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Committee on Fisheries

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DRAFT REPORT

on the proposal for a Council regulation concerning the conservation of fisheries resources through technical measures
(COM(2008)0324 – C6-0282/2008 – 2008/0112(CNS))

Committee on Fisheries

Rapporteur: Cornelis Visser

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. In the case of amending acts, passages in an existing provision that the Commission has left unchanged, but that Parliament wishes to amend, are highlighted in **bold**. Any deletions that Parliament wishes to make in passages of this kind are indicated thus: [...]. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). Suggested corrections of this kind are subject to the agreement of the departments concerned.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council regulation concerning the conservation of fisheries resources through technical measures
(COM(2008)0324 – C6-0282/2008 – 2008/0112(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2008)0324),
 - having regard to Article 37 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0282/2008),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Fisheries (A6-0000/2009),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 5. Instructs its President to forward its position to the Council and the Commission.

Amendment 1

Proposal for a regulation Article 3 - point b

Text proposed by the Commission

(b) 'beam trawl' means a bottom trawl in which the horizontal opening of the net is provided by a beam;

Amendment

(b) 'beam trawl' means a bottom trawl in which the horizontal opening of the net is provided by a beam, ***where a beam is a round pipe made out of steel supported by two slides; the construction is towed over the seabed;***

Or. en

Justification

The definition of beam trawl should be clear to everyone.

Amendment 2

Proposal for a regulation

Article 3 - point e

Text proposed by the Commission

(e) 'codend' means the last **8 m** of the towed gear measured from the codline when the mesh size is equal or more than 80 mm and means the last 20 m of the towed gear measured from the codline when mesh size is less than 80 mm;

Amendment

(e) 'codend' means the last **6 m** of the towed gear measured from the codline when the mesh size is equal or more than 80 mm and means the last 20 m of the towed gear measured from the codline when mesh size is less than 80 mm;

Or. en

Justification

The cod end is sometimes much shorter than 8 metres.

Amendment 3

Proposal for a regulation

Article 4 - paragraph 1

Text proposed by the Commission

1. A living aquatic resource shall be considered as undersized if it is smaller than the minimum landing size specified **in Annex I** for the relevant species.

Amendment

1. A living aquatic resource shall be considered as undersized if it is smaller than the minimum landing size specified **in Annex I or in an annex supplied by the producers' organisations** for the relevant species.

Or. en

Justification

The minimum landing size does apply to species listed in Annex 1 or in an Annex supplied by the producers' organisations.

Amendment 4

Proposal for a regulation Article 5

Text proposed by the Commission

Amendment

Article 5

deleted

One net rule

It shall be prohibited to carry on board, during any fishing voyage, any combination of nets of more than one range of mesh size.

Or. en

Justification

Forcing fishing vessels to go to the port to change nets and then return to sea again leads to unnecessary fuel consumption. Most fishing vessels operating in this area are dedicated to multi-species fisheries.

Amendment 5

Proposal for a regulation Article 6 - paragraph 2 - point a

Text proposed by the Commission

Amendment

(a) attach, ***when fishing with towed gear with a mesh size less than 80 mm***, to the outside of the codend a strengthening bag. The mesh size of the strengthening bag shall be at least twice as large as that of the codend;

(a) attach, to the outside of the cod end a strengthening bag. The mesh size of the strengthening bag shall be at least twice as large as that of the cod end;

Or. en

Justification

There is no scientific basis for limiting the use of a strengthening bag to only towed gear with a mesh size less than 80 mm.

Amendment 6

Proposal for a regulation

Article 6 - paragraph 3 - point a

Text proposed by the Commission

Amendment

(a) any codend in which the number of equal sized meshes around any circumference of the codend increases from the front end to the rear end. That prohibition shall not apply to the part of the codend where an authorized selective device is inserted; **deleted**

Or. en

Justification

There is no justification for this measure. A codend that is bigger at one end increases the lifetime of the captured fishes.

Amendment 7

Proposal for a regulation

Article 6 - paragraph 3 - point b

Text proposed by the Commission

Amendment

(b) any codend of mesh size equal to or greater than 80 mm in which any mesh is not quadrilateral and in which the bars of the mesh are not approximately equal length; **deleted**

Or. en

Justification

Since a lot of the netting used on board trawlers is still made of double twine netting material, the meshes might become deformed.

Amendment 8

Proposal for a regulation

Article 6 - paragraph 3 - point d

Text proposed by the Commission

Amendment

(d) any towed gear with a mesh size equal to or larger than 80 mm having more than 100 open meshes and less than 40 open meshes in any circumference of the codend, excluding the joining or the selvages; ***deleted***

Or. en

Amendment 9

Proposal for a regulation

Article 6 - paragraph 3 - point e

Text proposed by the Commission

Amendment

(e) any codend of mesh size equal or more than 80 mm which is not constructed of: ***deleted***
(i) single twine netting material in which no twine is of thickness greater than 8 mm; or
(ii) double twine netting material in which no twine is of thickness greater than 5 mm;

Or. en

Justification

There is no justification for this measure. The mesh size determines the opening for the fish. This is only indirectly dependent on the thickness of the twine.

Amendment 10

Proposal for a regulation Article 6 - paragraph 4

Text proposed by the Commission

Amendment

4. By way of derogation from paragraphs (2)(a), (3)(b), (3)(d) and (3)(e), the mesh size of 80 mm shall be replaced by 60 mm when fishing in ICES zones VIII, IX and X.

deleted

Or. en

Amendment 11

Proposal for a regulation Article 7 - paragraph 2

Text proposed by the Commission

Amendment

2. It shall be prohibited to use or retain on board any beam trawl of which the beam length, or any beam trawls of which the aggregate beam length measured as the sum of the length of each beam, is greater than **24 metres** or can be extended to a length greater than **24 metres**. The length of a beam shall be measured between its extremities including all attachments thereto.

2. It shall be prohibited to use or retain on board any beam trawl of which the beam length, or any beam trawls of which the aggregate beam length measured as the sum of the length of each beam, is greater than **30 metres** or can be extended to a length greater than **30 metres**. The length of a beam shall be measured between its extremities including all attachments thereto.

Or. en

Justification

The limit of 24 metres would hamper the introduction of more sustainable techniques in beam trawling.

Amendment 12

Proposal for a regulation Article 9 - paragraph 1

Text proposed by the Commission

1. By way of derogation from Article 8, it shall be permitted to deploy gillnets with a mesh size equal to or greater than 120 mm and less than 150 mm north of 48°N or with a mesh size equal to or greater than 100 mm and less than 130 mm south of 48°N, in waters of less than **600 metres** charted depth, provided that they are no more than **100 meshes** deep, have a hanging ratio of not less than 0.5, and are rigged with floats or equivalent floatation. The nets shall each be of a maximum of 5 nautical miles in length, and the total length of all nets deployed at any one time shall not exceed 25km per vessel. The maximum immersion time shall be 24 hours.

Amendment

1. By way of derogation from Article 8, it shall be permitted to deploy gillnets with a mesh size equal to or greater than 120 mm and less than 150 mm north of 48°N or with a mesh size equal to or greater than 100 mm and less than 130 mm south of 48°N, in waters of less than **400 metres** charted depth, provided that they are no more than **400 meshes** deep, have a hanging ratio of not less than 0.5, and are rigged with floats or equivalent floatation. The nets shall each be of a maximum of 5 nautical miles in length, and the total length of all nets deployed at any one time shall not exceed 25km per vessel. The maximum immersion time shall be 24 hours, ***unless weather conditions make hauling of the nets impossible.***

Or. en

Justification

For simplification purposes, only one mesh size for gill nets and trammel nets should be used in EU waters. The maximum depth should be reduced to 400 metres.

Amendment 13

Proposal for a regulation Article 10 - paragraph 1

Text proposed by the Commission

1. Where ***the quantity of undersized fish caught exceeds 10% of the total quantity*** of the catches in any one haul, the vessel shall move away to a distance of at least five nautical miles from any position of the previous haul before continuing fishing.

Amendment

1. Where ***the weight of undersized fish caught as listed in Annex 1 exceeds 10% of the total weight*** of the catches in any one haul, the vessel shall move away to a distance of at least five nautical miles from any position of the previous haul before

continuing fishing.

Or. en

Justification

Weight is the simplest measurement method for a catch. The by catch should be defined on the basis of the species listed in Annex 1.

Amendment 14

Proposal for a regulation
Article 10 - paragraph 2

Text proposed by the Commission

2. If the minimum and/or maximum percentages of target species, excluding undersized fish of the target species, allowed to be caught with the mesh size range admissible for that species and retained on board, ***in any one haul*** have not been in agreement with the percentages laid down in detailed rules adopted in accordance with Article 22, the vessel must immediately move a minimum of 10 nautical miles from any position of the previous haul and throughout the next haul keep a minimum distance of 10 nautical miles from any position of the previous haul.

Amendment

2. If the minimum and/or maximum percentages of target species, excluding undersized fish of the target species, allowed to be caught with the mesh size range admissible for that species and retained on board, ***in an average of five hauls***, have not been in agreement with the percentages laid down in detailed rules adopted in accordance with Article 22, the vessel must immediately move a minimum of 10 nautical miles from any position of the previous haul and throughout the next haul keep a minimum distance of 10 nautical miles from any position of the previous haul.

Or. en

Justification

The by catch should be determined on the basis of an average of 5 separate hauls.

Amendment 15

Proposal for a regulation Article 12

Text proposed by the Commission

The catching, retention on board, the transshipment, storage, landing, sale, display or offer for sale of marine organisms caught using methods incorporating the use of explosives, poisonous or stupefying substances, electric current or any kind of projectile shall be prohibited.

Amendment

The catching, retention on board, the transshipment, storage, landing, sale, display or offer for sale of marine organisms caught using methods incorporating the use of explosives, poisonous or stupefying substances, electric current or any kind of projectile shall be prohibited, ***except for hobby fishing with spears and pulse trawl fishing.***

Or. en

Justification

Hobby fishing with spears and experiments with pulse trawl fishing should be allowed.

Amendment 16

Proposal for a regulation Article 16 - paragraph 1

Text proposed by the Commission

1. Where the conservation of certain species or fishing grounds is seriously threatened, including where a high congestion of juvenile fish is detected, and where any delay would result in damage which would be difficult to repair, a Member State may take appropriate conservation measures in respect of the waters under its sovereignty or jurisdiction. The Member State concerned shall ensure that such measures do not discriminate against fishing vessels from other Member States.

Amendment

1. Where the conservation of certain species or fishing grounds is seriously threatened, including where a high congestion of juvenile fish is detected, and where any delay would result in damage which would be difficult to repair, a Member State may take appropriate conservation measures in respect of the waters under its sovereignty or jurisdiction. The Member State concerned shall ensure that such measures do not discriminate against fishing vessels from other Member States. ***Before such measures are implemented, the appropriate Regional Advisory Councils and the Commission***

shall be consulted.

Or. en

Justification

*Consultation by the Commission should take place to prevent competition distortion.
(Consultation of the appropriate RACs is necessary to involve the sector.)*

Amendment 17

**Proposal for a regulation
Article 18 - paragraph 2**

Text proposed by the Commission

2. Where any delay in reducing or eliminating discards would result in damage which would be difficult to repair, a Member State may take appropriate non-discriminatory conservation measures in respect of the waters under its sovereignty or jurisdiction in accordance with Article 16.

Amendment

Where any delay in reducing or eliminating discards would result in damage, which would be difficult to repair, a Member State may take appropriate non-discriminatory conservation measures in respect of the waters under its sovereignty or jurisdiction in accordance with Article 16. ***Before such measures are taken, the Commission and the relevant Regional Advisory Council shall be consulted.***

Or. en

Justification

*Consultation by the Commission should take place to prevent competition distortion.
(Consultation of the appropriate RACs is necessary to involve the sector.)*

Amendment 18

**Proposal for a regulation
Article 21 a (new)**

Text proposed by the Commission

Amendment

Article 21a

Future regulation

Rules governing the regulation of the following elements of the technical measures shall be adopted by a Council regulation:

(a) the minimum and maximum percentages of the target species among the living aquatic resources retained on board;

(b) the mesh size ranges admissible for each target species;

(c) provisions for the reduction or elimination of discards and the improvement of the selectivity of fishing gear;

(d) measures concerning the restriction of fishing activities in specific periods and/or specific areas referred to in Article 2 on the basis of the best scientific information available in order to protect marine habitats in those areas.

Or. en

Justification

These important questions should be addressed by a Council Regulation.

Amendment 19

Proposal for a regulation Article 22

Text proposed by the Commission

Detailed rules for the implementation of this Regulation shall be adopted in accordance with the procedure referred to in Article 30(2) of Regulation No 2371/2002. ***These rules shall lie down in particular:***

(a) the minimum and maximum percentages of the target species among the living aquatic resources retained on board;

Amendment

Other technical measures to implement this Regulation to protect marine habitats or fisheries resources shall be adopted in accordance with the procedure referred to in Article 30(2) of Regulation No 2371/2002.

(b) the mesh size ranges admissible for each target species;

(c) provisions for the reduction or elimination of discards and the improvement of the selectivity of fishing gear;

(d) measures concerning the restriction of fishing activities in specific periods and/or specific areas referred to in Article 2 on the basis of the best scientific information available in order to protect marine habitats in those areas;

(e) other technical measures to protect marine habitats or fishery resources.

Or. en

EXPLANATORY STATEMENT

This proposal intends to simplify, in a comprehensive package of technical measures, the current regulatory framework concerning the conservation of fisheries resources through technical measures by replacing the following regulations which have been modified at least ten times. The priority is to establish a new set of simpler and clearer rules.

- 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 organisms¹.
- Council Regulation (EC) No 2549/2000 of 17 November 2000 establishing additional technical measures for the recovery of the stock of cod in the Irish Sea (ICES Division VIIa)².

The origin of this proposal are the Council conclusions adopted on 21 June 2004, in which the Council invited the Commission to present a new proposal on technical measures in the Atlantic, to replace 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 in order to promote more environmentally-friendly fishing methods.

This package of technical measures is intended to achieve the protection of juvenile fish, and an important part of these measures is designed to limit their capture, for example, by measures to improve the selectivity of fishing gear or fixing certain closed seasons/areas. Other measures are intended to protect certain species or ecosystems by limiting fishing effort, by the adoption of closures. The need to reduce discards is also reflected in the adoption of appropriate technical measures.

The approach of this Regulation is different from the Council Regulation (EC) No 850/98. The idea is to adopt now a framework regulation which concentrates on measures that would be expected to be permanent. It would also, however, lay down the procedures to be applied when dealing with measures that would be expected to evolve rather quickly and with measures that are very technical. The Regulation should favour the application of a procedure for adoption of new rules through committee procedure.

This system proposes a new legislative package, which not only simplifies current complex rules but also introduces specific provisions for each 'RAC area', reflecting regional differences. Such a legislative proposal implies a more regionalised approach in order to improve their effectiveness. A comprehensive and coherent package with the right balance between measures generally applicable in all areas and those specific to the localised RAC areas will be proposed, namely one framework Council Regulation with general principles and provisions, and the complementary Commission Regulations with specific technical rules for each 'RAC area'.

¹ OJ L 125, 27.4.1998, p. 1

² OJ L 292, 21.11.2000, p. 5. Regulation as last amended by Regulation (EC) No 1456/2001 of 16 July 2001

The proposal applies to commercial and recreational fishing in all European waters except for the Mediterranean Sea, the Baltic Sea, the Black Sea, and in fisheries for highly migratory fish stocks in all waters, for which specific rules apply. It will bring together most of the existing technical measures in various Community regulations for the Atlantic and the North Sea.

In general the new proposal orientation is broadly similar to the 1998 legislation in terms of type of technical measures, the novelties are the increase the number of measures relating to gear and handling, such as maximum length, depth of use and immersion time for gillnets

The new proposal take into account a new reality set up by the 2002 reform of the Common Fisheries Policy, the regional advisory councils, as a relevant consultative organism between the Commission and the stakeholders.

Observations by the rapporteur

The amendments proposed by the rapporteur are intended first and foremost to clarify a number of ambiguous points in the Commission proposal. They also seek to amend articles to which there are manifest practical objections in such a way as to overcome the objections.

The Commission proposals refer only to minimum landing sizes of fish species listed in Annex 1 to the proposed regulation. A literal interpretation could be that minimum sizes only have to be enforced for the species listed there. That, of course, cannot be the intention, and the rapporteur therefore considers that species not listed in Annex 1 should also not be landed below a certain minimum size. Moreover, species for which minimum sizes have been decided by a producer organisation should be included.

Simplification of the rules applicable is one of the purposes of the Commission's new proposals. Bearing this aim in mind, the rapporteur has sought to unify the rules where different measures still apply to different areas.

Lastly, the new regulation proposed by the Commission also contains articles which are flagrantly incompatible with practice. So far, nearly all the nets in use are made from knitted and knotted twines. The rapporteur considers that it is therefore unrealistic to expect the fishing industry, in the case of nets with a mesh size of 80 mm or greater, to use only diamond meshes or keep all bars of the mesh of equal length. Because of traction forces and for example as a result of nets snagging on wrecks on the seabed, meshes may sometimes not be entirely diamond-shaped. In the rapporteur's view, it would be excessive, in such cases, to require that not a single mesh in the net should deviate from the pure diamond shape. This could in practice result in large fines for something which has virtually no impact on the chances of escape of small fish.

The rapporteur warns that the most important elements concerning the technical measures should be adopted by Council regulation as proposed in Amendment 18. In this way, the Council and the Parliament are properly involved in the adoption of the regulations.