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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 1626/94

of 27 June 1994

laying down certain technical measures for the conservation of fishery resources in the Mediterranean

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 (1),

Having regard to the opinion of the European Parliament (2),

Having regard to the opinion of the Economic and Social Committee (3),

Whereas there has been no regulation at Community level of the conservation and management of fishery resources in the Mediterranean during the first 10 years of the common fisheries policy because the particular circumstances there lend themselves less easily to the application of rules analogous to those applying in the Atlantic and North Sea since 1983;

Whereas, however, the time has now come to remedy the problems currently affecting resources in the Mediterranean by introducing a harmonized management system suited to the circumstances there, while taking into account existing national regulations and making adjustment to the latter, as required to protect stocks, in a balanced and, where appropriate progressive manner;

Whereas the Community must also seek, in cooperation with all the coastal States concerned, to establish a common policy for the management and exploitation of Mediterranean fish stocks; whereas, furthermore, the management system introduced by this Regulation covers operations relating to the fishing of Mediterranean stocks carried out by vessels flying the flag of a third country in Community ports;

Whereas gear which, when used in the Mediterranean, contributes excessively to the degradation of the marine environment or to the running-down of certain stocks should be prohibited; whereas part of the coastal zone should be reserved for the most selective gear used by small-scale fishermen, whereas, notwithstanding the geographical scope of Council Regulation (EEC) No 3094/86 of 7 October 1986 laying down certain technical measures for the conservation of fishery resources (4), the provisions of that Regulation concerning drifting gill nets and purse seines are already applicable in the Mediterranean;

Whereas it is appropriate to define the characteristics of the main types of fishing gear used in the Mediterranean, in particular minimum mesh sizes, as well as minimum sizes for certain species of fish, crustaceans, molluscs and other fishery products specific to the Mediterranean in order to prevent their over-exploitation;

Whereas, likewise, in order to avoid situations in which large numbers of undersized individuals are caught, it is necessary to protect certain zones where juveniles congregate, taking account of the local biological conditions in these various zones; whereas it is furthermore appropriate that, when regulating fisheries in the Mediterranean, both Community and national legislation should take into account the special needs of particular species and environments recognized to be fragile or endangered;

Whereas, in order not to impede scientific research, this Regulation should not apply to any operations required for the purposes of such research;

Whereas national measures supplementary to, or going beyond the minimum requirements of, the system established by this Regulation or measures regulating the relationships between those engaged in fishing activities should remain possible; whereas such measures may be maintained or introduced, subject to review by the Commission as regards their compatibility with Community law and their conformity with the common fisheries policy;

Whereas, for a limited period and according to a procedure which ensures a minimum negative effect on resources and on the activities of Community fishermen,

(1) OJ No C 5, 9. 1. 1993, p. 6 and OJ No C 306, 12. 11. 1993, p. 10.
(2) OJ No C 255, 20. 9. 1993, p. 237.
(3) OJ No C 201, 26. 7. 1993, p. 27.

(4) OJ No L 288, 11. 10. 1986, p. 1. Regulation as last amended by Regulation (EEC) No 3919/92 (OJ No L 397, 31. 12. 1992, p. 1).

national measures authorized by the provisions of this Regulation should be accepted;

Whereas Article 2 (2) of Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture (1), obliges Member States to ensure that non-commercial fisheries activities do not jeopardize the conservation and management of resources covered by the common fisheries policy; whereas this obligation is of particular importance in the Mediterranean owning to the considerable extent of such activities in that sea and whereas it is important to limit any negative affects thereof on the state of stocks;

Whereas the Community is a signatory to the United Nations Convention on the Law of the Sea, which contains principles and rules governing the conservation and management of marine biological resources,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation shall apply to all fisheries and related activities pursued within the territory or the maritime waters of the Mediterranean of the east of line 5° 36′ west falling under the sovereignty or jurisdiction of Member States with the exception of pools and lagoons. It shall also apply to such activities pursued in the Mediterranean outside those waters by Community vessels.

2. Member States with a Mediterranean coastline may continue to legislate in the areas covered by paragraph 1, including that of non-commercial fisheries, by adopting measures supplementary to, or going beyond the minimum requirements of, the system established by this Regulation, provided such measures are compatible with Community law and in conformity with the common fisheries policy.

When adopting such measures, Member States shall pay attention of the conservation of fragile or endangered species or environments, in particular those listed in Annex I.

3. The Commission shall be informed, in time for it to present its observations in accordance with the procedure laid down in Article 14 of Regulation (EEC) No 3094/86, of any plans to introduce or amend national conservation and resource management measures.

Article 2

1. The use for fishing purposes and the keeping on board of toxic, soporific or corrosive substances, of electric shock generators and of explosives shall be prohibited.

2. The use of St Andrew's crosses and similar towed gear for harvesting coral and the use of pneumatic hammers or other percussive instruments for the collection of lithophagous molluscs shall be prohibited.

3. The use of encircling and towed nets set from a boat and operated from the shore (shore seines) shall be prohibited as from 1 January 2002 unless the Council, acting by a qualified majority on a proposal from the Commission, decides otherwise in the light of scientific data proving that their use does not have a negative impact on resources.

Article 3

1. The use of trawls, seines or similar nets shall be prohibited within three nautical miles of the coast or within the 50 m isobath where that depth is reached at a shorter distance, irrespective of the method of towing or haulage, except where a derogation is provided for in national legislation in respect of a three-mile coastal zone which extends beyond the territorial waters of a Member State.

However, any fishing gear used at a distance from the coast of less than that laid down in the first subparagraph and used in accordance with national law in force on 1 January 1994 may be used until 31 December 1988, unless the Council, acting by a qualified majority on a proposal from the Commission, decides otherwise in the light of scientific data proving that their use does not have a negative impact on resources.

2. By way of derogation from paragraph 1, the use of dredges for catching shellfish shall be authorized irrespective of the distance from the coast and the depth, provided that the catch of species other than shellfish does not exceed 10 % of the total weight of the whole catch.

3. Fishing with bottom trawls, seines or similar nets above the Posidonian beds (Posidonia Oceanica) or other marine phanerogams shall be prohitited.

4. It shall be prohibited to set any type of encircling net within 300 m of the coast or within the 30 m isobath where that depth is reached at a shorter distance.

Article 4

1. The Member States shall draw up a list of protected zones in which fishing activities are restricted for biological reasons specific to those zones.

2. The competent authorities of the Member States concerned shall fix the list of fishing gear which may be used in protected zones, as well as the appropriate technical rules, on the basis of the relevant conservation objectives and in accordance with this Regulation.

3. The measures referred to in paragraphs 1 and 2 shall

(1) OJ No L 389, 31. 12. 1992, p. 1.

be notified to the Commission, which shall communicate them to the other Member States.

Article 5

1. Member States shall fix restrictions involving the technical characteristics of the main types of gear in accordance with the minimum requirements set out in Annex II.

2. The restrictions referred to in paragraph 1 shall be notified to the Commission in accordance with Article 1 (3).

When exercising its powers in accordance with Article 14 of Regulation (EEC) No 3094/86 the Council shall take account of the characteristics of the fisheries activities peculiar to the waters in question.

Article 6

1. The using and keeping on board of trawl or similar towed gear, gill net or encircling net shall be prohibited, unless the mesh size in that part of the net having the smallest meshes is equal to or greater than one of the minimum mesh sizes listed in Annex III.

Any fishing gear whose minimum mesh size is smaller than one of the mesh sizes laid down in Annex III, used in accordance with the national law in force on 1 January 1994 may however be used until 31 December 1998, unless the Council acting by a qualified majority on a proposal from the Commission decides otherwise, in the light of scientific data proving that its use does not have a negative impact on resources.

2. Mesh sizes shall be determined in accordance with the procedure laid down in Commission Regulation (EEC) No 2108/84 [1].

3. The length of nets shall be defined by the length of the float line. The drop of nets shall be defined as the sum of the height of the meshes (including knots) when wet and stretched perpendicular to the float line.

Article 7

Member States may prohibit landings outside places specially prepared or authorized for that purpose. Where Member States adopt such measures, they must notify them immediately to the Commission, which shall inform the other Member States.

Article 8

1. A fish, crustacean, mollusc or other fishery product shall be deemed undersized if it is smaller than the minimum size specified in Annex IV for the relevant species.

The size of fish, crustaceans and molluscs shall be measured in accordance with Article 5 (2) of Regulation (EEC) No 3094/86 unless otherwise specified in Annex IV. If more than one method of measuring size is permitted, the fish, crustacean or mollusc shall be deemed of the required size if at least one of the stipulated measurements is greater than the relevant minimum size.

2. The minimum sizes for coral, sea urchins, sea squirts and sponges shall be adopted in accordance with the procedure laid down in Article 43 of the Treaty.

3. Undersized fish, crustaceans, molluscs or other fishery products shall not retained on board, transhipped, landed, transferred, stored, sold, displayed or offered for sale.

Article 9

This Regulation shall not apply to fishing operations conducted solely for the purpose of scientific investigations which are carried out with the permission and under the authority of the Member State or Member States concerned and of which the Commission has been informed.

Article 10

When excercising its powers under this Regulation, and particularly when preparing proposals for measures in areas covered by agreements concluded between fishermen, the Commission shall seek the opinion of the organizations representing them.

Article 11

This Regulation shall enter into force on 1 January 1995.

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

Done at Luxembourg, 27 June 1994.

For the Council

The President

C. SIMITIS

[1] OJ No L 194, 24. 7. 1984, p. 22.

ANNEX I

FRAGILE OR ENDANGERED SPECIES OR ENVIRONMENTS

SPECIES :

All marine species of :

— mammals (cetaceans, pinnipeds),

— birds,

— reptiles (chelonids),

— fish,

present in the Mediterranean and indicated in Annex I and II to the convention on the conservation of migratory species of wild animals by Decision 82/461/EEC [1] or Annex II to the convention on the conservation of European wildlife and natural habitats approved by Decision 82/72/EEC [2].

ENVIRONMENTS :

— coastal wetlands,

— beds of marine phanerogams.

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[1] OJ No L 210, 19. 7. 1982, p. 10.
[2] OJ No L 38, 10. 2. 1982, p. 1.

ANNEX II

MINIMUM REQUIREMENTS RELATING TO THE CHARACTERISTICS OF THE MAIN TYPES OF FISHING GEAR

Trawls (pelagic and demersal)

— The use of any device to cover the codend, on the inside or the outside, is restricted to the devices authorized by Commission Regulation (EEC) No 3440/84 [1].

Dredges

— The maximum breadth of dredges is 4 m, except in the case of dredges for sponge fishing (gagava).

Encircling nets (seines and lampara nets)

— The length of netting is restricted to 800 m and the drop to 120 m, except in the case of tuna seines.

Bottom-set nets (gillnets and entangling nets) and trammel nets

— The maximum drop of bottom-set nets is 4 m,

— It is prohibited to have on board and set more than 5 000 m of bottom-set nets per vessel.

Bottom-set longline

— It is prohibited to have on board and set more than 7 000 m of longline per vessel.

Surface-set longline (floating)

— It is prohibited to have on board and set more than 60 km of longline per vessel.

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[1] OJ No L 318, 7. 12. 1984, p. 23.

ANNEX III

MINIMUM MESH SIZES

Towed nets (bottom trawls, surface trawls (*), anchored seines, etc.):	40 mm
Encircling nets:	14 mm

(*) For surface trawling of sardine and anchovy, the minimum mesh size is reduced to 20 mm where these species account for at least 70 % of the catch after sorting.

ANNEX IV

MINIMUM SIZES

Species	Minimum size
FISH	
Dicentrarchus labrax	23 cm
Diplodus spp.	15 cm
Engraulis encrasicolus (*)	9 cm
Epinephelus spp.	45 cm
Lophius spp.	30 cm
Merluccius merluccius	20 cm
Mugil spp.	16 cm
Mullus spp.	11 cm
Pagellus spp.	12 cm
Pagrus pagrus	18 cm
Polyprion americanus	45 cm
Scomber scombrus	18 cm
Solea vulgaris	20 cm
Sparus aurata	20 cm
Thunnus thynnus	70 cm or 6,4 kg
Trachurus spp.	12 cm
Xiphias gladius (**)	120 cm
CRUSTACEANS	
Homarus gammarus	85 mm carapace 240 mm total length
Nephrops norvegicus	20 mm carapace 70 mm total length
Palinuridae	240 mm total length
MOLLUSCS	
Pecten spp.	100 mm
Venerupis spp.	25 mm
Venus spp.	25 mm

(*) Member States may convert the minimum size into numbers of individuals of this species per kilogram.

(**) The length is measured along a straight line drawn from the tip of the lower jaw to the posterior extremity of the shortest caudal ray.