



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 10 June 2005

**Interinstitutional File
2003/0229 (CNS)**

9938/05

LIMITE

PECHE 117

PUBLIC

REPORT

from: Working Party on Internal Fisheries Policy
on: 7 June 2005
to: Permanent Representatives Committee (Part I)

No. Cion prop. : 13406/03 PECHE 235 - COM(2003) 589 final

Subject : Proposal for a Council Regulation concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea and amending Regulations (EEC) No 2847/93 and (EC) No 973/2001

I.

1. On 9 October 2003, the European Commission presented a proposal for a Council Regulation concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea. The proposal amends Council Regulations (EEC) No 2847/93 and (EC) No 973/2001 and replaces Council Regulation (EC) No 1626/94. The objective of the proposal is to establish sustainable fisheries in the region by improving the exploitation of aquatic living resources, protecting sensitive habitats whilst taking into account the specificity of the small-scale Mediterranean coastal fisheries.

2. The European Parliament adopted an opinion in April 2004, rejecting the said Commission proposal. Following the consultations undertaken by the Commission services with the industry and stakeholders concerned, the European Parliament resumed discussions on the tabled proposal, delivering its opinion on 10 June 2005.
3. The European Economic and Social Committee gave its opinion on 26 February 2004
4. At a number of its meetings during the first half of 2005¹, the Working Party on Internal Fisheries Policy has examined a Presidency working document established in close cooperation with the Commission services. Most of the amendments proposed by the European Parliament have been incorporated to the Presidency working document (doc 9444/05).

II.

1. At the close of discussions on 7 June 2005, a number of technical and political issues were still to be resolved. They are set out in footnotes in the Annex to this report. At this point of the discussions, the main political outstanding issues could be identified as follows:

*a) **Minimum mesh size of bottom trawls** (Article 8)*

Objective: Introduce 40 mm square mesh and 50 mm diamond mesh size taking into account multispecies nature of certain Mediterranean fisheries.

Some delegations oppose the improved selectivity and either request more testing on the suggested types of fishing gear or a sufficient transitional period for their implementation, or both.

¹ 12-13 May 2005, 19-20 May 2005, 1-2 and 7 June 2005. [PM: The principle lines of the Proposal (doc. 13406/03) were discussed by the Working Party on Internal Fisheries policy at its meetings on 30 March 2004, 29 April 2004, 3 June 2004].

FR, EL, CY, MT : against the introduction of squared meshed net of 40 mm at the cod-end or diamond meshed net of 50 mm as of 2007. FR, EL : ask for additional scientific evidence and for a COM report to the Council and the EP, followed by a possible re-adaptation in 2010.

IT, ES : if implemented, a proper transitional period and financing need to be in place.

COM : indispensable to improve selectivity. The 40 mm square mesh has been sufficiently tested.

b) *Requests for derogations to allow the continuation of certain trawling activities in protected habitats and within the coastal bands (Article 4 ; Article 12)*

Objective: Articles 4 and 12 combined aim at protecting certain Mediterranean sea habitats from the action of certain fishing gears.

FR, IT, MT: derogations for fishing with traditional gears needed.

IT: mainly seasonal trawling.

FR: the use of trawl nets, in particular 'gangui', should be allowed for 12 m isobath within coastal band.

MT: purse seines, boat seines or similar nets with a lead line not resting directly on the seabeds, protected areas.

COM: trawling activities in coastal band are against the objectives of protecting small scale fisheries, nursery areas and sensitive essential fish habitats as well as against obligations (Habitats Directive, Barcelona Convention) to protect priority type habitats such as the Posidonia beds).

c) **Thonaille** (Article 2(10))

Objective: to introduce a definition for a specific fishing gear the current regulation of which is laid down in Annex II para 5.

FR: considers that the thonaille, which is artisanal and traditional gear, is not a drift-net and thus should not be prohibited. COM: maintains its position and considers that "thonaille" is a drift-net, and already prohibited under Council Regulation (EC) 1239/98². The Commission has opened an infringement procedure against France.

BE, DE, ES, NL, SW: support COM's approach.

d) **Minimum distance and depth in particular for trawling and purse seines** (Article 12)

Objective: To prohibit certain fishing activities within coastal band while protecting Mediterranean sea habitats, small scale fisheries and nursery areas.

ES, CY, EL, IT, FR: seek for derogations justified *inter-alia* by their particular geographical constraints.

COM: derogations concerning specific traditional coastal fisheries could be considered under the envisaged national management plans if not undertaken on protected habitats, if highly selective and justified by limited extension of trawlable grounds. Further refinements to local characteristics could be possible within the national management plans.

e) **Minimum landing size** (Annex I)

Objective: Interlinked with the minimum mesh size (Article 8) aiming at ensuring sustainability.

FR, IT, EL: keep minimum size of Hake at 15 cm. FR: no time limit should be set.

2. Further details on all above-mentioned issues and other issues of technical nature are set out in the footnotes to the Presidency working document attached to this report ("bible").
3. COREPER is invited to consider the outstanding issues.

² OJ L 8/22, 14.1.1999.

Proposal for a
COUNCIL REGULATION³

concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea and amending Regulation (EC) No 2847/93 and (EC) No 973/01

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 Commission⁴,

Having regard to the opinion of the European Parliament⁵,

Whereas:

- (1) The provisions of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy⁶ apply to the Mediterranean Sea.
- (2) By Decision 98/392/EC⁷ the Council has 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 high seas. In accordance with Article 122 of that Convention, the Mediterranean Sea can be classified as semi-enclosed sea⁸ and the Community attempts to coordinate the management and conservation of living aquatic resources with other coastal States.

³ ***IT: scrutiny reservation.***

⁴ OJ C [...], [...], p. [...].

⁵ OJ C [...], [...], p. [...].

⁶ OJ L 358, 31.12.2002, p. 59.

⁷ OJ L 179, 23.6.1998, p. 1.

⁸ ***EL: Reserve on reference to art.122 of UNCLOS and classification of Mediterranean as semi-enclosed sea.***

- (3) Pursuant to Decision 98/416/EC⁹ the Community is a Contracting Party to the Agreement on the General Fisheries Commission of the Mediterranean, (hereinafter the “GFCM”). The GFCM agreement provides a framework for regional cooperation on the conservation and management of Mediterranean marine resources by adopting recommendations in the area covered by the GFCM Agreement which become binding on the Contracting Parties.
- (4) The biological, social and jurisdictional characteristics¹⁰ of the Mediterranean fisheries require the Community to establish a specific management framework.
- (5) The Community has undertaken to apply the precautionary approach in taking measures designed to protect and conserve living aquatic resources and marine ecosystems and to provide for their sustainable exploitation.
- (6) The management system provided for in this Regulation covers operations relating to the fishing of Mediterranean stocks carried out by Community vessels whether in Community waters or in international waters, by third country vessels in Member States fishing zones or by citizens of the Union in the Mediterranean High Sea .
- (7) However, so that scientific research is not impeded, this Regulation should not apply to any operations required for the purposes of such research.
- (8) It is necessary to establish an effective management framework, through an appropriate sharing of responsibilities between the Community and the Member States.
- (9) The strict protection of certain marine species already afforded by Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora¹¹ and applicable to marine waters under Member States’ sovereignty should be extended to the Mediterranean High Sea.

⁹ OJ L 190, 4.7.1998, p. 34.

¹⁰ ***EL: Reserve on jurisdictional characteristics of Mediterranean fisheries.***

¹¹ OJ L 206, 22.07.1992, p. 7.

- (10) Pursuant to Council Decision 1999/800/EC¹² on concluding the Protocol concerning specially protected areas and biological diversity in the Mediterranean, and on accepting the annexes to that Protocol (Barcelona Convention) which, in addition to the provisions relating to the conservation of sites of Mediterranean importance, provides for drawing up lists of endangered or threatened species and species whose exploitation is regulated.
- (11) It is necessary to adopt new technical measures for fishing replacing those laid down in Council Regulation (EC) No 1626/94 of 27 June 1994 laying down certain technical measures for the conservation of fishery resources in the Mediterranean¹³ to take account of new scientific advice. [Account should also be taken of the main elements of the Action Plan on the conservation and sustainable exploitation of fishery resources in the Mediterranean Sea under the Common Fisheries Policy¹⁴.](#)
- (12) Regulation (EC) No 1626/94 should therefore be repealed.
- (13) Excessive catches of undersized individuals should be avoided. To that end it is necessary to protect certain areas where juveniles congregate, taking account of the local biological conditions.
- (14) Fishing gear that is too harmful to the marine environment or leads to the depletion of certain stocks should be prohibited or more strictly regulated.
- (15) In order to avoid further increases in mortality rates for juveniles and to substantially reduce the amount of discards of dead marine organisms by fishing vessels, it is appropriate to provide for increases in mesh sizes and hook sizes for trawl nets, bottom-set nets and longlines. used for fishing for certain species of marine organisms and for the mandatory use of square-meshed netting.

¹² **OJ L 322, 14.12.1999,p. 1.**

¹³ OJ L 171, 6.7.1994, p. 1. Regulation as last amended by Regulation (EC) No 973/2001 (OJ L 137, 19.5.2001, p. 1.)

¹⁴ COM(2002) 535 final.

- (16) In order to allow for a transitional period, before increasing the mesh size of bottom trawl nets, it is appropriate to determine some characteristics in the rigging of the trawl nets that will enhance the selectivity of the currently used mesh size.
- (17) The management of fishing effort should be the main tool to deliver sustainable fisheries in the Mediterranean Sea. To that end it is appropriate to determine the overall dimensions of the main types of passive fishing gears to limit one factor which affects the fishing effort deployed.
- (18) Part of the coastal zone should be reserved for selective fishing gears used by small-scale fishermen, in order to protect nursery areas and sensitive habitats and enhance the social sustainability of Mediterranean fisheries.
- (19) It is appropriate to determine the minimum landing sizes of certain marine organisms in order both to improve their exploitation and to set standards upon which Member States can build their management system for coastal fisheries. To this end, the selectivity of a certain fishing gear should correspond, as closely as possible, to the minimum landing size established for a certain species or group of species caught by that gear.
- (20) In order not to hinder artificial restocking or transplantation of fish stocks, operations necessary for the conduct of such activities should be permitted, provided they are compatible with the sustainability of the species concerned.
- (21) Since leisure fisheries are very important in the Mediterranean, it is necessary to ensure that they are carried out in a manner that does not significantly interfere with commercial fishing, is compatible with sustainable exploitation of living aquatic resources and complies with Community obligations in respect of Regional Fishery Organisations.
- (22) In view of the specific characteristics of many Mediterranean fisheries, which are restricted to certain geographical sub-zones, and taking into account the tradition of applying effort management system at sub-regional level, it is appropriate to provide for the establishment of Community and national management plans, combining in particular effort management with specific technical measures.

- (23) In order to ensure an efficient control of fishing activities certain specific measures complementary to or more stringent than those provided by Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy¹⁵ should be taken. In particular, there is a need to lower the current threshold of 50 kg of live-weight equivalent, for species other than highly migratory and small pelagic species caught in the Mediterranean Sea that must be recorded in the logbook.
- (24) Since Community fisheries account for more than 75% of the catches of the swordfish in the Mediterranean Sea, it is appropriate to lay down management measures. In order to ensure that these measures are effective, the technical measures for the conservation of certain stocks of highly migratory species should emanate from the competent regional fisheries organisations. Accordingly, the Commission should submit to the GFCM¹⁶ and the International Commission for the Conservation of Atlantic Tuna (ICCAT), as quickly as possible, suitable proposals in order to establish a Community minimum landing size, as well as longline specifications to match this limit and a four month longlines fishing ban to protect juveniles of swordfish.¹⁷ The absence of an agreement within a specified period of time will not prevent the EU from imposing measures to this effect until a definitive agreement is reached on a multilateral basis.
- (25) Specific provisions concerning fishing in the waters around Malta have been introduced by Council Regulation (EC) No 813/2004, in accordance with the Act of Accession and in particular Article 21 and Annex III thereof. It is appropriate to maintain such provisions.
- (26) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission¹⁸.
- (27) Amendments to the Annexes to this Regulation should also be adopted in accordance with Decision 1999/468/EC,

HAS ADOPTED THIS REGULATION:

¹⁵ OJ L 261,20.10.1993, p. 1.

¹⁶ ***FR: Delete the reference to the GFCM which has no competence on swordfish. Proposals to be submitted only to ICCAT.***

¹⁷ ***MT: Delete phrase "in order to establish a minimum landing size in Mediterranean fisheries".***

¹⁸ OJ L 184, 17.7.1999,p.23.

Chapter I

Scope and definitions

Article 1 **Scope**

1. This Regulation shall apply
 - (a) to the conservation, management and exploitation of living aquatic resources where such activities are pursued¹⁹
 - (i) in the maritime waters of the Mediterranean Sea to the east of the line 5°36' W (hereinafter "Mediterranean Sea") falling under the sovereignty or jurisdiction of Member States;
 - (ii) by Community fishing vessels in the Mediterranean Sea outside the waters referred to in (i);
 - (iii) by nationals of Member States, without prejudice to the primary responsibility of the flag State, in the Mediterranean Sea, outside the waters referred to in (i); and
 - (b) to marketing of fishery products caught in the Mediterranean Sea.²⁰

2. 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.

¹⁹ ***EL:*** Replace text in paragraph (a) with this: "*The present Regulation contains measures for the conservation, management exploitation and trade of living aquatic resources and is applied where such activities are pursued*"; points i, ii and iii, unchanged.

²⁰ ***EL:*** Delete paragraph (b).

Definitions

For the purpose of this Regulation the following definitions shall apply:

- (1) “towed gears” means any fishing gear, with the exclusion of troll lines, towed either by the engine power of the fishing vessel or hauled by means of winches with the fishing vessel either anchored or slowly under way, including in particular towed nets and dredges;
- (2) “towed nets” means trawl nets, boat seines and shore seines;
- (3) “trawl nets” means nets which are actively towed by the main boat engine and consisting of a cone- or pyramid-shaped body (as trawl body) closed at the back by a cod-end and which can extend at the opening by the wings or can be mounted on a rigid frame. Horizontal opening is either obtained by otter boards or provided by a beam or frame of variable shape and size. Such nets can be towed either on the bottom (bottom trawl net) or in midwater (pelagic trawl net);
- (4) “boat seines” means encircling nets and towed seines which are operated and hauled by means of ropes and winches from a boat under way or at anchor and not towed by means of the main boat engine, consist of two lateral wings and a central bunt either in the form of a spoon or with a bag in the rearmost part and may operate from the surface to the bottom depending on the target species;

²¹ ***DE, BE, NL,SW: Concern for sustainability - support COM. Important to stick to basic definitions as laid down in COM legislation, in particular as regards drift nets.***

²² ***EL: Wants more general open-ended definitions to take into account great diversity of gears in the Mediterranean. All gears should be included in the definitions. ; MT: for lampuki - COM: The idea is to include definitions of all gears that are to be regulated, but to avoid using local names.***

²³ ***FR: Absolute priorities: include definitions of gears "thonaille" ("not a drift net"), and "gangui". COM: considers "thonaille" as a drift-net (issue subjudice) - definition in art. 2 (10) set to fill a legal void in the definition of drift nets. No need to include "gangui" since affected by the general ban on trawling.***

EL: Ask for a technical group on definition of gears - COM: if deemed necessary by Presidency and COM.

- (5) “shore seines” means encircling nets and towed seines set from a boat and operated from the shore
- (6) “dredges” means gears which are actively towed by the main boat engine to catch bivalves, gastropods or sponges and consist of a net bag or metal basket mounted on a rigid frame or rod of variable size and shape whose lower part may carry a scraper blade that can be either rounded, sharp or toothed, and may or may not be equipped with skids and diving boards. Some dredges are also mechanised by hydraulic equipment (hydraulic dredges);
- (7) “fishery²⁴ protected area” means a geographically-defined area of marine waters in which all or certain fishing activities are temporarily or permanently banned or restricted in order to improve the exploitation and conservation of living aquatic resources or the protection of marine ecosystems;
- (8) “gillnet” means any net made up of a single piece of net and held vertically in the water by floats and weights. It catches living aquatic organisms by entangling or enmeshing. According to ballasting and buoyancy these nets may be used to fish either in the water column up to the sea surface (anchored floating gillnet and drift-net) or close to the bottom (bottom-set gillnet);
- (9) “anchored floating gillnet” means any gillnet fixed or capable of being fixed by any means to the bottom of the sea and floating in the water column up to the sea surface;
- (10) “drift-net” means any gillnet held on the sea surface or at certain distance below it by floating devices drifting freely with the current, separately or, more often, with the boat to which it is attached. It may be equipped with sea anchors or other floating devices aiming to stabilise the net and/or limiting its drifting;²⁵
- (11) “bottom set gillnet” means any gillnet, fixed or capable of being fixed by any means to the bottom of the sea and maintain the gear in place close to the bottom;
- (12) “bottom-set net” means a trammel net, a bottom-set gillnet or a combined bottom-set net;

²⁴ **EL:** *should read "fishing" protected area.*

²⁵ **FR:** *Opposes definition of drift net.*

- (13) “trammel net” means any net made up of two or more pieces of net hung jointly in parallel on a single headline, fixed, or capable of being fixed by any means to the bottom of the sea ;
- (14) “combined bottom set-net” means any bottom set gillnet combined with a trammel net which constitutes the lower part;
- (15) “encircling nets” means nets which catch fish by surrounding them both from the sides and from below;
- (16) “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.
- (17) "traps" means fishing gear which is fixed to or deployed on the bottom and which acts as a trap to catch marine species. They are constructed in the form of a basket, pot, barrel or cage, and in the majority of cases they comprise a rigid or semi-rigid frame made of various material (wood, wicker, metal rods, wire netting, etc.) that may or may not be covered with netting. They have one or more funnels or mouths with smooth ends that allow species to enter the internal chamber.²⁶
- (18) “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);

²⁶ ***IT, EL: leave in the text*** "They are fixed using a device known as a troll or trolling line, in which each element is linked at regular intervals to a mother line". ***IT: to replace 'a trawl or trawling line' by 'longline'.***

- (19) “Hooks” 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.
- (20) “leisure fisheries” means fishing activities exploiting living aquatic resources for recreation or sport;²⁷
- (21) “fishing aggregating devices (FADs)” means any equipment floating on the sea surface and aggregating underneath either juveniles or adult specimens of highly migratory species.
- (22) “St Andrew’s cross” is a grab which employs scissor-like action to harvest the shellfish and the red coral from the sea-bed
- (23) “Seagrass bed” means an area where seabed is characterized by the dominant presence of sea-plants, or where such vegetation has existed and is in need of restoration action. Seagrass is a collective terms for the species *Posidonia oceanica*, *Cymodocea nodosa*, *Zoostera marina*, *Zoostera noltii* or similar species.^{28 29}
- (24) “Coralligenous habitat” means an area where seabed is characterized by the dominant presence of a specific biological community named “coralligenous”, or where such community has existed and is in need of restoration action. Coralligenous is a collective term for a very complex biogenic structure given by the continuous overlapping over a pre-existent rocky substratum of calcareous strata mainly deriving from the building activity of encrusting calcareous coralline red algae and animal organisms as Porifera, Ascidians, Cnidarians (horny corals, seafans, etc.), Bryozoans, Serpulids, Annelids, together with other limestone-fixers organisms.

²⁷ **FR:** *In the French version, change term "pêche sportive..."*.

²⁸ **FR:** *Align definitions with Art. 4; there should be clear parameters to define the exact area to which "seagrass bed" is extended.*

²⁹ **EL:** *replace "similar species" by "other types of phanerogams".* **CY:** *Article 2(23), second row, replace "sea plants" by "phanerogams".*

- (25) “Maerl bed” means an area where seabed is characterized by the dominant presence of a specific biological community named “mäerl”, or where such community has existed and is in need of restoration action. Mäerl is a collective term for a biogenic structure due to several species of coralline red algae (Corallinaceae), which have hard calcium skeletons and grow as unattached free living branched, twig-like or nodule corallines algae on the seabed, forming accumulations within the ripples of mudflats or sandflats seabed. Maerl beds are usually composed of one or a variable combination of red algae, in particular, *Lithothamnion corallioides* and *Phymatolithon calcareum*.

Chapter II

Protected species and habitats

Article 3 **Protected species**

1. The deliberate catching, retention on board, transshipment or landing of marine species referred to in Annex IV to Council Directive 92/43/EEC³⁰ shall be prohibited **except when derogation has been duly granted according to Article 16 of Council Directive 92/43/EEC.**
2. Notwithstanding paragraph 1, the retention on board, transshipment or landing of specimens of marine species referred to in paragraph 1 which have been incidentally caught shall be authorised as far as this activity is necessary to secure assistance for the recovery of the individual animals and provided that the competent national authorities concerned have been duly informed in advance.

Article 4^{31 32} **Protected habitats**

1. Fishing with trawl nets, dredges, purse seines, boat seines, shore seines or similar nets above seagrass beds of, in particular, *Posidonia oceanica* or other marine phanerogams shall be prohibited.³³
2. Fishing with trawl nets, dredges, shore seines or similar nets above coralligenous habitats and mærl beds shall be prohibited.
3. The use of towed dredges and trawl nets fisheries at depths beyond 1000m shall be prohibited.

³⁰ OJ L 206,22.7.1992,p.7.

³¹ **FR, MT:** *Seek derogations for traditional gears in context of management plans - FR: special reference to gangui.*

³² **MT:** *Need for some form of control derogation, if there is no damage to the sea bed. COM: will look into this in light of Article 17.*

³³ **MT:** *should read "The use of purse seines, boat seines or similar nets with a lead line that does not rest on the beds of sea grass or other marine phanerogams could be excluded".*

4. The prohibition established in paragraphs 1 and 2 shall, at least, apply in all Natura 2000 sites which have been designated for the purpose of the conservation of these habitats under Directive 92/43/EEC.³⁴

Chapter III

Fishing protected areas

Article 5³⁵

Community fishing protected areas

1. Member States shall provide to the Commission, before 31 December 2006, information relevant to the establishment of fishing protected areas both in waters under their jurisdiction and beyond³⁶ where the protection of nursery areas, of spawning grounds or of the marine ecosystem from harmful effects of fishing requires special measures.
2. On the basis of such information, as well as any other relevant information for the same purpose, [the Council shall designate], within two years from the adoption of this Regulation, protected areas occurring, in particular, totally or partially beyond the territorial seas of Member States, including the types of fishing activities banned or authorised in such areas.³⁷
3. [The Council may subsequently designate other protected areas on the basis of new relevant scientific information].³⁸
4. Member States and the Commission shall take appropriate steps to ensure adequate collection of scientific information with a view of scientific identification and mapping of areas deemed of being protected for the purpose of this Article.³⁹

³⁴ ***FR: Para. 1 and 2 contradicting; para 4 seems to imply that prohibition is only applicable to Natura 2000 sites. COM: para 4 is not a derogation from 1 and 2.***
CY: Art. 4(1) differentiation of the various types of purse seines, small and light (in weight) gear with specific characteristics (e.g. in Cyprus only 28 and 42 m height x 800 m length) to be permitted. The Commission should provide the funds for mapping the protected areas.

³⁵ ***FR: MS should be able to propose not only areas but also measures.***

³⁶ ***IT, FR: align definition with para 2.: COM: will submit text.***

³⁷ ***EL, IT: scrutiny reservation. EL: Delete "the Council shall designate" and at the end of the phrase add "shall be designated by the Member States concerned".***

³⁸ ***EL: replace by "Additional fishing protected areas may subsequently be designated on the basis of new relevant information".***

³⁹ ***EL: text is not clear ("...deem of being protected"?).***

Article 6
National fishing protected areas

1. Member States shall designate, within two years from the adoption of this Regulation and on the basis of information provided also under paragraph 1 of Article 5 of this Regulation, further fishing protected areas, with respect to the marine protected areas already established by the time of entering into force of this Regulation, within their territorial waters⁴⁰ in which fishing activities may be banned or restricted in order to conserve and manage living aquatic resources or maintain or improve the conservation status of marine ecosystems. The competent authorities of the Member States concerned shall decide on the fishing gears that may be used in those protected areas, as well as the appropriate technical rules which shall not be less stringent than Community legislation.
2. Member States may subsequently designate other fishing protected areas or change the delimitations and management rules established under paragraph 1 on the basis of new relevant scientific information. Member States and the Commission shall take appropriate steps to ensure adequate collection of scientific information with a view of scientific identification and mapping of areas deemed of being protected for the purpose of this Article.
3. The measures referred to in paragraphs 1 and 2 shall be notified to the Commission. In applying provisions in paragraphs 1 and 2 above, Member States will inform the Commission of the scientific, technical, juridical reasons underpinning the requirement of special measures.
4. When a proposed protected area within the territorial waters of a Member State is liable to affect the vessels of another Member State, it shall be designated only after the Commission, the Member State and the Regional Advisory Council concerned have been consulted in accordance with the procedure set out in Article 8 (3) to (6) of Regulation (EC) No 2371/2002.
5. If the Commission considers that the measures notified pursuant to paragraph 3 are not sufficient to ensure a high level of protection of resources and the environment, it may, after having consulted the Member State, ask it to amend the measure or may propose that the Council [designate a protected area or]⁴¹ adopt technical measures in respect of the waters concerned.

⁴⁰ ***EL:*** Unclear which "marine protected areas". Need to correlate with Art. 5.

⁴¹ ***EL, FR, IT:*** delete. ***The Council should not intervene in the designation of natural protected areas. COM:*** These are measures for enhancing the CFP, not environmental policy measures.

Chapter IV

Restrictions concerning fishing gears

Article 7

Prohibited fishing gear and practices

1. The following shall not be used for fishing or kept on board:^{42 43}

- (a) toxic, soporific or corrosive substances,
- (b) electric shock generators,
- (c) explosives,
- (d) substances that can explode if mixed,
- (e) towed devices for harvesting red coral,
- (f) pneumatic hammers or other percussive instruments for the collection of mollusc bivalves digging within the rocks,
- (g) St Andrew's cross and similar grabs for harvesting red coral,

44

(i) panels of netting smaller than 40mm mesh size opening for bottom trawlers.⁴⁵

2. Bottom-set nets and anchored floating nets⁴⁶ shall not be used to catch the following species:

Albacore (*Thunnus alalunga*), Bluefin tuna (*Thunnus thynnus*), Swordfish (*Xiphias gladius*), Ray's bream (*Brama brama*), Sharks (*Hexanchus griseus*; *Cetorhinus maximus*; *Alopiidae*; *Carcharhinidae*; *Sphyrnidae*; *Isuridae*; *Lamnidae*).

By way of derogation, accidental by-catches of very few individuals⁴⁷ of the species referred to in the first subparagraph above may be retained on board or landed provided that they are not protected species under Community law.

⁴² ***FR, IT:*** Artisanal gear should be allowed - ***FR:*** agreed with original drafting. New paragraph 2 unacceptable. "Thonaille" cannot be associated with gears/activities listed in 7.1; asks for the possibility of derogations with management plans to improve selectivity.

⁴³ ***DE, NL:*** are all target species enlisted here? ***NL:*** In particular as regards e), f) and g).

⁴⁴ ***CY:*** add the following:

(h) speargun fishing in conjunction with SCUBA (aqua lung) gear

(i) speargun fishing in conjunction with lights.

⁴⁵ ***ES:*** against bottom-set nets and anchored floating nets.

⁴⁶ ***EL, IT:*** Against the ban on bottom-set.

⁴⁷ ***DE, ES, IT, NL:*** specify in quantitative terms: figure or percentage.

Article 8⁴⁸
Minimum mesh sizes

The use for fishing and the keeping on board of a towed net, an encircling net or a gillnet shall be prohibited, unless the mesh size in that part of the net having the smallest meshes complies with paragraphs 3 to 6.

The mesh size shall be determined by the procedures specified in Commission Regulation (EC) No 129/2003⁴⁹.

For towed nets, other than those referred to in paragraph 4, the minimum mesh size shall be:⁵⁰

- (1). until 31 December 2006⁵¹: 40 mm;
- (2). from 1 January 2007, the net referred to in the previous subparagraph shall be replaced by a square-meshed net of 40 mm at the cod-end or, at the duly justified request of the shipowner, by a diamond meshed net of 50 mm.⁵²

In relation to the previous subparagraph, fishing vessels shall be authorised to use and keep on board only one of the two types of net ;

- (3). The Commission shall submit a report on the implementation of this paragraph to the European Parliament and the Council by 30 June 2010, on the basis of which it shall propose, on the basis also of the information delivered by Member States before 31 December [2009], due adjustments where appropriate.

For pelagic trawl nets targeting sardine and anchovy, where these species account for at least⁵³⁵⁴ 80% of the catch in live weight after sorting, the minimum mesh size shall be 20 mm.

For encircling nets the minimum mesh size shall be 14 mm.

⁴⁸ ***BE:*** *Support COM proposal.*

⁴⁹ OJ L 22, 25.1.2003, p.5.

⁵⁰ ***FR, EL:*** *For towed nets (FR " other than those referred to in paragraph 4") the minimum mesh size shall be 40 mm. COM to report to Council and EP by [FR: before June 2010; EL: by 30 June 2010] and suggest adaptation on the basis of scientific evidence (FR, ES: including projects by MS).*

⁵¹ ***IT,ES:*** *2008. Require transitional period, financing to be organised.*

⁵² ***FR, EL, CY, MT:*** *Oppose the introduction of 40mm square meshed net or 50 mm. diamond meshed net. ES: could envisage if transitional period granted. CY: Only the provisions of Reg. 1626/94 should apply.*

⁵³ ***IT:*** *Ask for a smaller percentage - IT suggests 70%. COM: strong misgivings.*

⁵⁴ ***MT:*** *Notes that the same trawler can target both pelagic and demersal species - COM: The only practical solution is to relate mesh-size to minimal % of catch.*

- (a) Gillnets shall not have a mesh size opening smaller than 16 mm.
- (b) For gillnets targeting red sea bream, where this species accounts for at least 20% of the catch in live weight, the minimum mesh size shall be 100mm

At the request of a Member State, the Commission may allow a derogation from the provisions set out in paragraphs 3, 4 and 5 for boat seines and shore seines which are concerned by a management plan as referred to in Article 17 and provided that the fisheries concerned are highly selective and have a negligible effect on the marine environment.⁵⁵

Member States shall provide up to date scientific and technical justifications for such a derogation.

Article 9⁵⁶

Minimum hooks size

1. The use for fishing and the keeping on board of any longlines with hooks of a total length less than **3.95** cm and of a width less than **1.65** cm shall be prohibited for any fishing vessel using longlines and landing or having on board a quantity of red sea-bream (*Pagellus bogaraveo*) that constitutes more than 20 % of the catch in live weight after sorting.

Article 10

Attachments to and rigging of trawl nets

1. The mesh in any part of the net shall not be obstructed or otherwise effectively diminished except by devices permitted by Commission Regulation (EEC) No 3440/84⁵⁷ or listed in Annex I (a) to this Regulation.
2. The rigging of trawl nets shall comply with the technical specifications laid down in Annex I (b) to this Regulation.

Article 11

Dimensions of fishing gears

It shall be prohibited to carry on board or to deploy at sea fishing gear not in compliance with the dimensions specified in Annex II.

⁵⁵ ***FR: trawling should be included under allowed derogations.***

⁵⁶ ***FR: Asks for a change of minimal width of hooks.***

⁵⁷ OJ L 318, 7.12.1984, p.23.

Article 12
Minimum distances and depths for the use of fishing gears

1. The use of towed gears shall be prohibited within 3 nautical miles of the coast or within the 50 m isobath where that depth is reached at a shorter distance from the coast.^{58 59}
By way of derogation from the first subparagraph, the use of hydraulic dredges shall be authorized between [0.5 and 3 nautical miles]⁶⁰ irrespective of the depth provided that the catch of species other than shellfish does not exceed 10 % of the total live weight of the catch.⁶¹
2. The use of trawl nets shall be prohibited [within 1.5 nautical miles]⁶² of the coast and the [use of hydraulic dredges shall be prohibited within 0.5 nautical miles of the coast].^{63 64 65 66}
3. The use of purse seines shall be prohibited within 300 meters of the coast or within the 50 metres isobath^{67 68} where that depth is reached at a shorter distance from the coast.⁶⁹
4. The use of dredges for sponge fishing shall be prohibited within the 50 m isobath and shall not be undertaken within 0.5 nautical miles of the coast.

⁵⁸ ***IT:*** Given great geographical diversity, the important thing is to establish depth (3 m) not distance to coast; this also applies to trawling in 12.2 (1,5 miles not appropriate). - ***COM:*** can consider derogations but MS must prove the need for these.

⁵⁹ ***EL:*** Allow use of gagava beyond 50 m isobath from a minimum distance to coast of 500 m (to look in light of Art. 17).

⁶⁰ ***IT:*** 500 m or starting from 3 m of isobath.

⁶¹ ***IT:*** Current national regulation on shellfish culture should be sufficient.

⁶² ***IT, ES:*** reservation for artisanal vessels (*IT:* mainly seasonal trawling).

⁶³ ***CY, EL:*** In trawling activities, distance should be <1,5 miles because 50 m of isobath found at shorter distance: ***EL:*** 1 mile; ***CY:*** within 0,5 nautical miles or within 50 m of isobath.

⁶⁴ ***ES:*** Minimum depth for trawling must be 50 m isobath; Allow hydraulic dredges within 0,5 miles in specific cases.

⁶⁵ ***FR:*** Need for derogation which enables use of gangui from 12 m isobath.

⁶⁶ ***IT, ES:*** redundant. Specified in para. 1.

⁶⁷ ***CY, FR, EL:*** in 12.3 replace 50 m by 30 m.

⁶⁸ ***ES:*** In 12.3 replace 50 by 35 m.

⁶⁹ ***MT:*** Article 12, paragraph 3, should read as follows:

"The use of small pelagic purse seines using nets smaller than 250 meters in length of float line and operated from vessels smaller than 10 meters LOA shall be allowed in waters up to 300 meters from the coast or within the 30 meter isobath where that depth is reached at a shorter distance from the coast.

The use of small pelagic purse seines using nets bigger than 250 meters in length of float line and operated from vessels larger than 10 meters LOA shall be allowed in waters up to 500 meters from the coast or within the 50 meter isobath where that depth is reached at a shorter distance from the coast.

The use of large pelagic purse seines is allowed in waters where they will not interfere with small scale coastal fisheries."

5. At the request of a Member State, the Commission may allow a derogation from paragraphs 1 and 3 on a local basis where such derogation is justified by particular geographical constraints⁷⁰, such as the size of coastal platforms, where the fisheries concerned are highly selective, have a negligible effect on the marine environment and affect a small number⁷¹ of vessels, and provided that those fisheries are concerned by a management plan as referred to in Article 16 and Article 17. Member States shall provide up to date scientific and technical justifications for such derogation.

Nevertheless, any fishing gear used at a shorter distance from the coast than that laid down in paragraphs 1 and 3 and utilised in accordance with Regulation (EC) No 1626/94 as amended by Regulation (EC) No 2550/2000, including the derogations provided, may be used [until 31 December 2006]⁷², unless the Council decides otherwise, acting by a qualified majority on a proposal from the Commission and in the light of scientific evidence.

Chapter V

Minimum sizes of marine organisms

Article 13

Minimum sizes of marine organisms

1. A marine organism which is smaller than the minimum size specified in Annex III (hereinafter “undersized marine organisms”) shall not be caught, retained on board, transhipped, landed, transferred, stored, sold, displayed or offered for sale.
2. The size of marine organisms shall be measured in accordance with Annex IV. If more than one method of measuring size is permitted, the marine organisms shall be deemed to be of the required size if at least one of the stipulated measurements is equal to or greater than the relevant minimum size.

⁷⁰ **CY:** Derogations referred to in 12.5 for points 1 and 3 should also apply to point 2.

⁷¹ **EL:** In 12.5 replace words "small number" by actual figure; **EL:** or delete the phrase "and affect a small number of vessels". **COM:** will provide a new drafting implying that only ring fenced vessels are concerned..

⁷² **FR:** In 12.5 suppress words "until 31 December 2006", set no time limit. **IT:** 2007.

3. Paragraph 1 shall not apply to fries of sardine landed for human consumption if caught by boat seines or shore seines and authorised in accordance with national provisions established in a management plan as referred to in Article 17, provided that the stock of sardine concerned is within safe biological limits.⁷³

Article 14⁷⁴

Artificial restocking and transplantation

1. By way of derogation from Article 13 undersized marine organisms may be caught, retained on board, transhipped, landed, transferred, stored, sold, displayed or offered for sale **live** for the purpose of artificial restocking or transplantation with the permission and under the authority of the Member State where those activities take place.

2. Member States shall ensure that the capture of undersized marine organisms for the purposes referred to in paragraph 1 is carried out in a manner that is compatible with any Community management measure applicable to the species concerned.

3. Marine organisms caught for the purposes specified in paragraph 1 shall be either returned to the sea or be used for extensive aquaculture. If subsequently recaptured, they may be sold, stored, displayed or offered for sale providing that they meet the requirements specified in Article 13.

4. The introduction and transplantation of and restocking with non-indigenous species shall be prohibited [except when carried out according to paragraph b\) of Article 22 of Council Directive 92/43/EEC](#).

⁷³ ***FR:*** *Reduce minimal size of hake from 20 to 15 cm linked to maintaining 40 mm minimum mesh size for trawls.*

⁷⁴ ***EL:*** *Define in article 2 relevant terms used in this article.*

Chapter VI

Non-commercial fishing

Article 15

*Leisure fisheries*⁷⁵

1. The use of towed nets, encircling nets, purse seines, dredges, gillnets, trammel nets, bottom-set longlines and surface longlines for highly migratory species shall be prohibited for leisure fisheries^{76, 77}.

By way of derogation from subparagraph 1 above the use of bottom-set longline of less than 200 hooks laid manually and surface lognline of less than 100 hooks laid manually for species other than bluefin tuna, albacore and swordfish may be authorized and controlled by Member States.⁷⁸

2. Member States shall ensure that leisure fisheries are conducted in a manner compatible with the objectives and rules of this Regulation.

3. Member States shall ensure that catches of marine organisms resulting from leisure fisheries are not marketed.

Nevertheless, by way of exception, the marketing of species caught in sportive competitions may be authorised provided that the profits from their sale are used for charitable purposes.

4. Member States shall take measures both to record and to ensure separate collection of data on catches resulting from leisure fisheries in respect of the highly migratory species listed in Annex I to Regulation (EC) 973/2001 and occurring in the Mediterranean.

5. Member States shall regulate fishing with underwater spearguns. However, spearguns shall be prohibited if used in conjunction with underwater breathing apparatus or at night from sunset to dawn.

6. Member States shall inform the Commission of all measures adopted pursuant to this Article.

⁷⁵ ***FR:*** In the French version change term "*Pêche sportive*" by "*Pêche de loisirs*" to harmonise with English version.

⁷⁶ ***ES:*** Oppose the use of longlines. ***CY:*** For surface longlines only small size hooks to be used. The size of hooks to be specified. Difficult to monitor. Bottom set longlines up to 150 hooks.

⁷⁷ ***EL, FR:*** maximum two longlines of no more than 30 hooks.

⁷⁸ ***EL:*** scrutiny reservation. ***IT:*** to include reference to combined nets. ***COM:*** agree.

Chapter VII Management plans⁷⁹

Article 16^{80 81}

Community-level management plans

1. The Council may adopt management plans for specific Mediterranean fisheries, in particular, in areas totally or partially beyond the territorial waters of Member States. These plans may, in particular, include:

(a) fishing effort management measures;

(b) specific technical measures, including where appropriate temporary derogations to the rules of this Regulation when such derogations are necessary for the operation of the fisheries and provided that the sustainable exploitation of the concerned resources is ensured by the management plan ;⁸²

(c) the extension of compulsory use of vessel monitoring systems or similar systems for vessels between 10 m and 15 m in length overall ;⁸³

(d) temporary or permanent restrictions to zones, reserved to certain gears or to vessels having undertaken obligations in the framework of the management plan.

Management plans shall provide for the issuing of special fishing permits in accordance with Regulation (EC) No 1627/94⁸⁴.

Notwithstanding the provisions of Article 1 (2) of Regulation (EC) No 1627/94 vessels of an overall length of less than 10 m may be required to have a special fishing permit.

2. Member States and/or a Regional Advisory Council for the Mediterranean Sea may submit suggestions to the Commission on matters relating to the setting up of management plans. The Commission shall reply to such requests within three months of the receipt.

⁷⁹ ***FR:*** *Aims at establishing a management plan in relation to art. 4 (protected habitats) to regulate the use of gangui.*

⁸⁰ ***FR:*** *should include reference to "scientific follow-up".*

⁸¹ ***EL:*** *Wants more general definition according to art. 6 of Framework regulation.*

⁸² ***CY:*** *Clearly define technical measures and temporary derogations.*

⁸³ ***CY, IT, EL:*** *Restrict compulsory use of VMS to vessels over 15 m.*

⁸⁴ OJ L 171, 6.7.1994, p. 7.

Article 17
Management plans for certain fisheries in territorial waters⁸⁵

1. Member States shall adopt, by 31 December 2006, management plans for fisheries conducted by boat seines, shore seines, encircling nets and dredges within their territorial waters. Article 6(2), (3) and (4) first subparagraph of Regulation (EC) No 2371/2002 shall apply to those management plans.
2. Member States may subsequently designate other management plans on the basis of new relevant scientific information.
3. Member States, shall ensure adequate scientific monitoring of the management plans. In particular, the management plan for fisheries exploiting short life species shall be revised each year⁸⁶ to take into account changes that are likely to occur in the recruitment strength.
4. Management plans may include measures which go beyond the provisions of this Regulation for the purpose of:
 - (a) increasing the selectivity of fishing gear;
 - (b) reducing discards;
 - (c) limiting the fishing effort.
5. The measures to be included in the management plans shall be proportionate to the objectives, the targets and the expected time frame, and shall have regard to:
 - (a) the conservation status of the stock or stocks;
 - (b) the biological characteristics of the stock or stocks;
 - (c) the characteristics of the fisheries in which the stocks are caught;
 - (d) the economic impact of the measures on the fisheries concerned.

⁸⁵ ***FR, IT:*** Refer to management plans in relation with certain fisheries in territorial waters.

FR: gangui. ***COM:*** envisage to include national plans for selective fisheries.

⁸⁶ ***EL:*** difficult to carry out annual revision of management plan for fisheries exploiting short life species.

6. Management plans shall provide for the issuing of special fishing permits in accordance with Regulation (EC) No 1627/94⁸⁷.

Notwithstanding the provisions of Article 1 (2) of Regulation (EC) No 1627/94 vessels of an overall length of less than 10 m may be required to have a special fishing permit.

7. Management plans shall be notified to the Commission, by 30 September 2006⁸⁸ for it to present its observations before the plan is adopted. The Commission shall communicate the plans to the other Member States.

8. Where a management plan is likely to affect the vessels of another Member State, it shall be adopted only after consultation of the Commission, the Member State and the Regional Advisory Council concerned in accordance with the procedure set out in Article 8 (3) to (6) of Regulation (EC) No 2371/2002⁸⁹.

9. If the Commission, on the basis of the notification referred to in paragraph 7 or of new scientific advice, considers that a management plan adopted under paragraph 1 is not sufficient to ensure a high level of protection of resources and the environment, it may, after having consulted the Member State, ask it to amend the plan or may propose to the Council appropriate measures for the protection of the resources and the environment.

⁸⁷ OJ L 171, 6.7.1994, p. 7.

⁸⁸ ***IT: Specify period to notify management plans. COM: Member States can use other instruments to monitor national plans.***

⁸⁹ OJ L 358,31.12.2002,p.59.

Chapter VIII Control measures⁹⁰

Article 18

Catch of target species

1. The percentages referred to in Articles 8 (4) and (6), Article 9(1), Article 12(1) and shall be calculated as the proportion by live weight of all living aquatic organisms on board after sorting or on landing. They may be calculated on the basis of one or more representative samples.
2. In the case of fishing vessels from which quantities of living aquatic organisms have been transhipped, the quantities transhipped shall be taken into account when calculating the percentages referred to in paragraph 1.

Article 19

Transhipment

Only masters of fishing vessels who complete a logbook in accordance with Article 6 of Regulation (EEC) No 2847/93⁹¹ may tranship living aquatic organisms to other vessels, or receive transhipments of such organisms from other vessels.

*Article 20*⁹²

Designated ports

1. Catches of bottom trawlers, pelagic trawlers, purse seines, surface longliners and hydraulic dredges shall be landed and marketed for the first time only at any of the ports designated by the Member States.

⁹⁰ ***FR:*** *Reservation on whole Chapter VIII.*

⁹¹ OJ L 261, 20.10.1993, p. 1.

⁹² ***EL, FR, IT, MT:*** *more information about the functioning of these ports is required; would a threshold for smaller vessels be included? Timeframe for providing a list of such ports is too tight. COM: No limit in the number of designated ports as long as control is assured. DE: Which percentage of landed fish is covered by designated ports?*

2. Member States shall notify to the Commission by 31 December 2005 a list of designated ports. The Commission shall transmit the list to the other Member States.

Article 21⁹³
Monitoring of catches

In Article 6(2) of Regulation (EEC) No 2847/93 the second sentence shall be replaced by the following:

“For the fisheries operations in the Mediterranean Sea any amount greater than 10 kg⁹⁴ of live-weight equivalent retained on board of any species indicated on a list adopted in conformity with paragraph 8 must be recorded in the logbook.

However, for highly migratory species and small pelagic species any amount greater than 50 kg of live-weight equivalent must be recorded in the logbook” .

Chapter IX

Measures for highly migratory species

Article 22
Swordfish fisheries

The Council shall decide on technical measures for the protection of juvenile swordfish in the Mediterranean before 30 September 2006.

⁹³ ***UK: support COM.***

⁹⁴ ***EL, FR, IT MT: 10 kg is too low, compromise 10-50 kg. FR: Minimum should be 50 kg. MT: technically difficult to record this in the logbook; COM: specificity of Mediterranean requires a low threshold. Actual amount can be discussed; STCF suggests 10 kg..***

Chapter X

Measures for the waters around Malta

Article 23

The 25-mile management zone around Malta

1. The access of Community vessels to the waters and resources in the zone extending up to 25 nautical miles from baselines around the Maltese islands (hereinafter "the management zone") shall be regulated as follows :

(a) fishing within the management zone shall be limited to fishing vessels smaller than 12 metres overall length using other than towed gears;

(b) the total fishing effort of those vessels, expressed in terms of the overall fishing capacity, shall not exceed the average level observed in 2000-2001 that corresponds to 1950 vessels with an overall engine power and tonnage of 83000 kW and 4035 GT respectively.

2. By way of derogation from point (a) of paragraph 1, trawlers not exceeding an overall length of 24 metres shall be authorised to fish in certain areas within the management zone, as described in Annex V, part (a), to this Regulation, subject to the following conditions:

(a) the overall fishing capacity of the trawlers allowed to operate in the management zone must not exceed the ceiling of 4800 kW ;

(b) the fishing capacity of any trawler authorised to operate at a depth of less than 200 metres must not exceed 185 kW; the isobath of 200 metres of depth shall be identified by a broken line, the waypoints of which are listed in Annex V, part (b), to this Regulation;

(c) trawlers fishing in the management zone shall hold a special fishing permit in accordance with Article 7 of Regulation (EC) No 1627/94 laying down general provisions concerning special fishing permits⁹⁵ and shall be included in a list containing their name, their international registration number and vessel characteristics to be provided to the Commission annually by the Member States concerned;

(d) the capacity limits laid down in points (a) and (b) shall be periodically re-evaluated, following advice from relevant scientific bodies concerning their effects on the conservation of stocks.

⁹⁵ OJ 171,6.7.1994, p.7.

3. If the overall fishing capacity referred to in point (a) paragraph 2, exceeds the overall fishing capacity of trawlers with an overall length equal to, or less than, 24 metres and operating in the management zone in the reference period 2000-2001 (hereinafter referred to as the “reference fishing capacity”), the Commission shall, in accordance with the procedure laid down in Article 26 allocate this surplus of available fishing capacity between the Member States taking into account the interest of the Member States requesting an authorisation.

The reference fishing capacity corresponds to 3600 kW.

4. Special fishing permits for the surplus of available fishing capacity referred to in paragraph 3 shall be issued only to vessels included in the Community fleet register at the date of application of this Article.

5. If the overall fishing capacity of the trawlers authorised to operate in the management zone in accordance with point (c) of paragraph 2 exceeds the ceiling laid down in point (a) of paragraph 2, because that ceiling has been lowered after the revision provided for in point (d) of paragraph 2, the Commission shall allocate fishing capacity between Member States on the following basis:

(a) fishing capacity in kW corresponding to vessels having fished in the zone during the period 2000-2001 shall rank first;

(b) fishing capacity in kW corresponding to vessels having fished at any other time in the zone shall rank second;

(c) any remaining fishing capacity for other vessels shall be divided between the Member States taking into account the interests of the Member States requesting an authorisation.

6. By way of derogation from point (a) of paragraph 1, vessels fishing with purse seines or longlines and vessels fishing for dolphinfish in accordance with Article 24 shall be authorised to operate within the management zone. They shall be granted a special fishing permit in accordance with Article 7 of Regulation (EC) No 1627/94 and shall be included in a list containing their name, their international registration number and vessels characteristics to be provided to the Commission by each Member State.

7. The master of any trawler authorized to fish in the management zone in accordance with paragraph 2 which is not equipped with VMS shall signal each entry into and exit from the management zone to its authorities and to the authorities of the coastal state.

Article 24
Dolphinfish fishery

1. It shall be prohibited to fish dolphinfish (*Coriphaena* spp.) within the management zone by fishing aggregating devices (FADs) from 1 January to 5 August each year.
2. The number of vessels participating in the dolphinfish fishery within the zone shall not exceed 130.
3. The Maltese authorities shall establish FAD course lines and allocate each FAD course line to Community fishing vessels at the latest by that 30 June each year. Community fishing vessels flying a flag other than of Malta shall not be authorised to operate a FAD course line within the 12-mile zone.
The Commission shall, in accordance with the procedure laid down in Article 26, establish the criteria to be applied for the establishment and allocation of FAD course lines.
4. Fishing vessels authorised to participate in dolphinfish fishery shall be granted a special fishing permit in accordance with Article 7 of Regulation (EC) No 1627/94 and shall be included in a list containing their name, their international registration number and vessels characteristics to be provided to the Commission by each Member State.
Notwithstanding the provisions of Article 1(2) of Regulation (EC) No 1627/94, vessels of an overall length of less than 10 metres shall be required to have a special fishing permit.

Chapter XI

Final provisions

Article 25

Decision-making procedure

Except where otherwise provided for in this Regulation, the Council shall act in accordance with the procedure referred to in Article 37 of the Treaty.

Article 26

Implementing rules

Detailed rules for the implementation of Articles 8, 12, 23 and 24 of this Regulation shall be adopted in accordance with the procedure referred to in Article 30(2) of Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries under the Common Fisheries Policy⁹⁶.

Article 27

Amendments

Amendments to the Annexes shall be adopted in accordance with the procedure referred to in Article 30(3) of Regulation (EC) No 2371/2002.

Article 28

Repeal

Regulation (EC) No 1626/94 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table in Annex VI.

⁹⁶ OJ L 358,31.12.2002, p.59.

Article 29
Entry into force

This Regulation shall enter into force on the thirtieth day following that of 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.

Done at Brussels, [...]

For the Council
The President
[...]

ANNEX I

Technical conditions for attachments to and rigging of trawl nets

Definitions

For the purposes of this Annex:

- (a) "multiple twine netting" means netting constructed of two or more twines, where the twines can be separated between the knots without damage to the twine structure;
- (b) "knotless netting" means netting which is composed of meshes of four sides of approximately equal length in which the corners of the meshes are formed by the interweaving of the twines of two adjacent sides of the mesh;
- (c) "square-meshed netting" means a construction of netting mounted so that of the two sets of parallel lines formed by the mesh bars, one set is parallel to and the other at right angles to the long axis of the net;
- (d) "the trawl body" means the tapered section in the front part of a trawl net;
- (e) "the extension piece" means the untapered section, made of one or more panels, between the trawl body and the cod-end;
- (f) "the cod-end" means the rearmost part of a trawl net, of net of the same mesh size, having either a cylindrical shape, whose horizontal sections are nearly a circle of the same or decreasing radius respectively, or a tapering shape, whose horizontal sections are nearly an ellipse of the same or decreasing major axis;
- (g) "balloon cod-end" means any cod-end composed of one or more adjoining panels, of net of the same mesh size, whose horizontal stretched length increases going to the rearmost part of the gear causing an extension of the horizontal length and of the circumference of the cod-end;
- (h) trouser cod end is made up of one or more adjoining panels of net, of the same mesh size and dimension, attached to one another along their sides in the axis of the trawl by a lacing; ⁹⁷

⁹⁷ **COM:** *Need to clarify definition of "trouser cod-end" in line with meeting with stakeholders on 1 October 2004.*

(i) ⁹⁸ “pocket type cod-end” means any cod-end whose height diminishes towards the rearmost part of the cod-end and whose horizontal sections are nearly an ellipse of the same or decreasing major axis. The rearmost part of the cod-end is either composed by a single folded panel or by horizontally lacing together the rearmost upper and lower panels;

(j) “horizontal lacing rope” means any external rope running horizontally, with respect to the longitudinal axis of the net, in the rearmost part of the cod-end either along the join between two upper and lower panels or along the bend of the single rearmost panel. It can be either a prolongation of the lateral lacing rope or a separate rope;

a) Authorised attachments to trawl nets

1. Notwithstanding Article 8 of Commission Regulation (EEC) N. 3440/84 a horizontal or lengthways zip-fastener mechanical device may be used to close the opening for emptying the pocket-type cod-end.

2. The horizontal zip-fastener shall be attached at a distance which is not more than 1 metre from the rear meshes of the cod-end.

b) Rigging requirements ⁹⁹

1. A balloon cod-end shall be prohibited in trawl nets . Within any single cod-end the number of equal sized meshes around any circumference of the cod-end shall not increase from the front end to the rear end.

2. The circumference of the rearmost part of the trawl body (the tapered section) or of the extension piece (the untapered section) shall be at least 10 % bigger than the circumference of the front end of the cod-end *sensu stricto*. This provision shall apply to all trawl nets of which the mesh size is smaller than or equal to 60 mm.

3. Square mesh panels may be inserted into any towed net and shall be placed in the top half or top sheet of a net in front of any extension piece or at any point between the front of any extension piece and the posterior of the cod-end. It shall not be obstructed in any way by either internal or external attachments. It shall be constructed of knotless netting or of netting constructed with non-slip knots, and shall be inserted in such a way that the meshes remain fully open at all times while fishing. Detailed rules for further technical specifications of square mesh panels shall be adopted in accordance with the procedure laid down in Article 26 of this Regulation.

⁹⁸ **COM:** Same as above as regards definition of "pocket type cod-end".

⁹⁹ **FR: PM:** Rigging requirements following from Art. 8 should be reflected here.

4. Analogously, technical devices with a view of improving selectivity of trawl nets, other than that referred to in point b.3 above, may be authorized in accordance with the procedure referred to in Article 26 of this Regulation.
5. The carrying on board or the use of any towed net the cod-end of which is constructed wholly or in part of any type of netting material made of meshes other than square mesh or diamond mesh shall be prohibited.
6. Paragraph 4 shall not apply to any boat seine the cod-end of which has a mesh size smaller than 10 mm.
7. By way of modification of Article 6 (4) of Commission Regulation (EEC) N. 3440/84 the strengthening bag shall not be less than 120 mm for bottom trawlers if the cod-end mesh is smaller than 60 mm. This provision shall apply only to the Mediterranean Sea and shall be without prejudice to other Community waters. If the cod-end mesh size is equal to or greater than 60 mm then Article 6(4) of Commission Regulation (EEC) N. 3440/84 shall apply.
8. The pocket type cod-end shall not have more than one opening to empty.
9. The length of the horizontal lacing rope shall be not less than 20% of the circumference of the cod-end.
10. The circumference of the strengthening bag, as defined in Article 6 of Commission Regulation n. 3440/84, shall not be less than 1.3 times¹⁰⁰ that of the cod-end.
11. The carrying on board or the use of any towed net constructed wholly or in part in the cod-end of single twine netting materials having a twine thickness of more than 3,5 millimetres shall be prohibited.
12. The carrying on board or the use of any towed net constructed wholly or in part in the cod-end of netting materials consisting of multiple twines shall be prohibited.
13. Netting materials having a twine thickness greater than 6 mm shall be prohibited in any part of a bottom trawl net.

¹⁰⁰ ***IT: not compatible with pelagic trawlers.***

ANNEX II

Requirements relating to the characteristics of fishing gear

Definitions

For the purposes of this Annex:

- (1) the length of nets shall be defined by the length of the float line. The length of bottom-set and drifting nets may be also defined on the basis of the weight or volume of its mass.
- (2) 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.

1. Dredges

The maximum breadth of dredges shall be 3 m, except in the case of dredges for sponge fishing (gagava).

2. Encircling nets (purse seines and seines without purse lines)

The length of netting shall be restricted to 800 m and the drop to 120 m, except in the case of tuna seines¹⁰¹.

3. Trammel nets and gillnets

- The maximum drop of a trammel net - shall not exceed 4 m.
- The maximum drop of a bottom-set gillnet and of anchored floating gillnet shall not exceed 10 m
- It shall be prohibited to have on board **or** set more than 6000 m of trammel net¹⁰², bottom-set gillnet or anchored floating gillnet per vessel, taking into account that, in the case of a single fisherman, such nets may not exceed 2500 metres, to which a further 2000 metres may be added for a second fisherman and another 1500 metres for a third one.¹⁰³
- Twine diameter of the bottom-set gillnet and of anchored floating gillnet shall not exceed 0,5 mm¹⁰⁴

¹⁰¹ ***IT:*** to include pelagic purse seines; in particular anchovies and sardines; 800 m length of net inconsistent with drop of 150 m - ***COM:*** should be looked at in accordance with the target species, mesh size and distance..

¹⁰² ***CY, MT:*** leave 6000 m. limit of trammel and gillnets regardless of number of fishers.

¹⁰³ ***MT:*** exchange 2500 m by 3000 m, 1500 m by 1000 m.

¹⁰⁴ ***IT:*** difficult to measure..

4. Combined bottom-set nets (trammel nets+gillnets)

- The maximum drop of a combined bottom-set net shall not exceed 10 m.¹⁰⁵
- It shall be prohibited to have on board **or** set more than 2500 m of combined nets per vessel.
- Twine diameter of the gillnet shall not exceed 0,5 mm¹⁰².

5. Drift-nets^{106 107}

- It shall be prohibited to have on board **or** set a drift-net longer than the limit established in Regulation (EC) No 894/97 laying down certain technical measures for the conservation of fishery resources¹⁰⁸ as amended by Regulation (EC) No 1239/98 of 8 June 1998¹⁰⁹.

6. Bottom-set longline

It shall be prohibited to have on board or set more than 3000 hooks^{110 111} per vessel¹¹² taking into account that, in the case of a single fisherman, such number may not exceed 1000 hooks, to which a further 1000 hooks may be added for a second fisherman and another 1000 hooks for a third one.¹¹³

7. Pots lines for deep-water crustacean fishery

It shall be prohibited to have on board **or** set more than 5 km¹¹⁴ of pot lines.

8. Surface-set longline (floating)¹¹⁵

It shall be prohibited to have on board or set more than:

- 2 000 hooks per vessel for vessels catching bluefin tuna (*Thunnus thynnus*);
- 3 500 hooks for vessels catching swordfish (*Xyphias gladius*);
- 5 000 hooks per vessel for vessels catching albacore (*Thunnus alalunga*).

¹⁰⁵ ***IT:*** *should be >10 m.*

¹⁰⁶ ***ES:*** *Agreement on the banned driftnets should not be re-opened.*

¹⁰⁷ ***IT:*** *small and medium sized nets should be regulated. **COM:** will reflect definitions for driftnets targeting small pelagics but equivalent to what is already in force in Italy.*

¹⁰⁸ OJ L 132,23.5.1997, p.1.

¹⁰⁹ OJ L 171, 17.6.1998, p.1.

¹¹⁰ ***MT:*** *Allow to carry spare sets of hooks on board for subsequent days.*

¹¹¹ ***FR:*** *Replace "3000 hooks per vessel" by "1000 hooks per person on board within the limit of 5000 hooks per vessel".*

¹¹² ***IT:*** *instead of minimum, rather indicate maximum, i.e. 250 km.*

¹¹³ ***MT:*** *add "vessel under 12 m LOA..."*

¹¹⁴ ***MT:*** *add: "These amounts should be doubled for vessels over 12 m LOA".*

¹¹⁵ ***FR:*** *Replace text with the following: "It shall be prohibited to have on board and set more than 1000 hooks per person on board within the limit of 5000 hooks per vessel".*

Annex III

Minimum Sizes of marine organisms

SCIENTIFIC NAME	Minimum size
1. Fishes	
<i>Dicentrarchus labrax</i>	25 cm
<i>Diplodus annularis</i>	12 cm
<i>Diplodus puntazzo</i>	18 cm
<i>Diplodus sargus</i>	23 cm
<i>Diplodus vulgaris</i>	18 cm
<i>Engraulis encrasicolus</i> *	9 cm
<i>Epinephelus</i> spp.	45 cm
<i>Lithognathus mormyrus</i>	20 cm
<i>Merluccius merluccius</i> ***	20 cm ¹¹⁶
<i>Mullus</i> spp.	11 cm
<i>Pagellus acarne</i>	17 cm
<i>Pagellus bogaraveo</i>	33 cm
<i>Pagellus erythrinus</i>	15 cm
<i>Pagrus pagrus</i>	18 cm
<i>Polyprion americanus</i>	45 cm
<i>Sardina pilchardus</i> **	11 cm ¹¹⁷
<i>Scomber japonicus</i>	18 cm
<i>Scomber scombrus</i>	18 cm
<i>Solea vulgaris</i>	20 cm
<i>Sparus aurata</i>	20 cm
<i>Trachurus</i> spp.	15 cm

¹¹⁶ **FR, IT, EL:** Keep minimum size of hake at 15 cm - **FR:** no time limit.

¹¹⁷ **FR, IT:** Set no minimum size for sardine - **COM:** Need to harmonize with the Atlantic.

2. Crustaceans	
<i>Homarus gammarus</i>	30 cm TL
Nephrops norvegicus	20 mm CL 70 mm TL
Palinuridae	90 mm CL
<i>Parapenaeus longirostris</i>	20 mm CL
3. Mollusc bivalves	
<i>Pecten jacobeus</i>	10 cm
<i>Venerupis spp.</i>	25 mm
<i>Venus spp.</i>	25 mm

TL total length ; CL carapace length;

(*) Anchovy: Member States may convert the minimum size into 110 specimens per kg;

(**) Sardine: Member States may convert the minimum size into 55 specimens per kg;

(***) Hake: Nevertheless, until 31 December 2006 a margin of tolerance of 15% of weight will be permitted for hake between 15 and 20 cm. This tolerance limit shall be complied with by both individual vessels, at sea or at the place of landing, and at the markets of first sale after landing. This limit shall also be complied with in any subsequent commercial transaction at national and international level.

Annex IV

Measurement of the size of a marine organism

1. The size of any fish shall be measured, as shown in Figure 1, from the tip of the snout to the end of the tail fin.
2. The size of a Norway lobster (*Nephrops norvegicus*) shall be measured as shown in Figure 2:
 - as the length of the carapace, parallel to the midline, from the back of either eye socket to the distal edge of the carapace, and/or,
 - as the total length, from the tip of the rostrum to the rear end of the telson, not including the setae.
3. The size of a lobster (*Homarus gammarus*) shall be measured as shown in Figure 3, as the total length, from the tip of the rostrum to the rear end of the telson, not including the setae.
4. The size of a crawfish (Palinuridae) shall be measured as shown in Figure 4 as the length of the carapace from the tip of the rostrum to the midpoint of the distal edge of the carapace.
6. The size of any bivalve mollusc shall be measured as shown in Figure 5, across the longest part of the shell.

Figure 1

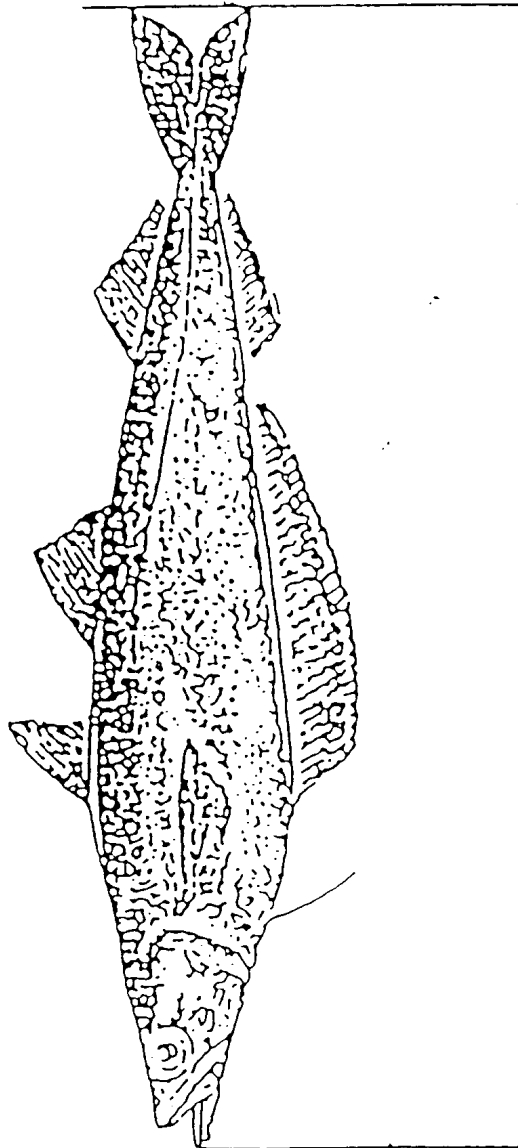
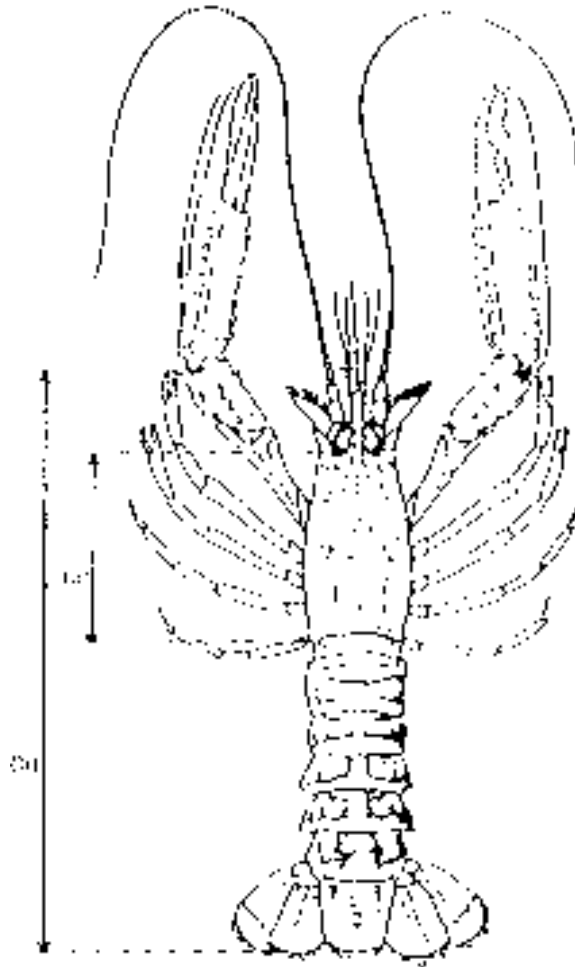


Figure 2



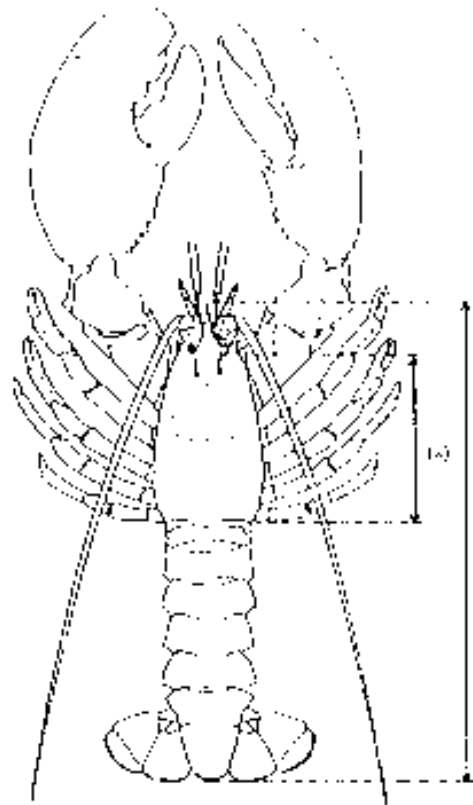
(Nephrops)

Norway Lobster

(a) Carapace length

(b) Overall length

Figure 3



(Homarus)

Lobster

(a) Carapace length

(b) Overall length

Figure 4

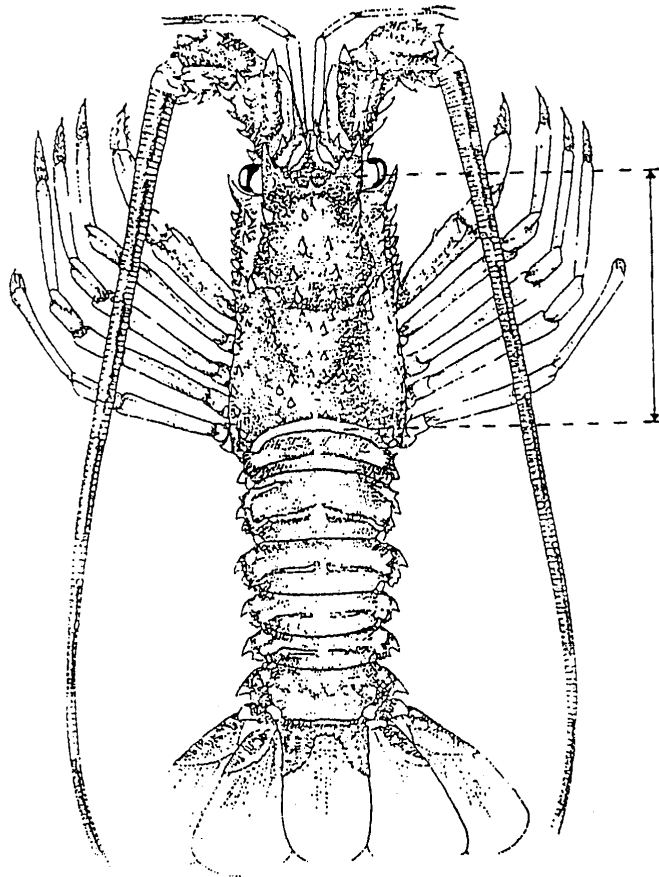


Figure 5



Annex V
25 mile management zone around Maltese Islands

a) Authorised trawlable areas to the approaches of the Maltese islands: geographic co-ordinates

Zone A	Zone H
A1 – 36.0172°N, 14.1442°E	H1 – 35.6739°N, 14.6742°E
A2 – 36.0289°N, 14.1792°E	H2 – 35.4656°N, 14.8459°E
A3 – 35.9822°N, 14.2742°E	H3 – 35.4272°N, 14.7609°E
A4 – 35.8489°N, 14.3242°E	H4 – 35.5106°N, 14.6325°E
A5 – 35.8106°N, 14.2542°E	H5 – 35.6406°N, 14.6025°E
A6 – 35.9706°N, 14.2459°E	
Zone B	Zone I
B1 – 35.7906°N, 14.4409°E	I1 – 36.1489°N, 14.3909°E
B2 – 35.8039°N, 14.4909°E	I2 – 36.2523°N, 14.5092°E
B3 – 35.7939°N, 14.4959°E	I3 – 36.2373°N, 14.5259°E
B4 – 35.7522°N, 14.4242°E	I4 – 36.1372°N, 14.4225°E
B5 – 35.7606°N, 14.4159°E	
B6 – 35.7706°N, 14.4325°E	
Zone C	Zone J
C1 – 35.8406°N, 14.6192°E	J1 – 36.2189°N, 13.9108°E
C2 – 35.8556°N, 14.6692°E	J2 – 36.2689°N, 14.0708°E
C3 – 35.8322°N, 14.6542°E	J3 – 36.2472°N, 14.0708°E
C4 – 35.8022°N, 14.5775°E	J4 – 36.1972°N, 13.9225°E
Zone D	Zone K
D1 – 36.0422°N, 14.3459°E	K1 – 35.9739°N, 14.0242°E
D2 – 36.0289°N, 14.4625°E	K2 – 36.0022°N, 14.0408°E
D3 – 35.9989°N, 14.4559°E	K3 – 36.0656°N, 13.9692°E
D4 – 36.0289°N, 14.3409°E	K4 – 36.1356°N, 13.8575°E
	K5 – 36.0456°N, 13.9242°E
Zone E	Zone L
E1 – 35.9789°N, 14.7159°E	L1 – 35.9856°N, 14.1075°E
E2 – 36.0072°N, 14.8159°E	L2 – 35.9956°N, 14.1158°E
E3 – 35.9389°N, 14.7575°E	L3 – 35.9572°N, 14.0325°E
E4 – 35.8939°N, 14.6075°E	L4 – 35.9622°N, 13.9408°E
E5 – 35.9056°N, 14.5992°E	

Zone F	Zone M
F1 – 36.1423°N, 14.6725°E	M1 – 36.4856°N,14.3292°E
F2 – 36.1439°N, 14.7892°E	M2 – 36.4639°N,14.4342°E
F3 – 36.0139°N, 14.7892°E	M3 – 36.3606°N,14.4875°E
F4 – 36.0039°N, 14.6142°E	M4 – 36.3423°N,14.4242°E
	M5 – 36.4156°N,14.4208°E
Zone G	Zone N
G1 – 36.0706°N, 14.9375°E	N1 – 36.1155°N, 14.1217°E
G2 – 35.9372°N, 15.0000°E	N2 – 36.1079°N, 14.0779°E
G3 – 35.7956°N, 14.9825°E	N3 – 36.0717°N, 14.0264°E
G4 – 35.7156°N, 14.8792°E	N4 – 36.0458°N, 14.0376°E
G5 – 35.8489°N, 14.6825°E	N5 – 36.0516°N, 14.0896°E
	N6 – 36.0989°N, 14.1355°E

b) Geographic co-ordinates of some way-points along the 200m isobath within the 25- mile management zone

ID	Latitude	Longitude
1	36.3673°N	14.5540°E
2	36.3159°N	14.5567°E
3	36.2735°N	14.5379°E
4	36.2357°N	14.4785°E
5	36.1699°N	14.4316°E
6	36.1307°N	14.3534°E
7	36.1117°N	14.2127°E
8	36.1003°N	14.1658°E
9	36.0859°N	14.152°E
10	36.0547°N	14.143°E
11	35.9921°N	14.1584°E
12	35.9744°N	14.1815°E
13	35.9608°N	14.2235°E
14	35.9296°N	14.2164°E
15	35.8983°N	14.2328°E
16	35.867°N	14.4929°E
17	35.8358°N	14.2845°E
18	35.8191°N	14.2753°E
19	35.7863°N	14.3534°E
20	35.7542°N	14.4316°E
21	35.7355°N	14.4473°E
22	35.7225°N	14.5098°E
23	35.6951°N	14.5365°E
24	35.6325°N	14.536°E
25	35.57°N	14.5221°E
26	35.5348°N	14.588°E
27	35.5037°N	14.6192°E
28	35.5128°N	14.6349°E
29	35.57°N	14.6717°E
30	35.5975°N	14.647°E
31	35.5903°N	14.6036°E
32	35.6034°N	14.574°E
33	35.6532°N	14.5535°E
34	35.6726°N	14.5723°E

35	35.6668°N	14.5937°E
36	35.6618°N	14.6424°E
37	35.653°N	14.6661°E
38	35.57°N	14.6853°E
39	35.5294°N	14.713°E
40	35.5071°N	14.7443°E
41	35.4878°N	14.7834°E
42	35.4929°N	14.8247°E
43	35.4762°N	14.8246°E
44	36.2077°N	13.947°E
45	36.1954°N	13.96°E
46	36.1773°N	13.947°E
47	36.1848°N	13.9313°E
48	36.1954°N	13.925°E
49	35.4592°N	14.1815°E
50	35.4762°N	14.1895°E
51	35.4755°N	14.2127°E
52	35.4605°N	14.2199°E
53	35.4453°N	14.1971°E

Annex VI
Correlation table

Regulation (EC) No 1626/94	Present Regulation
Article 1 (1)	Article 1 (1)
Article 1(2) first subparagraph	Article 6, Article 15 and Article 17
Article 1(2) second subparagraph	Article 3
Article 2(1) and (2)	Article 7
Article 2(3)	Article 15 and Article 17
Article 3(1) first subparagraph	Article 12(1) first subparagraph and (5)
Article 3(1) second and third (1a) subparagraphs	Article 12(2) and (5), Article 17
Article 3(2)	Article 12(1) second subparagraph, Article 17
Article 3(3)	Article 4
Article 3(4)	Article 12(3)
Article 4	Article 6
Article 5	Article 11 and Annex II
Article 6(1) (1a) and(2)	Article 8 and Article 17
Article 6(3)	Annex II
Article 7	Article 20
Article 8 (1) and (3)	Article 13, Annex III and Annex IV
Article 8 (a)	Article 23
Article 8 (b)	Article 24
Article 9	Article 1(2)
Article 10 (a)	Article 26
Article 11	Article 30
Annex I	Article 3 and Article 4

Annex II	Article10, Annex I and Annex II
Annex III	Article 8 (3), (4) and (5)
Annex IV	Annex III
Annex V (b)	Annex V
