

Procedure file

Basic information		
CNS - Consultation procedure Regulation	2008/0112(CNS)	Procedure completed
Conservation of fisheries resources through technical measures: transitional technical measures from 1 January 2010 to 30 June 2011		
Amended by 2010/0255(COD)		
Subject 3.15.01 Fish stocks, conservation of fishery resources		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	PECH Fisheries		02/07/2008
		PPE-DE VISSER Cornelis	
	Committee for opinion	Rapporteur for opinion	Appointed
	ENVI Environment, Public Health and Food Safety	The committee decided not to give an opinion.	
Council of the European Union	Council configuration	Meeting	Date
	Agriculture and Fisheries	2976	20/11/2009
European Commission	Commission DG	Commissioner	
	Maritime Affairs and Fisheries	BORG Joe	

Key events			
04/06/2008	Legislative proposal published	COM(2008)0324	Summary
02/09/2008	Committee referral announced in Parliament		
31/03/2009	Vote in committee		Summary
02/04/2009	Committee report tabled for plenary, 1st reading/single reading	A6-0206/2009	
21/04/2009	Debate in Parliament		
22/04/2009	Results of vote in Parliament		
22/04/2009	Decision by Parliament	T6-0256/2009	Summary
20/11/2009	Debate in Council	2976	Summary
27/11/2009	Act adopted by Council after consultation of Parliament		
	End of procedure in Parliament		

27/11/2009			
24/12/2009	Final act published in Official Journal		

Technical information	
Procedure reference	2008/0112(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amended by 2010/0255(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 043-p2
Stage reached in procedure	Procedure completed
Committee dossier	PECH/6/63876

Documentation gateway					
Legislative proposal		COM(2008)0324	04/06/2008	EC	Summary
Document attached to the procedure		SEC(2008)1977	04/06/2008	EC	
Document attached to the procedure		SEC(2008)1978	04/06/2008	EC	
Committee draft report		PE414.121	13/01/2009	EP	
Amendments tabled in committee		PE415.057	16/02/2009	EP	
Economic and Social Committee: opinion, report		CES0336/2009	25/02/2009	ESC	
Committee report tabled for plenary, 1st reading/single reading		A6-0206/2009	02/04/2009	EP	
Text adopted by Parliament, 1st reading/single reading		T6-0256/2009	22/04/2009	EP	Summary
Commission response to text adopted in plenary		SP(2009)3507	25/06/2009	EC	

Additional information	
National parliaments	IPEX
European Commission	EUR-Lex

Final act
Regulation 2009/1288 OJ L 347 24.12.2009, p. 0006 Summary

Conservation of fisheries resources through technical measures: transitional technical measures from 1 January 2010 to 30 June 2011

PURPOSE: to simplify the rules concerning the conservation of fisheries resources through technical measures.

PROPOSED ACT: Council Regulation.

BACKGROUND: during the 2002 reform of the Common Fisheries Policy, the Commission and Council agreed to implement progressively recovery, management and long-term plans concerning fisheries resources of interest to the Community. Such plans have been established concerning most stocks of cod in Community waters, two stocks of hake, two stocks of nephrops, two stocks of sole as well as stocks of plaice

and sole in the North Sea, whereby the conditions laid down in Regulation (EC) No 850/98 have been amended and/or augmented.

In June 2004, under the initiative of the Irish Presidency, the Commission presented a Communication to the Council and the European Parliament: 'Promoting more environmentally-friendly fishing methods: the role of technical conservation measures' ([INI/2004/2199](#)). Subsequently, the Council adopted conclusions 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. The 2006-2008 Action Plan for simplifying and improving the Common Fisheries Policy (the Action Plan), sets out that priority is to be given to simplifying legislation concerning measures for the conservation of fish stocks through technical measures for the protection of juveniles of marine organisms, currently set out in Regulation (EC) No 850/98 after consulting the Member States and the industry.

The simplification of the technical measures governing fisheries on Europe's Atlantic coast is long overdue. Technical measures are a vital tool not only for the conservation of stocks in general, but more specifically in the fight to bring discarding down to the lowest possible level, and to ensure that EU fisheries are environmentally friendly. By proceeding on a regional basis, the Commission will be able to avoid the trap of micro-management, and ensure that the specific measures taken are truly in line with conditions in particular fisheries

CONTENT: this proposal intends to simplify the current regulatory framework concerning the conservation of fisheries resources through technical measures by replacing:

- 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.
- 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).

Council Regulation (EC) No 850/98 embodies the current conditions for Community waters outside the Baltic Sea, the Black Sea and the Mediterranean Sea relating to technical measures for the conservation of fish stocks by protection of juveniles of marine organisms. The technical measures define mesh sizes and other aspects of the structure of fishing gears, time periods and geographical areas within which defined types of fishing are prohibited or restricted and minimum landing sizes of marine organisms.

In addition, Regulation (EC) No 850/98 has been the subject of 10 amending Regulations not necessarily related to long-term plans. It is necessary to incorporate all of these revised conditions in a comprehensive package of technical measures. This package of technical measures is intended to achieve a broad range of objectives. A key objective is 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, for example, by the adoption of closures. The need to reduce discards is also reflected in the adoption of appropriate technical measures. Furthermore, technical measures should be adapted to the context of the establishment of Regional Advisory Councils (RACs). A balance needs to be established between measures which are generally applicable in all areas and measures which are applicable specifically on a regional basis as defined by the Regional Advisory Council (RAC) Areas or in the waters off the coasts of the French departments of Guyana, Martinique, Guadelupe and Reunion that come under the sovereignty or jurisdiction of France.

The objective of this proposal is not to change the level of ambition of the technical conservation measures, for instance by a major shift towards larger mesh sizes. Although the Commission considers that sustainable fishing, particularly for demersal fisheries, calls for a substantial increase in the selectivity of fishing gear, the priority is to establish a new set of simpler, clearer rules. Improvements in selectivity will then be brought about gradually through future amendments of these rules, in parallel with the general improvement in the conservation status of Community fish stocks to be achieved through other elements of conservation policy, such as multi-annual plans. All provisions must be simple, understandable, and controllable and must have a positive effect on the conservation of the species, on the protection of the marine habitats or on the reduction of discards.

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, although a few measures that are currently in separate regulations will remain separate.

Harmonisation / regionalisation: the Commission believes that a regional approach should be favoured, since this would be more amenable to the involvement of the stakeholders in the process. The involvement of stakeholders is essential because it leads to commitment to the measures and ensure a greater likelihood of compliance of the adopted measures. Such regionalisation would not mean re-nationalisation of the technical measures. The regulation will not alter the balance of competences between the Community and Member States as laid down in Council Regulation (EC) No 2371/2002.

Guiding principles vs. technical or regional rules: the proposed Council Regulation 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. For the latter, the Regulation should favour the application of a procedure for adoption of new rules through comitology procedure. This approach is intended to meet the concern of Member States to reduce or eliminate interim technical measures from the annual TAC and quota regulation, while taking account of the fact that the application of technical measures is very often a matter of urgency.

Evaluation: a common priority for the Member States, the European Parliament and stakeholders is the need to evaluate, before and after their implementation, the consequences of technical measures. The effectiveness of many of the provisions under Regulation (EC) No 850/98 has never been evaluated, and those measures have remained in force regardless of their value for conservation. A fundamental principle will be that the measures provided for in this Regulation should be evaluated after a certain time to reassess the need for them. Another guiding principle will be that when new and substantial measures are proposed (such as significant increases in mesh sizes), the Commission will carry out, if the data available allow it, a prior evaluation of their likely effects.

Further new measures introduced in this proposal specifically to help cut down on discards, and which would apply throughout the North Sea and North East Atlantic, include:

- provisions for Member States to implement real-time closures of areas where strong concentrations of juveniles are detected for periods of up to 10 days;
- a reduction in the number of species subject to a minimum landing size, to focus on the target species of the fisheries concerned;

- the general application of the Northwest Atlantic Fisheries Organisation (NAFO) rule that, when undersized fish account for more than 10% of the catch of a target species, the vessel must change gear or move on;
- greater flexibility in the application of by-catch rules designed to discourage discarding.

Conservation of fisheries resources through technical measures: transitional technical measures from 1 January 2010 to 30 June 2011

The Committee on Fisheries adopted the report drawn up by Cornelis VISSER (EPP-ED, NL) amending, under the consultation procedure, the proposal for a Council regulation concerning the conservation of fisheries resources through technical measures.

The main amendments are as follows:

Regional regulations: the Council, on a proposal from the Commission, shall, in accordance with the procedure laid down in Article 37 of the Treaty, adopt the measures applicable specifically in the various regions corresponding to the various Regional Advisory Councils (RACs).

Minimum landing size of living aquatic resources: an amendments notes that, in the case of small pelagics (sardine, anchovy, horse mackerel and mackerel), the possibility for 10% of catches to be made up of undersized fish shall be maintained.

Combinations of nets: the proposed regulation provides that it shall be prohibited to carry on board, during any fishing voyage, any combination of nets of more than one range of mesh size. MEPs favour a more flexible approach: the Council, on a proposal from the Commission, shall regulate cases where vessels may carry on board one or more than one combination of nets of more than one range of mesh size during the same fishing voyage. The criteria should take a number of elements into account.

Gillnets: according to MEPs, the immersion time of gillnets and trammel nets shall not exceed 24 hours (48 hours under the proposal). Where fishing is conducted using gillnets and trammel nets, the use of more than 40 km of nets shall be prohibited (50 km under the proposal). Moreover, the total length of all nets deployed at any one time shall not exceed 60 km per vessel (instead of 100 km).

Towed gear: MEPs deleted the Commission's proposal prohibiting the use of 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.

Emergency conservation measures taken by Member States: before such measures are implemented, the appropriate Regional Advisory Councils and the Commission shall be consulted. MEPs consider that consultation by the Commission should take place to prevent competition distortion.

Future regulation: MEPs believe that certain important questions should be addressed by a Council Regulation:

- the minimum and maximum percentages of the target species among the living aquatic resources retained on board;
- the mesh size ranges admissible for each target species;
- provisions for the reduction or elimination of discards and the improvement of the selectivity of fishing gear;
- measures concerning the restriction of fishing activities in specific periods and/or specific areas referred to in the regulation, on the basis of the best scientific information available in order to protect marine habitats in those areas.

Lastly, the entry into force of the regulation shall provide for a period for the adjustment of fleets and the adoption of supplementary rules.

Conservation of fisheries resources through technical measures: transitional technical measures from 1 January 2010 to 30 June 2011

The European Parliament adopted by 581 votes to 16, with 32 abstentions, a legislative resolution amending, under the consultation procedure, the proposal for a Council regulation concerning the conservation of fisheries resources through technical measures.

The main amendments are as follows:

Regional regulations: the Council, on a proposal from the Commission, shall, in accordance with the procedure laid down in Article 37 of the Treaty, adopt the measures applicable specifically in the various regions corresponding to the various Regional Advisory Councils (RACs).

Minimum landing size of living aquatic resources: an amendments notes that, in the case of small pelagics (sardine, anchovy, horse mackerel and mackerel), the possibility for 10% of catches to be made up of undersized fish shall be maintained.

Combinations of nets: the proposed regulation provides that it shall be prohibited to carry on board, during any fishing voyage, any combination of nets of more than one range of mesh size. MEPs favour a more flexible approach: the Council, on a proposal from the Commission, shall regulate cases where vessels may carry on board one or more than one combination of nets of more than one range of mesh size during the same fishing voyage. These criteria shall take account of:

- the distance between the home port of the vessel concerned and the fishing area;
- the degree to which the fishery being practised is a multi-species fishery and the economic importance of secondary species by comparison with the target species;
- whether any of the fishing operations during a particular voyage are carried out using a net with a mesh size larger than those provided for in this Regulation.

Gillnets: according to MEPs, the immersion time of gillnets and trammel nets shall not exceed 24 hours (48 hours under the proposal). Where fishing is conducted using gillnets and trammel nets, the use of more than 40 km of nets shall be prohibited (50 km under the proposal).

By way of derogation, 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 (instead of 600 metres) charted depth, under certain conditions. Moreover, the total length of all nets deployed at any one time shall not exceed 60 km per

vessel (instead of 100 km).

Towed gear: MEPs deleted the Commission's proposal prohibiting the use of 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.

Moving immediately to another area when maximum by-catches are exceeded in a given area: by way of derogation, for local and inshore fisheries with particular characteristics owing to both the depth and composition of the seabed and distance from the coast, and subject to a scientific report substantiating those characteristics, the obligation to move away may be less than five nautical miles provided that it is guaranteed that fishing activity is not carried out on a concentration of juveniles.

Emergency conservation measures taken by Member States: before such measures are implemented, the appropriate Regional Advisory Councils and the Commission shall be consulted. MEPs consider that consultation by the Commission should take place to prevent competition distortion.

Future regulation: MEPs believe that certain important questions should be addressed by a Council Regulation:

- the minimum and maximum percentages of the target species among the living aquatic resources retained on board;
- the mesh size ranges admissible for each target species;
- provisions for the reduction or elimination of discards and the improvement of the selectivity of fishing gear;
- measures concerning the restriction of fishing activities in specific periods and/or specific areas referred to in the regulation, on the basis of the best scientific information available in order to protect marine habitats in those areas.

Lastly, the entry into force of the regulation shall provide for a period for the adjustment of fleets and the adoption of supplementary rules.

Conservation of fisheries resources through technical measures: transitional technical measures from 1 January 2010 to 30 June 2011

The Council made substantial progress on a draft regulation on technical measures to better conserve fish stocks, to cut down discards and to protect vulnerable marine habitats on Europe's Atlantic coast and in the North Sea and the Skagerrak and Kattegat.

Together with catch and effort limitations, technical measures play a key role in ensuring sustainable fisheries. In particular, they help to protect juvenile fish in order to reduce the threat to future yields.

The Council has agreed to hand over this issue to the Spanish Presidency, as it will have to be concluded under the co-decision procedure.

As Regulation (EC) 850/98 is still in force, certain technical measures will continue to apply while the Council did reach political agreement on transitional technical measures for 2010, extending for 18 months the transitional technical measures contained in Annex III to the 2009 TACs and Quotas Regulation.

Due to the entry into force of the Lisbon Treaty on 1 December 2009, the proposal will be adopted by written procedure after finalisation by the legal/linguistic experts.

Conservation of fisheries resources through technical measures: transitional technical measures from 1 January 2010 to 30 June 2011

PURPOSE: to establish transitional technical measures from 1 January 2010 to 30 June 2011.

LEGISLATIVE ACT: Council Regulation (EC) No 1288/2009 establishing transitional technical measures from 1 January 2010 to 30 June 2011.

CONTENT: Council Regulation (EC) No 850/98 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms lays down certain technical measures for the conservation of fishery resources.

Annex III to Council Regulation (EC) No 43/2009 of 16 January 2009 fixing for 2009 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and for Community vessels, in waters where catch limitations are required establishes technical measures until 31 December 2009.

On 4 June 2008, the Commission made a proposal for a Council Regulation concerning the conservation of fisheries resources through technical measures, intended to replace Regulation (EC) No 850/98 and to provide for permanent measures on the transitional technical measures currently laid down in Annex III to Regulation (EC) No 43/2009.

Considering that the proposed Council Regulation will not be adopted before the date on which the measures provided for in Annex III to Regulation (EC) No 43/2009 cease to apply, it is necessary for the reasons of legal certainty as well as of maintaining the proper conservation and management of marine resources to provide for the continuation of those measures for a transitional period of 18 months (from 1 January 2010 to 30 June 2011).

With a view to further reducing unwanted catches, the prohibition of high grading as provided for in point 5b of Annex III to Regulation (EC) No 43/2009 should be extended to all ICES zones.

The measures transposing into Community law the recommendations established by the Northeast Atlantic Fisheries Commission (NEAFC) should be amended in order to ensure compliance with the recommendations applicable in 2010.

The measures laid down in Annex III to Regulation (EC) No 43/2009 cease to apply as from 1 January 2010, this Regulation should be applicable as from that date.

ENTRY INTO FORCE: 31/12/2009.

APPLICATION: from 01/01/2010 to 30/06/2011.