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**COUNCIL REGULATION (EC) No 520/2007**

**of 7 May 2007**

**laying down technical measures for the conservation of certain stocks of highly migratory species  
and repealing Regulation (EC) No 973/2001**

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**COUNCIL REGULATION (EC) No 520/2007****of 7 May 2007****laying down technical measures for the conservation of certain stocks of highly migratory species and repealing Regulation (EC) No 973/2001**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

- (1) The Community has by Decision 98/392/EC <sup>(1)</sup> approved the United Nations Convention on the Law of the Sea which contains principles and rules relating to the conservation and management of the living resources of the sea. In the framework of its wider international obligations, the Community participates in efforts made in international waters to conserve fish stocks.
- (2) Pursuant to Decision 86/238/EEC <sup>(2)</sup> the Community has been a Contracting Party to the International Convention for the Conservation of Atlantic Tunas, hereinafter 'the ICCAT Convention', since 14 November 1997.
- (3) The ICCAT Convention provides a framework for regional cooperation on the conservation and management of tunas and tuna-like species in the Atlantic Ocean and adjoining seas through the setting up of an International Commission for the Conservation of Atlantic Tunas, hereinafter the 'ICCAT', and the adoption of recommendations on conservation and management in the Convention area which become binding on the Contracting Parties.
- (4) ICCAT has recommended a number of technical measures for certain stocks of highly migratory species in the Atlantic and the Mediterranean, specifying inter alia authorised sizes and weights of fish, and restrictions on fishing within certain areas and time periods, with certain gears, and on capacity. These recommendations are binding on the Community and should therefore be implemented.
- (5) The Community has by Decision 95/399/EC <sup>(3)</sup> approved the Agreement for the establishment of the Indian Ocean Tuna Commission. The Agreement provides an appropriate framework for closer international cooperation and the rational use of tunas and related species in the Indian Ocean by setting up the Indian Ocean Tuna Commission, hereinafter the 'IOTC', and adopting recommendations on conservation and management in the IOTC area which become binding on the Contracting Parties.
- (6) The IOTC has adopted a recommendation laying down technical measures for certain stocks of highly migratory species in the Indian Ocean and in particular the limiting of capacity. That

<sup>(1)</sup> OJ L 179, 23.6.1998, p. 1.

<sup>(2)</sup> OJ L 162, 18.6.1986, p. 33.

<sup>(3)</sup> OJ L 236, 5.10.1995, p. 24.

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recommendation is binding on the Community and should therefore be implemented.

- (7) The Community has by Decision 2005/938/EC <sup>(1)</sup> approved the Agreement on the International Dolphin Conservation Programme. It should therefore apply the provisions laid down in that Agreement.
- (8) The objectives of the Agreement include a progressive reduction of incidental dolphin mortalities in the tuna purse-seine fishery in the Eastern Pacific Ocean to levels approaching zero, by setting annual limits, and the long-term sustainability of the tuna stocks in the Agreement Area.
- (9) The Community has fishing interests in the Eastern Pacific Ocean and has participated in the procedure for the adoption of the Convention for the strengthening of the Inter-American Tropical Tuna Commission, hereinafter the 'Antigua Convention'. By Decision 2005/26/EC <sup>(2)</sup> it signed the Antigua Convention and launched the procedure for becoming a party to it. Pending the entry into force of the Antigua Convention, the Community, as a cooperating non-contracting party to the Inter-American Tropical Tuna Commission, hereinafter the 'IATTC', has decided to apply the technical measures adopted by the IATTC. These measures should therefore be incorporated in Community law.
- (10) Pursuant to Decision 2005/75/EC <sup>(3)</sup> and with effect from 25 January 2005 the Community is a Contracting Party to the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, hereinafter the 'WCPFC Convention'.
- (11) The WCPFC Convention provides a framework for regional cooperation with a view to ensuring the long-term conservation and sustainable exploitation of highly migratory fish stocks in the Western and Central Pacific Ocean through the setting up of a Fisheries Commission for the Western and Central Pacific Ocean (WCPFC).
- (12) The Community should therefore apply the provisions laid down in the Convention and the technical measures adopted by the WCPFC.
- (13) The technical measures adopted by these regional fisheries organisations have been incorporated into Council Regulation (EC) No 973/2001 of 14 May 2001 laying down technical measures for the conservation of certain stocks of highly migratory species <sup>(4)</sup>.
- (14) The adoption of new technical measures by these organisations and the updating of those in force since the adoption of Regulation (EC) No 973/2001 require the repeal of that Regulation and its replacement by this Regulation.
- (15) The limits on capacity must be determined in accordance with Article 20 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy <sup>(5)</sup>.
- (16) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision

<sup>(1)</sup> OJ L 348, 30.12.2005, p. 26.

<sup>(2)</sup> OJ L 15, 19.1.2005, p. 9.

<sup>(3)</sup> OJ L 32, 4.2.2005, p. 1.

<sup>(4)</sup> OJ L 137, 19.5.2001, p. 1. Regulation as last amended by Regulation (EC) No 831/2004 (OJ L 127, 29.4.2004, p. 33).

<sup>(5)</sup> OJ L 358, 31.12.2002, p. 59.

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1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(1)</sup>,

HAS ADOPTED THIS REGULATION:

## TITLE I

**INTRODUCTORY PROVISIONS***Article 1***Object**

This Regulation lays down technical conservation measures applicable to the capture and landing of certain stocks of highly migratory species as referred to in Annex I and to the capture of by-catches.

*Article 2***Scope**

Without prejudice to Article 9, this Regulation shall apply to vessels flying the flag of a Member State and registered in the Community, hereinafter 'Community fishing vessels'.

*Article 3***Definitions**

For the purposes of this Regulation:

1. 'Highly migratory species' means the species listed in Annex I.
2. 'Tunas and related species covered by ICCAT' means the species listed in Annex II.
3. 'Dolphin mortality limit' means the limit defined in Article V of the Agreement on the International Dolphin Conservation Programme <sup>(2)</sup>.
4. 'Leisure fisheries' means fishing activities exploiting living aquatic resources for recreation or sport.
5. 'Encircling nets' means nets which catch fish by surrounding them both from the sides and from below; they may or may not be equipped with a purse line.
6. 'Purse seines' means any encircling net the bottom of which is drawn together by means of a purse line at the bottom of the net, which passes through a series of rings along the groundrope, enabling the net to be pursed and closed. Purse seines may be used to catch small pelagic species, large pelagic species or demersal species.
7. 'Longlines' means a fishing gear which comprises a main line carrying numerous hooks on branch lines (snoods) of variable length and spacing depending on the target species. It may be deployed either vertically or horizontally to the sea surface; it may be set either at or near the bottom (bottom-set longline) or drifting in midwater or near the surface (surface longline).

<sup>(1)</sup> OJ L 184, 17.7.1999, p. 23. Decision as last amended by Decision 2006/512/EC (OJ L 200, 22.7.2006, p. 11).

<sup>(2)</sup> OJ L 348, 30.12.2005, p. 28.

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8. 'Hook' means a bent, sharpened piece of steel wire usually with barb. The point of a hook may be either straight or even reversed and curved. The shank can be of varying length and form and its cross section can be round (regular) or flattened (forged). The total length of a hook shall be measured as the maximum overall length of the shank from the tip of the hook which serves for fastening the line and is usually shaped as an eye, to the apex of the bend. The width of a hook shall be measured as the greatest horizontal distance from the external part of the shank to the external part of the barb.
9. 'Fish-aggregating devices (FADs)' means any equipment floating on the sea surface and with the objective of attracting fish.
10. 'Pole and line tuna vessel' means vessels equipped for catching tuna by pole and line.

*Article 4***Areas**

For the purposes of this Regulation, the following definitions of maritime waters shall apply:

1. Area 1
 

all waters of the Atlantic Ocean and adjacent seas included in the ICCAT Convention area as specified in Article 1 of that Convention;
2. Area 2
 

all waters of the Indian Ocean covered by the Agreement for the establishment of the IOTC as defined in Article 2 thereof;
3. Area 3
 

all waters of the Eastern Pacific Ocean as defined in Article 3 of the Agreement on the International Dolphin Conservation Programme;
4. Area 4
 

all waters of the Eastern and Central Pacific Ocean as defined in Article 3 of the WCPFC Convention.

## TITLE II

**TECHNICAL MEASURES APPLICABLE IN AREA 1***CHAPTER 1****Restrictions on the use of certain types of vessels and gears****Article 5***Protection of bigeye tuna in certain tropical waters**

1. Fishing by purse seiners and pole-and-line tuna vessels shall be prohibited during the period 1 to 30 November in the following area:
  - southern limit: latitude 0° S,
  - northern limit: latitude 5° N,
  - western limit: longitude 20° W,
  - eastern limit: longitude 10° W.
2. Member States shall send the Commission each year by 15 August at the latest a report on the implementation of this measure,

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including where applicable a list of breaches committed by Community fishing vessels flying their flag and being pursued by their competent authorities.

**▼M1****▼B***Article 7***Fishing for skipjack, bigeye and yellowfin tuna in certain Portuguese waters**

It shall be prohibited to retain on board any quantity of skipjack, bigeye or yellowfin tuna caught using purse seines in waters under the sovereignty or jurisdiction of Portugal in ICES subarea X north of 36°30' N or in CECAF areas north of 31° N and east of 17°30' W, or to fish for those species in the said areas with the said gears.

*CHAPTER 2***Minimum size***Article 8***Sizes**

1. A species shall be considered undersized if its dimensions are smaller than the minimum dimensions specified in Annex IV for the relevant species.
2. The dimensions set out in Annex IV may be modified pursuant to ICCAT recommendations which are binding on the Community and in accordance with the procedure referred to in Article 30.

*Article 9***Prohibitions**

1. Undersized fish of the species listed in Annex IV which are captured in Area 1 shall not be retained on board or transshipped, landed, transported, stored, displayed or offered for sale, sold or marketed. These species shall be returned immediately to the sea.
2. The release for free circulation or marketing in the Community of undersized fish of the species listed in Annex IV originating in third countries and captured in Area 1 shall be prohibited.

*Article 10***Measurement of size**

1. All species with the exception of istiophoridae shall be measured fork length, that is to say the vertical distance drawn from the tip of the upper jaw to the extremity of the shortest caudal ray.
2. The size of istiophoridae shall be measured from the tip of the lower jaw to the fork of the caudal fin.

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*CHAPTER 3**Restrictions on the number of vessels**Article 12***North Atlantic bigeye and albacore tuna**

1. The Council, acting in accordance with the procedure laid down in Article 20 of Regulation (EC) No 2371/2002, shall determine the number and total capacity in gross tonnage (GT) of Community fishing vessels greater than 24 metres in length fishing in Area 1 for bigeye tuna as a target species. These shall be determined:

- (a) as the average number and the capacity in GT of Community fishing vessels fishing in Area 1 for bigeye tuna as a target species during the period 1991 to 1992; and
- (b) on the basis of the restriction on the number of Community vessels fishing for bigeye tuna in 2005 notified to ICCAT on 30 June 2005.

2. The Council, acting in accordance with the procedure laid down in Article 20 of Regulation (EC) No 2371/2002, shall determine the number of Community fishing vessels fishing for North Atlantic albacore tuna as a target species. The number of vessels shall be fixed as the average number of Community fishing vessels fishing for North Atlantic albacore tuna as a target species during the period 1993 to 1995.

3. The Council, acting in accordance with the procedure laid down in Article 20 of Regulation (EC) No 2371/2002, shall distribute among the Member States:

- (a) the number and capacity in GT determined in accordance with paragraph 1;
- (b) the number of vessels determined in accordance with paragraph 2.

4. Before 15 May each year each Member State shall send the Commission by the customary means of data transmission:

- (a) a list of vessels flying its flag and greater than 24 metres in length fishing for bigeye tuna;
- (b) a list of vessels flying its flag and participating in a fishery targeting albacore tuna in the North Atlantic.

The Commission shall send this information to the ICCAT Secretariat before 31 May each year.

5. The lists referred to in paragraph 4 shall give the internal fishing fleet register number assigned to the vessel in accordance with Annex I to Commission Regulation (EC) No 26/2004 of 30 December 2003 on the Community fishing fleet register<sup>(1)</sup> and the type of gear used.

<sup>(1)</sup> OJ L 5, 9.1.2004, p. 25. Regulation as amended by Regulation (EC) No 1799/2006 (OJ L 341, 7.12.2006, p. 26).

**▼B***CHAPTER 4**Species not targeted and sport and recreational fishing**Article 13***Marlins**

Member States shall encourage the use of monofilament streamer lines on swivels so that live blue marlins and white marlins may be easily released.

*Article 14***Sharks**

1. Member States shall encourage the release of live sharks captured accidentally, in particular juveniles.
2. Member States shall encourage the reduction of discards of sharks by improving the selectivity of fishing gears.

*Article 15***Sea turtles**

Member States shall encourage the release of live sea turtles captured accidentally.

*Article 16***Sport and recreational fishing in the Mediterranean**

1. Member States shall take the measures necessary to prohibit the use in the Mediterranean for sport and recreational fishing activities of towed nets, encircling nets, purse seines, dredges, gill nets, trammel nets and longlines to fish for tuna and related species.
2. Member States shall ensure that tuna and related species captured during sport and recreational fishing in the Mediterranean are not marketed.

*Article 17***Report**

Member States shall send the Commission not later than 15 August each year a report on the implementation of this Chapter.

## TITLE III

**TECHNICAL MEASURES APPLICABLE IN AREA 2***CHAPTER 1**Restrictions on the number of vessels**Article 18***Number of authorised vessels**

1. The Council, acting in accordance with the procedure laid down in Article 20 of Regulation (EC) No 2371/2002, shall determine the



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number of Community fishing vessels greater than 24 metres in length overall authorised to fish in Area 2. The number of vessels is set at the number of Community fishing vessels registered in the IOTC vessels register in 2003. The restriction on the number of vessels must correspond to the overall gross tonnage (GT). Where vessels are replaced the overall tonnage must not be exceeded.

2. The Council, acting in accordance with the procedure laid down in Article 20 of Regulation (EC) No 2371/2002, shall distribute among the Member States the number of vessels determined in accordance with paragraph 1 of this Article.

*CHAPTER 2**Species not targeted**Article 19***Sharks**

1. Member States shall do their utmost to encourage the release of live sharks caught accidentally, in particular juveniles.
2. Member States shall encourage the reduction of discards of sharks.

*Article 20***Sea turtles**

1. Member States shall do their utmost to reduce the impact of fishing on sea turtles, in particular by applying the measures provided for in paragraphs 2, 3 and 4.
2. The use of all fishing gear shall be subject to the following conditions:
  - (a) appropriate handling, including the recovery or prompt release of sea turtles caught accidentally (by hooks or nets) or as by-catch;
  - (b) the presence on board of equipment necessary for the release of sea turtles caught accidentally or as by-catch.
3. The use of the purse seine shall be subject to the following conditions:
  - (a) an obligation to avoid, where possible, encircling sea turtles;
  - (b) the development and application of specifications for appropriate gear for minimising by-catches of sea turtles;
  - (c) the adoption of all the measures necessary for releasing encircled or caught sea turtles;
  - (d) the adoption of all the measures necessary for monitoring fish-aggregating devices in which sea turtles could be caught, to release those taken and recover devices that are not used.
4. The use of longlines shall be subject to the following conditions:
  - (a) the development and putting in place of combinations of hook shapes, type of lures, depth and design of nets and fishing practices to minimise accidental catches or by-catches and mortality of sea turtles;
  - (b) the presence on board of equipment necessary for releasing sea turtles caught accidentally or as by-catch, including tools for unhooking them or cutting the lines and landing nets.



## TITLE IV

## TECHNICAL MEASURES APPLICABLE IN AREA 3

*Article 21***Transshipment**

1. The use of ancillary vessels to support vessels fishing with the aid of fish-aggregating devices shall be prohibited.
2. Transshipments at sea by seiners shall be prohibited.

*Article 22***Restrictions on the number of vessels**

1. The Council, acting in accordance with the procedure laid down in Article 20 of Regulation (EC) No 2371/2002, shall determine the number of Community seiners authorised to fish in Area 3. The number of vessels shall be set at the number of Community seiners registered in the IATTC register on 28 June 2002.
2. Member States shall forward to the Commission, before 10 December each year, a list of the vessels flying their flag and intending to fish for tuna in Area 3. Vessels which are not included in that list shall be regarded as inactive and shall not be authorised to fish during the current year.
3. The lists shall mention the internal fishing fleet register number assigned to the vessel in accordance with Annex I to Regulation (EC) No 26/2004 and the type of gear used.

*Article 23***Protection of dolphins**

Only Community fishing vessels operating under the conditions laid down in the Agreement on the International Dolphin Conservation Programme which have been allocated a Dolphin Mortality Limit (DML) shall be authorised to encircle schools or groups of dolphins with purse seines when fishing for yellowfin tuna in Area 3.

*Article 24***Requests for DMLs**

Member States shall send the Commission before 15 September each year:

- (a) a list of vessels flying their flag with a load capacity greater than 363 metric tonnes (400 net tonnes) which have applied for a DML for the whole of the following year;
- (b) a list of vessels flying their flag with a load capacity greater than 363 metric tonnes (400 net tonnes) which have applied for a DML for the first or second half of the following year;
- (c) for each vessel requesting a DML, a certificate stating that the vessel has all the proper gears and equipment to protect dolphins and that its captain has completed an approved training course on rescuing and releasing dolphins;
- (d) a list of vessels flying their flag which are likely to operate in the area in the course of the following year.

**▼B***Article 25***Allocation of DMLs**

1. Member States shall ensure that applications for DMLs comply with the conditions laid down in the Agreement on the International Dolphin Conservation Programme and the conservation measures adopted by the IATTC.
2. The Commission shall examine the lists and ensure that they comply with the provisions of the Agreement on the International Dolphin Conservation Program and the conservation measures adopted by the IATTC and shall send them to the Director of the IATTC. Where this examination reveals that the application does not meet the conditions referred to in this paragraph, the Commission shall immediately inform the Member State concerned that it cannot send all or part of an application to the Director of the IATTC, stating its reasons.
3. The Commission shall communicate to each Member State the overall DML to be distributed among the vessels flying their flag.
4. Each Member State shall send the Commission the breakdown of the DMLs among the vessels flying the flag of that Member State by 15 January each year.
5. The Commission shall send the Director of the IATTC the list and breakdown of the DMLs between Community fishing vessels by 1 February each year.

*Article 26***Protection of other species not targeted**

1. Purse seine vessels shall promptly release unharmed, to the extent practicable, all sea turtles, sharks, skipjack tuna, billfishes, rays, dorado, and other non-target species.
2. Fishermen shall be encouraged to develop and use techniques and equipment to facilitate the rapid and safe release of any such animals.

*Article 27***Sea turtles**

1. Whenever a sea turtle is sighted in the net, all reasonable efforts shall be made to rescue the turtle before it becomes entangled in the net, including, if necessary, the deployment of a speedboat.
2. If a sea turtle is entangled in the net, net roll shall stop as soon as the turtle comes out of the water and shall not start again until the turtle has been disentangled and released.
3. If a sea turtle is brought on board a vessel, all appropriate methods to assist in the recovery of the turtle shall be made before returning it to the water.
4. Tuna-fishing vessels shall be prohibited from disposing of salt bags or any other type of plastic rubbish at sea.
5. Where possible sea turtles caught in fish-aggregating devices and other fishing gear shall be released.
6. Fish-aggregating devices which are not used for fishing shall be recovered.



## TITLE V

**TECHNICAL MEASURES APPLICABLE IN AREA 4***Article 28***Waste reduction**

Member States shall take measures to reduce to the minimum waste, discards, catches taken by lost or abandoned gear, pollution from fishing vessels, catches of fish and animals of species not targeted and repercussions for related or dependent species, in particular species threatened with extinction.

## TITLE VI

**GENERAL PROVISIONS***Article 29***Marine mammals**

1. The encircling with purse seines of any school or group of marine mammals shall be prohibited.
2. Paragraph 1 shall apply to all Community fishing vessels with the exception of the vessels referred to in Article 23.

## TITLE VII

**FINAL PROVISIONS***Article 30***Comitology**

The measures to be taken under Articles 6(4) and 8(2) shall be adopted in accordance with the procedure laid down in Article 30(3) of Regulation (EC) No 2371/2002.

*Article 31***Repeal**

Regulation (EC) No 973/2001 is hereby repealed.

*Article 32***Entry into force**

This Regulation shall enter into force on the 20th day following its publication in the *Official Journal of the European Union*.

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



## ANNEX I

**List of highly migratory species**

- Albacore: *Thunnus alalunga*
- Bluefin tuna: *Thunnus thynnus*
- Bigeye tuna: *Thunnus obesus*
- Skipjack tuna: *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: *Bramidae*
- Marlins: *Tetrapturus spp.*; *Makaira spp.*
- Sailfish: *Istiophorus spp.*
- Swordfish: *Xiphias gladius*
- Sauries: *Scomberesox spp.*; *Cololabis spp.*
- Dolphinfish; common dolphinfish: *Coryphaena hippurus*; *Coryphaena equiselis*
- Sharks: *Hexanchus griseus*; *Cetorhinus maximus*; *Alopiidae Rhincodon typus*; *Carcharhinidae*; *Sphyrnidae*; *Isuridae*; *Lamnidae*
- Cetaceans (whales and porpoises): *Physeteridae*; *Balenidae*; *Eschrichtiidae*; *Monodontidae*; *Ziphiidae*; *Delphinidae*



## ANNEX II

**ICCAT list of tunas and related species**

- Bluefin tuna: *Thunnus thynnus*
- Southern bluefin tuna: *Thunnus maccoyii*
- Yellowfin tuna: *Thunnus albacares*
- Albacore tuna: *Thunnus alalunga*
- Bigeye tuna: *Thunnus obesus*
- Blackfin tuna: *Thunnus atlanticus*
- Little tuna: *Euthynnus alletteratus*
- Skipjack: *Katsuwonus pelamis*
- Atlantic bonito: *Sarda sarda*
- Frigate tuna: *Auxis thazard*
- Frigate tuna: *Auxis rochei*
- Palomette: *Orcynopsis unicolor*
- Wahoo: *Acanthocybium solandri*
- Chub mackerel: *Scomberomorus maculatus*
- King mackerel: *Scomberomourus cavalla*
- West African Spanish mackerel: *Scomberomorus tritor*
- Serra Spanish mackerel: *Scomberomorus brasilliensis*
- Cero: *Scomberomorus regalis*
- Sailfish: *Istiophorus albicans*
- Black marlin: *Makaira indica*
- Blue marlin: *Makaira nigricans*
- White marlin: *Tetrapturus albidus*
- Swordfish: *Xiphias gladius*
- Long-bill spearfish: *Tetrapturus pfluegeri*

**▼B***ANNEX III***Length of vessels (Article 6(2))**

ICCAT definition of the length of vessels:

- for any fishing vessel built after 18 July 1982, 96 % of the total length on a waterline at 85 % of the least moulded depth measured from the top of the keel, or the length from the foreside of the stem to the axis of the rudder stock on that waterline, if this be greater. In ships designed with a rake of keel, the waterline on which this length is measured shall be parallel to the designed waterline,
- for any fishing vessel built before 18 July 1982, registered length as entered in the national registers or other record of vessels.

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## ANNEX IV

## MINIMUM SIZES

(Article 8(1))

Species	Minimum size
▼ <u>M1</u> _____	
▼ <u>B</u> Swordfish ( <i>Xiphias gladius</i> ) <sup>(1)</sup>	25 kg or 125 cm (lower mandible)

▶ M1 ————— ◀<sup>(1)</sup> this minimum size is applicable only in the Atlantic Ocean