

Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (repealed)

COUNCIL REGULATION (EC) No 850/98  
of 30 March 1998

for the conservation of fishery resources through technical measures  
for the protection of juveniles of marine organisms (repealed)

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<sup>(1)</sup>,

Having regard to the opinion from the European Parliament<sup>(2)</sup>,

Having regard to the opinion from the Economic and Social Committee<sup>(3)</sup>,

- (1) Whereas Regulation (EC) No 894/97<sup>(4)</sup> constitutes the consolidated version of Regulation (EEC) No 3094/86 laying down certain technical measures for the conservation of fishery resources, which Regulation has been frequently and substantially amended;
- (2) Whereas experience in the application of Regulation (EEC) No 3094/86 has brought to light certain deficiencies which result in problems of application and enforcement and which should be rectified, notably by reducing the number of different specifications concerning mesh-sizes, by deleting the concept of protected species and by restricting the number of different mesh-sizes that may be kept on board; whereas it is therefore appropriate to replace Regulation (EC) No 894/97 by a new text with the exception of Articles 11, 18, 19 and 20 thereof;
- (3) Whereas it is necessary to define certain principles and procedures for establishing technical conservation measures at Community level, so that each Member State can manage fishing activities in the maritime waters under its jurisdiction or sovereignty;
- (4) Whereas a balance needs to be established between adapting technical conservation measures to the diversity of the fisheries and the need for homogeneous rules which are easy to apply;
- (5) Whereas Article 130r(2) of the Treaty establishes the principle that all Community measures must integrate environmental protection requirements notably in the light of the precautionary principle;
- (6) Whereas the practice of returning marine organisms to the sea should be reduced as much as possible;

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*Status: Point in time view as at 17/01/2006.*

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- (7) Whereas protection of nursery areas should be provided for, taking into account the specific biological conditions in the various zones concerned;
- (8) Whereas in Directive 92/43/EEC<sup>(5)</sup>, the Council laid down measures for conservation of natural habitats and of wildlife and fauna; whereas the list of marine organisms that fall within the scope of this Regulation contains names of species protected by the requirements of that Directive;
- (9) Whereas the European Parliament on 25 October 1996 adopted its resolution on the communication from the Commission on the implementation of technical measures in the common fisheries policy;
- (10) Whereas to ensure the protection of marine biological resources and the balanced exploitation of fishery resources in the interests of both fishermen and consumers, technical conservation measures should be laid down, specifying *inter alia* the mesh sizes and combinations thereof appropriate for the capture of certain species and other characteristics of fishing gear, and the minimum sizes of marine organisms, as well as limitations of fishing within certain areas and time-periods and with certain gears and equipment;
- (11) Whereas, in the light of scientific advice, provisions should be laid down for increases in mesh sizes of towed gears when fishing for certain species of marine organisms, and provisions should be laid down for the mandatory use of square-meshed netting, as this can play a significant role in reducing the capture of juveniles of marine organisms;
- (12) Whereas, to avoid the possibility of using ever smaller mesh sizes for fixed gears, which is resulting in increasing mortality rates for juveniles of the target species of the fisheries concerned, mesh sizes for fixed gears need to be established;
- (13) Whereas the species composition of catches and the associated fishing practices differ between geographical areas; whereas these differences justify the application of different measures in those areas;
- (14) Whereas the catching of certain species to be transformed into fish-meal or fish-oil may be carried out with small mesh sizes, provided that such catching operations do not have a negative influence on other species;
- (15) Whereas minimum sizes need to be applied with respect to species that constitute a major proportion of the landings by Community fleets and to those species which survive being returned to the sea;
- (16) Whereas the minimum size of a species should be in accordance with selectivity of the mesh size applicable to that species;
- (17) Whereas the manner in which the size of marine organisms is to be measured should be defined;
- (18) Whereas, in order to protect juvenile herring, specific provisions regarding the catching and retaining on board of sprat should be adopted;

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- (19) Whereas, to take into account traditional fishing practice in certain areas, specific provisions regarding the catching and retaining on board of anchovy and tuna should be adopted;
- (20) Whereas, in order to ensure control of fishing activities in certain areas by vessels complying with specific conditions, access to such areas shall be subject to special fishing permits as referred to in Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing rights<sup>(6)</sup>;
- (21) Whereas the use of purse seines on schools of fish found in association with marine mammals may result in the catching and killing of such mammals; whereas however, when properly conducted, the use of purse seines is an effective method of fishing solely for the desired target species; whereas the encirclement of marine mammals with purse seines must therefore be prohibited;
- (22) Whereas, in order not to hinder scientific research, artificial restocking or transplantation, this Regulation should not apply to operations which may be necessitated by the conduct of such activities;
- (23) Whereas certain measures, necessary in the context of conservation, are contained in Council Regulation (EEC) No 2930/86 of 22 September 1986 defining characteristics for fishing vessels<sup>(7)</sup> and Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy<sup>(8)</sup>, and therefore need not be reiterated;
- (24) Whereas, where conservation is seriously threatened, the Commission and Member States should be authorised to take appropriate provisional measures;
- (25) Whereas additional national measures of a strictly local character may be maintained or adopted, subject to examination by the Commission of their compatibility with Community law and conformity with the common fisheries policy;
- (26) Whereas, where detailed rules on the implementation of this Regulation may be necessary, such rules should be adopted in accordance with the procedure laid down in Article 18 of Regulation (EEC) No 3760/92<sup>(9)</sup>,

HAS ADOPTED THIS REGULATION:

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- (1) [OJ C 292 4.10.1996, p. 1, and](#)  
[OJ C 245 12.8.1997, p. 10.](#)
- (2) [OJ C 132 28.4.1997, p. 235.](#)
- (3) [OJ C 30 30.1.1997, p. 26.](#)
- (4) [OJ L 132 23.5.1997, p. 1.](#)
- (5) [OJ L 206 22.7.1992, p. 7.](#) Directive as amended by the 1994 Act of Accession.
- (6) [OJ L 171, 6.7.1994, p. 7.](#)
- (7) [OJ L 274, 25.9.1986, p. 1.](#) Regulation as amended by Regulation (EC) No 3259/94 ([OJ L 339, 29.12.1994, p. 11.](#))
- (8) [OJ L 261, 20.10.1993, p. 1.](#) Regulation as last amended by Regulation (EC) No 686/97 ([OJ L 102, 19.4.1997, p. 1.](#))
- (9) [OJ L 389 31.12.1992, p. 1.](#) Regulation as amended by the 1994 Act of Accession.

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