(1), Articles 11, 11a and 11b shall apply in all waters falling within the sovereignty of jurisdiction of the Member States and, outside those waters shall apply to all Community fishing vessels.

▼M1**▼B**

TITLE V

FINAL PROVISIONS

▼M1**▼B***Article 18*

Detailed rules for the implementation of this Regulation shall be adopted in accordance with the procedure laid down in Article 18 of Regulation (EEC) No 3760/92.

Article 19

Regulation (EEC) No 3094/86 is hereby repealed.

References to the said Regulation shall be construed as references to this Regulation and should be read in accordance with the correlation table set out in Part A of Annex VII.

Article 20

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

⁽¹⁾ OJ L 9, 15.1.1998, p. 1.

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However, the provisions of Article 2 (10) and of Annexes V and VI shall enter into force on 31 December 1997.

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

▼ M1

▼ M2

ANNEX VIII

- Albacore: *Thunnus alalunga*
- Bluefin tuna: *Thunnus thynnus*
- Bigeye tuna: *Thunnus obesus*
- Skipjack: *Katsuwonus pelamis*
- Atlantic Bonito: *Sarda Sarda*
- Yellowfin tuna: *Thunnus albacares*
- Blackfin tuna: *Thunnus atlanticus*
- Little tuna: *Euthynnus* spp.
- Southern bluefin tuna: *Thunnus maccoyii*
- Frigate tuna: *Auxis* spp.
- Oceanic sea breams: *Brama rayi*
- Marlins: *Tetrapturus* spp.; *Makaira* spp.
- Sailfishes: *Istiophorus* spp.
- Swordfishes: *Xiphias gladius*
- Sauries: *Scomberesox* spp.; *Cololabis* spp.
- Dolphinfishes: *Coryphæna* spp.
- Sharks: *Hexanchus griseus*; *Cetorhinus maximus*; *Alopiidae*; *Carcharhinidae*; *Sphymidae*; *Isuridae*; *Lamnidae*
- Cephalopods: all species