COUNCIL OF THE EUROPEAN UNION

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WORKING DOCUMENT

from :	Presidency
to :	Working Party on Internal Fisheries Policy
No. Cion. Prop.:	7300/06 PECHE 74 - COM(2006) 100 final
Subject:	Proposal for a COUNCIL REGULATION laying down technical measures for the conservation of certain stocks of highly migratory species

Following the proceedings of the Working Party on Internal Fisheries Policy on 11 May 2006, delegations will find attached a Working Document from the Presidency established in close cooperation with the Commission.

COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels,
COM (2006)

Proposal for a

COUNCIL REGULATION

(EC) No …./2006 of ……

laying down technical measures for the conservation of certain stocks of highly migratory species

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EXPLANATORY MEMORANDUM

BACKGROUND TO THE PROPOSAL

Grounds for and objectives of the proposal

This proposal seeks to update the Community rules transposing the technical conservation measures for certain stocks of highly migratory species adopted within the regional fisheries organisations (RFOs), responsible for the management and conservation of tunas and related species.

The regional organisations in question are:

- the International Commission for the Conservation of Atlantic Tunas (ICCAT), of which the Community has been a member since 14 November 1997;

- the Indian Ocean Tuna Commission (IOTC), of which the Community has been a member since 18 September 1995;

- the Inter-American Tropical Tuna Commission (IATTC); the Community has applied to join the latter and has participated in the accession process for the adoption of the Convention - not yet in force - for strengthening it.

- the Western and Central Pacific Ocean Fisheries Commission (WCPFC), of which the Community has been a member since 25 January 2005.

General background

The European Community participates in a number of regional fisheries organisations which provide a framework for regional cooperation on the conservation and management of certain stocks of highly migratory species. These organisations adopt recommendations, including technical measures for the fixing of minimum sizes for fish, closed areas and seasons, and restrictions on fishing effort. The recommendations become binding on Contracting Parties which do not object to them. As a Contracting Party to those organisations, the Community has a responsibility to apply recommendations adopted to which it has raised no objections. Some of the recommendations adopted by the regional fisheries organisations have already been transposed into Community law. The technical measures adopted by these organisations have now been incorporated in Community law as Council Regulation (EC) No 973/2001 of 14 May 2001 laying down technical measures for the conservation of certain stocks of highly migratoty species (OJ L 137, 19.5.2001), as last amended by Regulation (EC) No 831/2004 (OJ L 127, 29.4.2004).

The adoption by those organisations of new technical measures and the updating of those already in force since the above Regulation was adopted require the repeal of Regulation (EC) No 973/2001 and its replacement by this proposal for a regulation.

The proposed regulation calls on the committee procedures provided for in Decision (EC) 1999/468 to ensure the implementation of the regulation and the amendment of its annexes.

Provisions in force in the field covered by the proposal

The technical measures adopted by the regional organisations have now been incorporated in Community law as Council Regulation (EC) No 973/2001 of 14 May 2001 laying down technical measures for the conservation of certain stocks of highly migratoty species (OJ L 137, 19.5.2001), as last amended by Regulation (EC) No 831/2004 (OJ L 127, 29.4.2004). Technical measures include the minimum size of fish, the ban on the use of certain fishing gears, closed fishing areas and seasons, and capacity restrictions which have been modified at the annual meetings of the organisations; the law in force should therefore be amended and updated.

Consistency with other Union policies and objectives

The proposal is in keeping with the general pattern of the sustainable exploitation of tuna stocks in compliance with the objectives of the common fisheries policy and contributes to sustainable development.

CONSULTATION OF INTERESTED PARTIES AND IMPACT ANALYSES

Consultation of stakeholders

Consultation methods, main sectors targeted and general profile of respondents

In order to prepare the Community position in the context of the negotiations that take place at annual meetings of the regional fisheries organisations, the Commission consults the Member States, those involved in the industry and NGOs.

Summary of responses and how they have been taken into account

The main sectors consulted have approved the Community position on the adoption of technical measures for the sustainable exploitation of tuna stocks.

Mobilising and exploiting expertise

Scientific areas or fields of expertise concerned

Scientific committees of the regional fisheries organisations.

Methodology used

The scientific committees assess the stocks and recommend the adoption of management and conservation measures to ensure the sustainable exploitation of tuna stocks, in particular through the adoption of technical measures.

Main organisations/experts consulted

Scientific committees of tuna regional fisheries organisations.

Summary of advice received and used

The existence of potentially serious risks with irreversible consequences has been mentioned. The existence of such risks is universally accepted.

The scientific committees of the organisations have recommended the adoption of technical measures to ensure the sustainable exploitation of tunas, principally through the fixing of minimum sizes, closed fishing areas and seasons and restrictions on fishing effort.

Methods used to make the results of these expert opinions available to the public

The opinions of the scientific committees are published on the websites of the various organisations.

Impact assessment

The aim of the technical measures is to ensure the sustainable exploitation of tunas and in particular to reduce catches of juveniles.

The technical measures will apply to Community fishermen fishing for tuna species in the Atlantic Ocean, the Mediterranean Sea, the Indian Ocean and the Pacific Ocean.

LEGAL ELEMENTS OF THE PROPOSAL

Summary of the proposed measures

Transposal into Community law of technical measures adopted by regional fisheries organisations responsible for the management of tuna species to which the European Community is a contracting party.

Legal basis

Article 37 of the Treaty

Subsidiarity principle

The proposal concerns an area that falls under exclusive Community competence. The principle of subsidiarity does not therefore apply.

Proportionality principle

The proposal complies with the principle of proportionality, for the following reasons:

The recommendations adopted by the regional fisheries organisations are directly enforceable against the Community and the Member States. However, in the interests of clarity and transparency, they are incorporated in a Council regulation in order to clarify them so that they can be better applied by the Member States and fishermen.

There are no financial consequences.

Choice of instruments

Proposed instrument(s): regulation

Other instruments would not have been appropriate, for the following reasons:

Recommendations adopted by the regional fisheries organisations are transposed in a Council regulation, as provided for in Article 37 of the Treaty, which lays down the rules, the implementing procedures being laid down in a Commission regulation.

BUDGETARY IMPLICATIONS

The proposal has no implications for the Community budget.

ADDITIONAL INFORMATION

Simplification

The proposal simplifies the legislative framework.

The measure provides for the repeal of Council Regulation (EC) No 973/2001 of 14 May 2001 laying down technical measures for the conservation of certain stocks of highly migratoty species (OJ L 137, 19.5.2001), as last amended by Regulation (EC) No 831/2004 (OJ L 127, 29.4.2004).

The new regulation will make it possible to combine in a single regulation all the technical measures adopted by the tuna regional fisheries organisations to which the European Community is a contracting party.

Repeal of existing legislation

The adoption of this proposal will mean that some legislation must be repealed.

Detailed explanation of the proposal, by chapter or by article

This proposal seeks to transpose technical measures adopted by the RFOs, including on minimum size, closed areas and seasons and restrictions on fishing effort.

Proposal for a

COUNCIL REGULATION

(EC) No …./2006 of ……

laying down technical measures for the conservation of certain stocks of highly migratory species

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission[1],

Having regard to the opinion of the European Parliament[2],

Whereas:

(1) The Community has by Decision 98/392/EC[3] approved the United Nations Convention on the Law of the Sea which contains principles and rules relating to the conservation and management of the living resources of the sea. In the framework of its wider international obligations, the Community participates in efforts made in international waters to conserve fish stocks.

(2) Pursuant to Decision 86/238/EEC[4] the Community has been a Contracting Party to the International Commission for the Conservation of Atlantic Tunas, hereinafter "the ICCAT Convention", since 14 November 1997.

(3) The ICCAT Convention provides a framework for regional cooperation on the conservation and management of tunas and tuna-like species in the Atlantic Ocean and adjoining seas through the setting up of an International Commission for the Conservation of Atlantic Tunas, hereinafter the "ICCAT", and the adoption of recommendations on conservation and management in the Convention area which become binding on the Contracting Parties.

(4) ICCAT has recommended a number of technical measures for certain stocks of highly migratory species in the Atlantic and the Mediterranean, specifying inter alia authorised sizes and weights of fish, and restrictions on fishing within certain areas and time periods, with certain gears, and on capacity. These recommendations are binding on the Community and should therefore be implemented.

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1 OJ C […], […], p. […].
2 OJ C […], […], p. […].
3 OJ L 179, 23.6.1998, p. 1.
4 OJ L 162, 18.6.1986, p. 33.

(5) The Community has by Decision 95/399/EC[5] approved the Agreement for the establishment of the Indian Ocean Tuna Commission. The Agreement provides an appropriate framework for closer international cooperation and the rational use of tunas and related species in the Indian Ocean by setting up the Indian Ocean Tuna Commission, hereinafter the "IOTC", and adopting recommendations on conservation and management in the IOTC area which become binding on the Contracting Parties.

(6) The IOTC has recommended certain technical measures for certain stocks of highly migratory species and in particular the limiting of capacity. The resolution concerned is binding on the Community and should therefore be implemented.

(7) The Community has by Decision 1999/337/EC[6] signed the Agreement on the International Dolphin Conservation Programme and by Decision 1999/386/EC[7] decided to apply it on a provisional basis pending its approval.

(8) The Community has by Decision 2005/…./EC[8] approved the agreement on the international programme for the conservation of dolphins. It should therefore apply the provisions laid down in that Agreement.

(9) The objectives of the Agreement include a progressive reduction of incidental dolphin mortalities in the tuna purse-seine fishery in the Eastern Pacific Ocean to levels approaching zero by setting annual limits, and the long-term sustainability of the tuna stocks in the Agreement Area.

(10) The Community has fishing interests in the Eastern Pacific Ocean and has participated in the procedure for the adoption of the Convention for the strengthening of the Inter-American Tropical Tuna Commission, hereinafter the 'Antigua Convention'. By Decision 2005/26/EC it signed the Antigua Convention and launched the procedure for becoming a party to it. Pending the entry into force of the Antigua Convention, the Community, as a cooperating non-contracting party to the Inter-American Tropical Tuna Commission, hereinafter the 'IATTC', has decided to apply the technical measures adopted by the IATTC. These measures should therefore be incorporated in Community law.

(11) Since 25 January 2005 and following Decision 2005/75/EC[9] the Community is a Contracting Party to the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, hereinafter the 'WCPFC Convention'.

(12) The WCPFC Convention provides a framework for regional cooperation with a view to ensuring the long-term conservation and sustainable exploitation of highly migratory fish stocks in the Western and Central Pacific Ocean through the setting up of a Fisheries Commission for the Western and Central Pacific Ocean (WCPFC).

(13) The Community should therefore apply the provisions laid down in the Convention and the technical measures adopted by the WCPFC.

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5 OJ L 236, 5.10.1995, p. 24.
6 OJ L 132, 27.5.1999, p. 1.
7 OJ L 147, 12.6.1999, p. 23.
8 OJ L……
9 OJ L 32, 4.2.2005.

(14) The technical measures adopted by these regional fisheries organisations have been transposed in Council Regulation (EC) No 973/2001 of 14 May 2001 laying down technical measures for the conservation of certain stocks of highly migratory species[10].

(15) The adoption of new technical measures by these organisations and the updating of those in force since the adoption of the above regulation requires the repeal of Regulation (EC) No 973/2001 and its replacement by this Regulation.

(16) The limits on capacity must be determined in accordance with Article 20 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy[11]

(17) 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 Commission[12],

HAS ADOPTED THIS REGULATION:

TITLE I
Introductory provisions

Article 1
Object

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

Article 2
Scope

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

Article 3
Definitions

For the purposes of this Regulation:

1) "Highly migratory species" means the species listed in Annex I;

2) "Tunas and related species covered by ICCAT" means the species listed in Annex II;

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10 OJ L 137, 19.5.2001, p.1. Regulation as last amended by Regulation (EC) No 831/2004 (OJ L 127, 29.4.2004, p.33).
11 OJ L 358, 31.12.2002, p. 59.
12 OJ L 184, 17.7.1999, p. 23.

3) "Dolphin mortality limit" means the limit defined in Article V of the Agreement on the International Dolphin Conservation Programme[13].

4) "Leisure fisheries" means fishing activities exploiting living aquatic resources for recreation or sport.

5) "Encircling nets" means nets which catch fish by surrounding them both from the sides and from below; they may or may not be equipped with a purse line.

6) "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).

7) "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.

8) "Fish-aggregating devices (FADs)" means any equipment floating on the sea surface and with the objective of attracting fish.

9) "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.

10) "Pole and line tuna vessel" means vessels equiped for catching tuna by pole and line.

Article 4
Areas

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

(1) Area 1

All waters of the Atlantic Ocean and adjacent seas included in the ICCAT Convention area specified in Article 1 of that Convention.

(2) Area 2

All waters of the Indian Ocean covered by the Agreement for the establishment of the IOTC as defined in Article 2 thereof;

[13] OJ L 132, 27.5.1999, p. 1.

(3) Area 3

All waters of the Eastern Pacific Ocean as defined in Article 3 of the Agreement on the International Dolphin Conservation Programme.

(4) Area 4

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

TITLE II
Technical measures applicable in Area 1

Chapter 1
Restrictions on the use of certain types of vessels and gears

Article 5
Protection of bigeye tuna in certain tropical waters

1. Fishing by purse seiners and pole-and-line tuna vessels shall be prohibited during the period 1 to 30 November in the following areas:

   - Southern limit: parallel 0° South latitude;

   - Northern limit: parallel 5° North latitude;

   - Western limit: meridian 20° West longitude;

   - Eastern limit: meridian 10° West longitude.

2. Membe States shall send the Commission each year by 15 August at the latest a report on the implementation of this measure, including where applicable a list of breaches committed by Community fishing vessels flying their flag and being pursued by their competent authorities.

Article 6
Bluefin tuna fishing in the Mediterranean

1. Fishing for bluefin tuna with purse seine in the Mediterranean Sea shall be prohibited from 16 July to 15 August.

2. Fishing for bluefin tuna in the Mediterranean using surface-set longlines from vessels greater than 24 metres in length shall be prohibited during the period from 1 June to 31 July. The length of the vessels shall be defined in accordance with Annex III.

3. The use of aeroplanes or helicopters in support of fishing operations for bluefin tuna in the Mediterranean Sea shall be prohibited during the period from 1 to 30 June.

4. The definition of the periods and areas referred to in this Article and the length of vessels given in Annex III may be amended by the Commission pursuant to ICCAT recommendations which are binding on the Community in accordance with the procedure laid down in Article 30.

Article 7

Fishing for skipjack, bigeye and yellowfin tuna in certain Portuguese waters

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

Chapter 2
Minimum Size

Article 8
Sizes

1. A species shall be considered undersized if its dimensions are smaller than the minimum dimensions specified in Annex IV for the relevant species.

2. The dimensions set out in Annex IV may be modified pursuant to ICCAT recommendations which are binding on the Community and in accordance with the procedure laid down in Article 30.

Article 9
Prohibitions

1. Undersized fish of the species listed in Annex IV which are captured in Area 1 shall not be retained on board or transshipped, landed, transported, stored, displayed or offered for sale, sold or marketed. These species shall be returned immediately to the sea.

2. The release for free circulation or marketing in the Community of undersized fish of the species listed in Annex IV originating in third countries and captured in Area 1 shall be prohibited.

Article 10
Measurement of size

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

2. The size of istiophoridae shall be measured from the tip of the lower jaw to the fork of the caudal fin.

Article 11
Sampling procedure for bluefin tuna cages

1. Each Member State shall establish a sampling procedure for estimating the number by size of bluefin tuna captured.

2. Sampling by size in cages shall be carried out on a sample of 100 specimens per 100 tonnes of live fish or on a sample of 10% of the total number of fish placed in a cage. The size sample shall be taken during harvesting at the farm, in accordance with the method adopted by the ICCAT for notifying data as part of Task II.

3. Additional methods and samplings shall be developed for fish reared for more than one year.

4. Sampling shall be carried out during a harvest taken at random and shall cover all cages. The data shall be notified to the ICCAT by 31 July for sampling carried out the previous year.

Chapter 3
Restrictions on the number of vessels

Article 12
North Atlantic bigeye and albacore tuna

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

   (a) as the average number and the capacity in GT of Community fishing vessels fishing in Area 1 for bigeye tuna as a target species during the period 1991 to 1992, and

   (b) on the basis of the restriction on the number of Community vessels fishing for bigeye tuna in 2005 notified to ICCAT on 30 June 2005.

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

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

   (a) the number and capacity in GT determined in accordance with paragraph 1;

   (b) the number of vessels determined in accordance with paragraph 2.

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

   (a) a list of vessels flying its flag and greater than 24 metres in length fishing for bigeye tuna;

   (b) a list of vessels flying its flag and participating in a fishery targeting albacore tuna in the North Atlantic.

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

5. The lists referred to in paragraph 4 shall give the internal fishing fleet register number assigned to the vessel in accordance with Annex I to Commission Regulation (EC) No 26/2004 of 30 December 2003 on the Community fishing fleet register[14] and the type of gear used.

Chapter 4
Species not targeted and sport and recreational fishing

Article 13
Marlins

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

[14] OJ L 5, 9.1.2004, p. 25.

Article 14
Sharks

1. The Member States shall encourage the release of live sharks captured accidentally, in particular juveniles.

2. The Member States shall encourage the reduction of discards of sharks by improving the selectivity of fishing gears.

Article 15
Turtles

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

Article 16
Sport and recreational fishing in the Mediterranean

1. Member States shall take the measures necessary to prohibit the use in the Mediterranean for sport and recreational fishing activities of towed nets, encircling nets, purse seines, dredges, gillnets, trammel nets and longlines to fish for tuna and related species.

2. Member States shall ensure that tuna and related species captured during sport and recreational fishing in the Mediterranean are not marketed.

Article 17
Report

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

TITLE III
Technical measures applicable in Area 2

Chapter 1
Restrictions on the number of vessels

Article 18
Number of authorised vessels

1. The Council, acting in accordance with the procedure laid down in Article 20 of Regulation (EEC) No 2371/2002, shall determine the number of Community fishing vessels greater than 24 metres in length overall authorised to fish in Area 2. The number of vessels is set at the number of Community fishing vessels registered in the IOTC vessels register in 2003. The restriction on the number of vessels must correspond to the overall gross tonnage (GT) ; where vessels are replaced the overall tonnage must not be exceeded.

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

Chapter 2
Species not targeted

Article 19
Sharks

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

2. The Member States shall encourage the reduction of discards of sharks.

Article 20
Turtles

1. The Member States shall do their utmost to reduce the impact of fishing on sea turtles, in particular by applying the measures provided for in paragraphs 2, 3 and 4.

2. The use of all fishing gear shall be subject to the following conditions:

   (a) appropriate handling, including the resuscitation or prompt release of sea turtles caught accidentally (by hooks or nets) or as by-catch;

   (b) the presence on board of equipment necessary for the release of sea turtles caught accidentally or as by-catch;

3. The use of the purse seine shall be subject to the following conditions:

   (a) an obligation to avoid, where possible, encircling sea turtles;

   (b) the development and application of specifications for appropriate gear for minimising by-catches of sea turtles;

   (c) the adoption of all the measures necessary for releasing encircled or caught sea turtles.

   (d) the adoption of all the measures necessary for monitoring fish-aggregating devices in which sea turtles could be caught, to release those taken and recover devices that are not used.

4. The use of longlines shall be subject to the following conditions:

   (a) the development and putting in place of combinations of hook shapes, type of lures, depth and design of nets and fishing practices to minimise accidental catches or by-catches and mortality of sea turtles.

(b) the presence on board of equipment necessary for releasing sea turtles caught accidentally or as by-catch, including tools for unhooking them or cutting the lines and landing nets.

TITLE IV
Technical measures applicable in Area 3

Article 21
Transhipment

1. The use of ancillary vessels to support vessels fishing with the aid of fish-aggregating devices shall be prohibited.

2. Transhipments at sea by seiners shall be prohibited.

Article 22
Restrictions on the number of vessels

1. The Council, acting in accordance with the procedure laid down in Article 20 of Regulation (EEC) No 2371/2002, shall determine the number of Community seiners authorised to fish in Area 3. The number of vessels shall be set at the number of Community seiners registered in the IATTC register on 28 June 2002.

2. Member States shall forward to the Commission, before 10 December each year, a list of the vessels flying their flag and intending to fish for tuna in Area 3. Vessels which are not included in that list shall be regarded as inactive and shall not be authorised to fish during the current year.

3. The lists shall mention the internal fishing fleet register number assigned to the vessel in accordance with Annex I to Commission Regulation (EC) No 26/2004 of 30 December 2003 on the Community fishing fleet register, and the type of gear used.

Article 23
Protection of dolphins

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

Article 24
Requests for DMLs

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

(a) a list of vessels flying their flag with a load capacity greater than 363 metric tonnes (400 net tonnes) which have applied for a DML for the whole of the following year;

(b) a list of vessels flying their flag with a load capacity greater than 363 metric tonnes (400 net tonnes) which have applied for a DML for the first or second half of the following year;

(c) for each vessel requesting a DML, a certificate stating that the vessel had all the proper gears and equipment to protect dolphins and that its captain had completed an approved training course on rescuing and releasing dolphins.

(d) a list of vessels flying their flag which are likely to operate in the area in the course of the following year.

Article 25
Allocation of DMLs

1. The Member States shall ensure that applications for DMLs comply with the conditions laid down in the Agreement on the International Dolphin Conservation Programme and the conservation measures adopted by the IATTC.

2. The Commission shall examine the lists and ensure that they comply with the provisions of the Agreement on the International Dolphin Conservation Program and the conservation measures adopted by the IATTC and shall send them to the Director of the IATTC. Where this examination reveals that the application does not meet the conditions referred to in this paragraph, the Commission shall immediately inform the Member State concerned that it cannot send all or part of an application to the Director of the IATTC, stating its reasons.

3. The Commission shall communicate to each Member State the overall DML to be distributed among the vessels flying their flag.

4. Each Member State shall send the Commission the breakdown of the DMLs among the vessels flying the flag of that Member State by 15 January each year.

5.. The Commission shall send the Director of the IATTC the list and breakdown of the DMLs between Community fishing vessels by 1 February each year.

Article 26
Protection of other species not targeted

1. Purse seine vessels shall promptly release unharmed, to the extent practicable, all sea turtles, sharks, skipjack tuna, billfishes, rays, dorado, and other non-target species.

2. Fishermen shall be encouraged to develop and use techniques and equipment to facilitate the rapid and safe release of any such animals.

Article 27
Turtles

1. Whenever a sea turtle is sighted in the net, all reasonable efforts shall be made to rescue the turtle before it becomes entangled in the net, including, if necessary, the deployment of a speedboat.

2. If a sea turtle is entangled in the net, net roll shall stop as soon as the turtle comes out of the water and shall not start again until the turtle has been disentangled and released.

3. If a sea turtle is brought on board a vessel, all appropriate methods to assist in the recovery of the turtle shall be made before returning it to the water,

4. Tuna-fishing vessels shall be prohibited from disposing of salt bags or any other type of plastic rubbish at sea.

5. Where possible sea turtles caught in fish-aggregating devices and other fishing gear must be released

6. Fish-aggregating devices which are not used for fishing must be recovered.

Title V
Technical measures applicable in Area 4

Article 28
Waste reduction

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

TITLE VI
General provisions

Article 29
Marine mammals

1 The encircling with purse seines of any school or group of marine mammals shall be prohibited.

2. Paragraph 1 shall apply to all Community fishing vessels with the exception of the vessels referred to in Article 23.

TITLE VII
Final provisions

Article 30
Comitology

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

Article 31
Repeal

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

Article 32
Entry into force

This Regulation shall enter into force on the twentieth 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

List of highly migratory species

- Albacore: *Thunnus alalunga*
- Bluefin tuna: *Thunnus thynnus*
- Bigeye tuna: *Thunnus obesus*
- Skipjack tuna: *Katsuwonus pelamis*
- Atlantic bonito: *Sarda sarda*
- Yellowfin tuna: *Thunnus albacares*
- Blackfin tuna: *Thunnus atlanticus*
- Little tuna: *Euthynnus spp*.
- Southern bluefin tuna: *Thunnus maccoyii*
- Frigate tuna: *Auxis spp*.
- Oceanic sea breams: *Bramidae*
- Marlins: *Tetrapturus spp.; Makaira spp.*
- Sailfish: *Istiophorus spp.*
- Swordfish: *Xiphias gladius*
- Sauries: *Scomberesox spp.; Cololabis spp*.
- Dolphinfish; common dolphinfish: *Coryphaena hippurus; Coryphaena equiselis*
- Sharks: *Hexanchus griseus; Cetorhinus maximus; Alopiidae Rhincodon typus; Carcharhinide; Sphyrnidae; Isuridae; Lamnidae*
- Cetaceans (whales and porpoises): *Physeteridae; Balenidae; Eschrichtiidae; Monodontidae; Ziphiidae; Delphinidae.*

ANNEX II

ICCAT list of tunas and related species

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

ANNEX III

Length of vessels (Article6(2))

ICCAT definition of the length of vessels:

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

- for any fishing vessel built before 18 July 1982, registered length as entered in the national registers or other record of vessels.

ANNEX IV

MINIMUM SIZES

(Article 8(1))

Species	Minimum size
Bluefin tuna (*Thunnus thynnus*) (2)	6.4 kg or 70 cm
Bluefin tuna (*Thunnus thynnus*) (3)	10 kg or 80 cm
Swordfish (*Xiphias gladius*) (1)	25 kg or 125 cm (lower mandible)
(1) this minimum size is applicable only in the Atlantic Ocean (2) this minimum size is applicable only in the Eastern Atlantic Ocean (3) this minimum size is applicable only in the Mediterranean Sea	