COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 14.03.2005
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2005/0014 (CNS)

Proposal for a

COUNCIL REGULATION

for the conservation of fishery resources through technical measures in the Baltic Sea, the Belts and the Sound and amending Regulation (EC) No 1434/98

(presented by the Commission)

EXPLANATORY MEMORANDUM

Council Regulation 88/98 embodies the current technical measures for the conservation of fishery resources in Community waters in the Baltic Sea, the Belts and the Sound. The technical measures define mesh sizes and other aspects of the structure of fishing gears, time periods and geographical areas within which defined types of fishing are prohibited or restricted and minimum landing sizes of living aquatic resources.

The Community is a Contracting Party to the International Baltic Sea Fisheries Commission (IBSFC), the organization that lays down rules concerning the conservation and management of fishery resources of the Baltic Sea. The IBSFC recommends every year maximum catch levels as well as certain technical measures to ensure the conservation and responsible exploitation of fishery resources in the Baltic Sea. The Community is bound to implement the measures recommended by IBSFC in so far as it has not objected to them. As far as technical measures are concerned, this has been done through Council Regulation 88/98. However a number of recent IBSFC recommendations on technical measures have been implemented within the framework of the annual TAC and Quota Regulations rather than amendments to Council Regulation 88/98. It is therefore appropriate to integrate all provisions on technical measures relevant for this area within a single Regulation that takes into account the development of the rules over the last few years.

In addition, the Act of Accession of 2003 provides that a specific effort limitation regime for the Gulf of Riga be established by amending Council Regulation 88/98 before the date of accession.

It is necessary to incorporate all of these revised technical measures in a comprehensive package.

Furthermore, experience in the application of Council Regulation 88/98 has shown certain deficiencies which result in problems of application and enforcement. The Commission, therefore, puts forward in this proposal a number of conditions aiming at rectifying these deficiencies, notably by defining target species and required catch percentages applicable for different mesh size ranges and geographical areas when fishing with certain gears. In drafting the additional conditions, the Commission strove, as far as possible, to keep consistency with the corresponding conditions laid down in Community legislation applicable to technical measures outside the Baltic Sea.

Moreover, after the enlargement of the Community on 1 May 2004, it is a reasonable prospect that the IBSFC will be dissolved and replaced by a bilateral co-operation with the Russian Federation which is the only remaining non-Community Coastal State in the Baltic Sea region. Against this background, the Community will in the future no longer be bound by IBSFC decisions when developing its technical measures for the Baltic Sea. Given also that a number of the existing provisions are unnecessarily detailed and/or cannot be justified for the conservation of resources, the Commission has in this proposal attempted to simplify the rules as far as possible, without necessarily sticking to the existing IBSFC rules.

All other relevant conditions laid down in Council Regulation 88/98 are maintained.

Finally, Council Regulation 1434/98 lays down rules on landings of herring for industrial purposes other than direct human consumption. Striving towards simplification of legislation,

the Commission proposes to replace the provisions of relevance for the Baltic Sea in Council Regulation 1434/98 with general provisions on unsorted landings in this proposal.

On adoption of this proposal, Council Regulation 88/98 is repealed, while the provisions relevant for the Baltic Sea in Council Regulation 1434/98 are deleted.

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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) Pursuant to Articles 2 and 4 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[3], the Council is to establish, taking into account available scientific, technical and economic advice, Community measures necessary to ensure exploitation of living aquatic resources that provides sustainable economic, environmental and social conditions. To that end, the Council may adopt technical measures to limit fishing mortality and the environmental impact of fishing activities.

(2) The accession of the Community to the Convention on Fishing and Conservation of the Living Resources in the Baltic Sea and the Belts, as amended by the Protocol to the Conference of the representatives of the States Parties to the Convention (hereinafter referred to as 'the Gdansk Convention') was approved by Council Decision 83/414/EEC[4].

(3) Since it was established by the Gdansk Convention, the International Baltic Sea Fishery Commission has adopted a body of measures for the conservation and management of fishery resources in the Baltic Sea. It notified the Contracting Parties of certain recommendations to modify those technical measures.

(4) It is appropriate for the Community to give effect to such recommendations. Since the International Baltic Sea Fishery Commission may be superseded by a bilateral co-operation with the Russian Federation, the Community rules should however not follow strictly those recommendations but should rather seek to establish a

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1 OJ C , , p. .
2 OJ C , , p. .
3 OJ L 358, 31.12.2002, p. 59.
4 OJ L 237, 26.8.1983, p. 4.

comprehensive and consistent system of technical measures for Community waters, based on the existing rules. There is scope for simplification in some cases where the existing rules are unnecessarily detailed and/or cannot be justified for the conservation of resources.

(5) Council Regulation (EC) No 88/98 of 18 December 1997 has laid down certain technical measures for the conservation of fishery resources in the waters of the Baltic Sea, the Belts and the Sound[5].

(6) The application of Regulation (EC) No 88/98 has brought to light certain deficiencies of that Regulation which result in problems of application and enforcement and which should be rectified, notably by defining target species and required catch percentages applicable for different mesh size ranges and geographical areas when fishing with certain gears.

(7) The manner in which the percentages of target species and of other species are to be calculated should be defined.

(8) The minimum size of a species should be in accordance with the selectivity of the mesh size of the fishing gear applicable to that species.

(9) The Gulf of Riga is a unique and rather sensitive marine ecosystem which requires special measures to ensure sustainable exploitation of its resources and to minimise the impact of fishing activities. Article 21 of the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic and the adjustments to the Treaties on which the European Union is founded[6], therefore, provides that the Council is to amend Regulation (EC) No 88/98 before the date of accession with a view to adopting the necessary conservation measures in the Gulf of Riga.

(10) In order to control fishing activities, access to the Gulf of Riga should be subject to special fishing permits as referred to in Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing permits[7].

(11) Scientific information indicates that, for cod, towed gears without exit window are less selective than those with the "BACOMA" type exit window. It is therefore appropriate not to allow within Community waters and for Community vessels the use of towed gears without the "BACOMA" type exit window when cod is a target species.

(12) Council Regulation (EC) No 1434/98 of 29 June 1998 has laid down conditions under which herring may be landed for industrial purposes other than direct human consumption[8].

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5 OJ L 9, 15.1.1998, p. 1. Regulation as last amended by Regulation (EC) No 1520/98 of 13 July 1998 (OJ L 201, 17.7.1998, p. 1).

6 OJ L 236, 23.9.2003, p. 33.

7 OJ L 171, 6.7.1994, p. 7.

8 OJ L 191, 7.7.1998, p. 10

(13) In order to simplify the complex rules of Regulation (EC) No 1434/98, the provisions of that Regulation that are of relevance for the Baltic Sea should be replaced with general provisions on unsorted landings and be transferred to this Regulation. Regulation (EC) No 1434/98 should be amended accordingly.

(14) 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[9].

(15) Amendments to the Annexes to this Regulation should also be adopted in accordance with Decision 1999/468/EC.

(16) By reason of the number and scope of the changes to be made to the rules, Regulation (EC) No 88/98 should be repealed and replaced by a new text,

HAS ADOPTED THIS REGULATION:

CHAPTER I
SCOPE AND DEFINITIONS

Article 1
Subject-matter and Scope

This Regulation lays down technical conservation measures in relation to the taking and landing of fishery resources in the maritime waters under the sovereignty or jurisdiction of the Member States and situated in the geographical area specified in Annex I.

Article 2
Definitions

For the purposes of this Regulation:

(a) *"active gear"* means any fishing gear for which the catch operation requires an active movement of the gear, including in particular towed gears and encircling gears;

(b) *"trawl"* means a gear which is 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 codend 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);

[9] OJ L 184, 17.7.1999, p. 23.

(c) *"Danish seine"* means an encircling and towed gear, operated from a boat by means of two long ropes (seine ropes) designed to herd the fish towards the opening of the seine. The gear, which is similar to a bottom trawl in design and size, comprises two long wings, a body and a bag (codend);

(d) *"dredges"* means a net or metal basket mounted on a frame of variable shape and size, the lower part of which carries a scraper blade, sometimes toothed;

(e) *"purse seine"* means an encircling gear where the bottom 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;

(f) *"beam trawl"* means a gear with a trawl net open horizontally by a steel or wooden tube, the beam, and netting with ground chains, chain mats or tickler chains, actively towed on the bottom by the vessel engine;

(g) *"strengthening bag"* means a cylindrical piece of netting completely surrounding the codend and the lengthening piece. It may be made of either the same or heavier material as the codend or lengthening piece;

(h) *"flapper"* means a piece of netting fastened inside an active gear net in such a way that it allows catches to pass from the front to the rear of the gear but limits their possibility of return;

(i) "*passive gear"* means any fishing gear for which the catch operation does not require an active movement of the gear, and includes gillnets, entangling nets, trammel nets, anchored floating nets, driftnets, bottom set gillnets, lines, anchored floating lines and drifting lines. The nets may consist of one or more separate nets which are rigged with top, bottom and connecting ropes, and may be equipped with anchoring floating and navigational gear;

(j) *"gillnet"* and *"entangling net"* means a net made up of a single piece of net and held vertically in the water by floats and weights. It catches living aquatic resources 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 net and drifting net) or close to the bottom (bottom set gillnet);

(k) *"trammel net"* means a 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;

(l) *"anchored floating net"* means a net 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;

(m) *"driftnet"* means a gillnet or entangling net 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;

(n) *"bottom set gillnet"* means a 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;

(o) *"lines"* means a number of connected lines, either set at the bottom or drifting, each bearing a large number of baited hooks;

(p) *"immersion time"* means the period from the point of time when the nets are first put in the water until the point of time when the nets are fully recovered on board the fishing vessel;

(q) *"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;

(r) *"codend"* means the rearmost part of the trawl, having either a cylindrical shape, i.e. the same circumference throughout, or a tapering shape;

(s) *"strengthening bag"* means a cylindrical piece of netting completely surrounding the codend of a trawl and which may be attached to the codend at intervals. It shall have at least the same dimensions (length and width) as that part of the codend to which it is attached;

(t) *"back strap"* means the rearmost round strap attached to the codend not more than 2 metres from the codline meshes, measured when the meshes are stretched lengthwise;

(u) *"lifting strap"* means a piece of rope encircling the circumference of the codend or the strengthening bag, if any, and attached to it by means of loops or rings;

(v) *"codend buoy"* means a buoyant unit used to give lift or mark the position of a net, or both;

(w) *"buoy rope*" means a rope connecting a cod-end buoy to that part of the fishing gear being supported or marked.

CHAPTER II
NETS AND CONDITIONS FOR THEIR USE

SECTION I
ACTIVE GEAR

Article 3
Target species and minimum mesh sizes

1. For each of the subdivisions listed in Annex I, the ranges of mesh size admissible for each target species shall be as defined in Annex II.

The minimum percentage of the target species among the living aquatic resources retained on board for each geographic subdivision and each range of mesh size is also set out in Annex II.

2. Dredges shall be exempted from the provisions of paragraphs 1 and 2. However, it shall be prohibited during any fishing voyage when dredges are carried on board to retain on board and land any quantity of living aquatic resources unless at least 95% of the live weight thereof consists of molluscs.

Article 4
Calculation of percentages of target species

1. The percentages of target species referred to in Annex II shall be calculated as the proportion by live weight of all species listed in Annex II which are:

(a) kept on board after sorting, or

(b) landed.

2. The percentage of target species and of other species shall be obtained by aggregating all quantities of target species and of other species listed in Annex II retained on board.

3. When calculating the percentages of target species for a fishing vessel from which quantities of species listed in Annex II have been transhipped, these quantities shall be taken into account.

4. The percentages of target species may be calculated on the basis of one or more representative samples.

5. When catches are landed unsorted, Member States shall ensure that the quantities landed by species are estimated on the basis of representative samples.

Article 5
Structure of fishing gears

1. No device shall be used which obstructs or otherwise diminishes the mesh in any part of the fishing net.

2. By way of derogation from paragraph 1, it shall be permitted to attach to the outside of the lower half of the codend of any active gear, any canvas, netting or other material which has the purpose of preventing or reducing wear. Such material shall be attached along the forward and lateral edges of the codend only.

3. By way of derogation from paragraph 1, when fishing with trawls, Danish seines or similar gear with a mesh size less than 90 mm, it shall be permitted to attach to the outside of the codend and the lengthening piece a strengthening bag. The mesh size of the strengthening bag shall be at least twice as large as that of the codend and in no case less than 80 mm.

A strengthening bag may be attached at the following points:

(a) at its forward edge;

(b) at its rear edge.

A strengthening bag may be laced

(a) circumferentially to the codend and the lengthening piece around one row of meshes;

(b) longitudinally along a single row of meshes.

4. By way of derogation from paragraph 1, it shall be permitted to use in active gear a non-return net or flapper the mesh size of which shall be at least equal to that of the codend. The flapper may be attached either inside the codend or in front of the codend. The distance from the point of forward attachment of the flapper to the rear end of the codend shall be at least three times the length of the flapper.

Article 6
Specific prohibited structures

It shall be prohibited to use:

(a) any codend in which the number of equal sized meshes around any circumference of the codend increases from the front end to the rear end;

(b) any extension piece in which the number of meshes, excluding those in the selvedges, in any circumference of the extension piece is less than the number of meshes, excluding those in the selvedges, on the circumference of the foremost end of the codend to which the extension piece is joined;

(c) any net of mesh size equal to or greater than 32 mm in which any mesh is not quadrilateral;

(d) any netting material which includes any individual quadrilateral mesh of which any bar differs in length from any other bar in that mesh by more than 10 percent and at least 2 mm;

(e) any demersal net to which a codend is attached by any means other than being sewn into that part of the net anterior to the codend;

(f) any combination of codend and extension piece whose joint stretched length exceeds 36 m in nets of mesh size greater than 89 mm;

(g) any codend or extension piece or square-meshed panel each of which is not constructed exclusively of only one type of netting material;

(h) any codend and/or extension piece constructed of more than one sheet of netting material such that the stretched linear dimensions of the top half of the codend and/or extension piece are not equal to the stretched linear dimensions of the bottom half or bottom sheet.

Article 7
Prohibited areas

It shall be prohibited throughout the year, to fish with any active gear in the geographical area bounded by a line joining the following coordinates:

54° 23′ N, 14° 35′ E

54° 21′ N, 14° 40′ E

54° 17′ N, 14° 33′ E

54° 07′ N, 14° 25′ E

54° 10′ N, 14° 21′ E

54° 14′ N, 14° 25′ E

54° 17′ N, 14° 17′ E

54° 24′ N, 14° 11′ E

54° 27′ N, 14° 25′ E

54° 23′ N, 14° 35′ E'

SECTION II
PASSIVE GEAR

Article 8
Target species and minimum mesh sizes

1. For each of the subdivisions listed in Annex I, the ranges of mesh size admissible for each target species shall be as indicated in Annex III.

The minimum percentage of the target species among the living aquatic resources retained on board for each geographic subdivision and each range of mesh size is also set out in Annex III.

2. Within a subdivision, the use or keeping on board of any gillnet, entangling net or trammel net of mesh sizes smaller than those referred to in Annex III shall be prohibited.

However, in the case of trammel nets, the mesh size in that part of the net having the largest meshes shall correspond to one of the categories set out in Annex III. The mesh size in the part of the net having the smallest meshes shall be less than 16 mm.

3. For each fishing voyage, landings shall be prohibited whenever the catch taken in the subdivisions listed in Annex I, and retained on board, does not comply with the corresponding conditions laid down in Annex III.

Article 9
Calculation of percentages of target species

1. The percentages of target species referred to in Annex III shall be calculated as the proportion by live weight of all species listed in Annex III which are:

   (a) kept on board after sorting, or

   (b) landed.

2. The percentage of target species and of other living aquatic resources shall be obtained by aggregating all quantities of target species and all quantities of other species listed in Annex III retained on board.

3. When calculating the percentages of target species for a fishing vessel from which quantities of species listed in Annex III have been transhipped, these quantities shall be taken into account.

4. The percentages of target species may be calculated on the basis of one or more representative samples.

5. When catches are landed unsorted, Member States shall ensure that the quantities landed by species are estimated on the basis of representative samples.

Article 10
Dimensions and immersion time

1. Where fishing is conducted using anchored floating nets and driftnets, it shall be prohibited to use more than 600 nets per vessel at any given time, the length of each net not exceeding 35 metres measured in the gear's headrope. In addition to the number of nets permitted for fishing, a maximum of 100 reserve nets may be kept on board.

2. Where fishing is conducted using bottom set gillnets, entangling nets or trammel nets, it shall be prohibited to use more than 12 km of nets for vessels with an overall length of up to and including 12 m and 24 km of nets for vessels with an overall length of more than 12 m.

3. The immersion time of the nets referred to in paragraph 3 shall not exceed 48 hours.

Article 11
Identification marks

It shall be prohibited to use anchored or drifting gear without marking it with buoys or other identification marks.

Article 12
Restrictions on driftnets

1. From 1 January 2008, it shall be prohibited to keep on board, or use for fishing, driftnets.

2. In 2006 and 2007, a vessel may keep on board, or use for fishing, driftnets if authorised to do so by the competent authorities of the flag Member State.

3. In 2006 and 2007, the maximum number of vessels which may be authorised by a Member State to keep on board, or use for fishing, driftnets shall not exceed 40% and 20% respectively of the fishing vessels which used driftnets during the period 2001 to 2003.

4. Member States shall communicate to the Commission by 30 April of each year, the list of vessels authorised to carry out fishing activities using driftnets.

Article 13
Conditions for driftnets

1. When driftnets are used, floating buoys, with radar reflectors, shall be moored to each end of the netting, so that its position can be determined at any time. The buoys shall be permanently marked with the registration letter(s) and number of the vessel to which they belong.

2. The master of a fishing vessel using driftnets shall keep a logbook in which he shall record the following information on a day-to-day basis:

   (a) the total length of the nets on board;

   (b) the total length of the nets used in each fishing operation;

   (c) the quantity of by-catches of cetaceans;

   (d) the date and position of such catches.

3. All fishing vessels using driftnets shall keep on board the authorisation referred to in Article 12(2).

SECTION III
COMMON PROVISIONS ON NETS AND THEIR USE

Article 14
Determination of mesh size and twine thickness

The technical rules for the determination of mesh size and the thickness of twine of fishing nets shall be laid down in accordance with the procedures specified in Commission Regulation (EC) No 129/2003[10].

Article 15
Reaching of required catch percentages

1. Quantities of living aquatic resources caught in excess of permitted percentages specified in Annexes II and III may not be landed but shall be returned to the sea prior to each landing.

2. Notwithstanding paragraph 1, whenever during a fishing voyage a vessel leaves any of the subdivisions listed in Annex I, the minimum percentage of target species as set out in Annexes II and III caught and retained on board from that geographical area shall be met within two hours.

Article 16
Conditions for use of gears

1. Gear that may not be used within a certain geographical area or during a certain period shall be stowed away on board in such a manner that it is not ready for use in the prohibited area or during the prohibited period. Reserve gear shall be stowed away separately and in such a manner that it is not ready for use.

2. Fishing gear shall be considered not ready for use if:

   (a) in the case of active gear:

      (i) the trawl boards are made fast to the inner or outer side of the bulwark or the gallows,

      (ii) sweep lines or warps are unshackled from the trawl boards or weights;

   (b) in the case of passive gear for which salmon is defined as a target species:

      (i) the nets are stowed under a lashed cover,

      (ii) the lines and hooks are kept in closed boxes;

   (c) in the case of purse seines, the main or bottom wire is unshakled from the seine.

[10] OJ L 22, 25.1.2003, p. 5.

3. By way of derogation from paragraph 1, when a gear is used for which cod *(Gadus morhua)* is defined as a target species in accordance with Annexes II or III, no other type of gear shall be kept on board.

CHAPTER III
MINIMUM LANDING SIZE OF FISH

Article 17
Measurement of fish

1. A fish shall be regarded as undersized if it is smaller than the minimum size specified in Annex IV for the relevant species and the relevant geographical area.

2. The size of a fish shall be measured from the tip of the snout, with mouth closed, to the extreme end of the tail fin.

Article 18
Retention on board of undersized fish

1. Undersized fish shall not be retained on board or be transhipped, landed, transported, stored, sold, displayed or offered for sale, but shall be returned immediately to the sea.

2. For fish other than those defined in Annex II as target species for the mesh size categories “smaller than 16 millimetres” or “16 to 31 millimetres” caught with active gear of a mesh size less than 32 millimetres, paragraph 1 shall not apply, provided that those fish are not sorted and not sold, displayed or offered for sale for human consumption.

CHAPTER IV
RESTRICTIONS RELATING TO CERTAIN AREAS OR LIVING AQUATIC RESOURCES

Article 19
Closure of Bornholm Deep

Fishing shall be prohibited from 15 May to 31 August in the Bornholm Deep, in the maritime area defined by the lines connecting the following co-ordinates:

– latitude 55° 30'N, longitude 15° 30'E.

– latitude 55° 30'N, longitude 16° 30'E.

– latitude 55° 00'N, longitude 16° 30'E.

– latitude 55° 00'N, longitude 16° 00'E.

– latitude 55° 15'N, longitude 16° 00'E.

– latitude 55° 15'N, longitude 15° 30'E.

– latitude 55° 30'N, longitude 15° 30'E.

Article 20
Restrictions on fishing for cod

The retention on board of cod shall be prohibited from 15 June to 15 August.

Article 21
Restrictions on fishing for flatfish

1. The retention on board of the following species of fish which are caught within the geographical areas and during the periods mentioned below shall be prohibited:

Species	Geographical area	Period
Flounder *(Platichthys flesus)*	Sub-divisions 22 to 32	1 February to 15 May
Plaice *(Pleuronectes platessa)*	Sub-divisions 22 to 32	1 February to 15 May
Turbot *(Psetta maxima)*	Subdivisions 22 to 32	1 June to 31 July
Brill *(Scophtalmus rhombus)*	Subdivisions 22 to 32	1 June to 31 July

2. By way of derogation from paragraph 1, when a gear is used for which cod is defined as a target species in accordance with Annexes II or III, by-catches of flounder, plaice, turbot and brill may be retained on board within a limit of 10% by live weight of the total catch of cod retained on board during the periods of prohibition referred to in that paragraph.

Article 22
Restrictions on fishing for salmon and sea trout

1. The retention on board of salmon *(Salmo salar)* or sea trout *(Salmo trutta)* shall be prohibited:

   (a) from 1 June to 15 September in waters of Subdivisions 22 to 31,

   (b) from 15 June to 30 September in waters of Subdivision 32.

2. The area of prohibition during the closed season shall be beyond four nautical miles measured from the baselines.

Article 23
Restrictions on fishing for eel

The retention on board of eel caught with any active gear shall be prohibited throughout the year.

CHAPTER V
SPECIFIC MEASURES FOR THE GULF OF RIGA

Article 24
Delimitation of waters

For the purposes of this Regulation the Gulf of Riga is limited :

(a) in the west by a line drawn from 57° 34.1234' N, 21° 42.9574' E to 57° 57.4760' N, 21° 58.2789' E, then southwards to the southernmost point of the peninsula of Sõrve and then in a north-eastern direction along the east coast of the island of Saaremaa; and

(b) in the north by a line drawn from 58° 30.0' N, 23° 13.2' E to 58° 30.0' N, 23° 41.1' E.

Article 25
Special fishing permit

1. In order to fish in the Gulf of Riga vessels shall hold a special fishing permit issued in accordance with Article 7 of Regulation (EC) No 1627/94.

2. Member States shall ensure that vessels to which a special fishing permit referred to in paragraph 1 has been issued are included in a list containing their name and internal registration number to be provided to the Commission by each Member State.

3. Vessels included in the list shall satisfy the following conditions:

   (a) the total engine power (kW) of the vessels within the lists must not exceed that observed for each Member State in the years 2000 – 2001 in the Gulf of Riga;

   (b) the engine power of a vessel must not exceed 221 kilowatts (kW) at any time.

Article 26
Replacement of vessels or engines

1. Any individual vessel on the list referred to in Article 25(2) may be replaced by another vessel or vessels, provided that:

   (a) such replacement will not lead to an increase in the total engine power as indicated in Article 25(3) (a) in the Member State concerned, and

(b) the engine power of any replacement vessel does not exceed 221 kW at any time.

2. An engine of any individual vessel included in the list referred to in Article 25(2) may be replaced, provided that:

(a) the replacement of an engine does not lead to the vessel's engine power exceeding 221 kW at any time, and

(b) the power of the replacement engine is not such that replacement will lead to an increase in the total engine power as indicated in Article 25(3) (a) for the Member State concerned.

CHAPTER VI
GENERAL PROVISIONS

Article 27
Prohibited fishing gear and practices

1. The catching of living aquatic resources using beam trawls shall be prohibited.

2. The catching of living aquatic resources using methods incorporating the use of explosives, poisonous or stupefying substances or electric current shall be prohibited.

3. The sale, display or offer for sale of living aquatic resources caught using methods referred to in paragraph 2 and methods incorporating the use of any kind of projectile shall be prohibited.

Article 28
Scientific research

1. This Regulation shall not apply to fishing operations conducted solely for the purpose of scientific investigations subject to the following conditions:

(a) the fishing operations must be carried out with the permission and under the authority of the Member State or Member States concerned,

(b) the Commission and the Member State or Member States in whose waters the research is carried out must have been informed in advance of the fishing operations,

(c) the vessel conducting the fishing operations must carry on board an authorisation issued by the Member State whose flag the vessel is flying.

2. Notwithstanding paragraph 1, living aquatic resources caught for the purposes specified in paragraph 1 cannot be sold, stored, displayed or offered for sale, unless:

(a) they meet the minimum landing sizes listed in Annex IV; or

(b) they are sold directly for purposes other than human consumption.

Article 29
Artificial restocking and transplantation

This Regulation shall not apply to fishing operations conducted solely for the purpose of artificial restocking or transplantation of living aquatic resources which are carried out with the permission and under the authority of the Member State or Member States concerned. Where the artificial restocking or transplantation is carried out in the waters of another Member State or Member States, the Commission and all the Member States concerned shall be informed in advance.

Article 30
Measures taken by Member States applying solely to fishing vessels flying their flag

1. Member States may, for the conservation and management of stocks, take technical measures designed to limit catches which:

   (a) supplement measures set out in Community fisheries Regulations; or

   (b) go beyond minimum requirements set out in Community fisheries Regulations.

Those measures shall be applicable solely to the fishermen of the Member State concerned and shall be compatible with Community law.

2. The Member State concerned shall communicate those measures without delay to the other Member States and the Commission.

3. The Member States shall supply to the Commission, on its request, all information needed for the assessment of whether the measures comply with the conditions laid down in paragraph 1.

4. If the Commission concludes that the measures do not comply with the conditions laid down in paragraph 1 it shall adopt a decision requiring the Member State to withdraw or modify the measures.

CHAPTER VII
FINAL PROVISIONS

Article 31
Implementing rules

Detailed rules for the implementation of this Regulation shall be adopted in accordance with the procedure referred to in Article 30(2) of Regulation (EC) No 2371/2002.

Article 32
Amendments to the Annexes

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 33
Amendments to Regulation (EC) No 1434/98

Regulation (EC) No 1434/98 shall be amended as follows:

1) in Article 1 paragraph 2 is deleted;

2) in Article 2 paragraphs 2 and 3 are deleted;

3) Article 3 paragraph 1 is replaced by the following:

"1. Catches of herring taken:

– in Regions 1 and 2 with towed nets of minimum mesh size equal to or greater than 32 mm or,

– in Region 3 with towed nets of minimum mesh size equal to or greater than 40 mm or,

– in Regions 1 or 2 or 3 with any fishing gear other than towed nets,

shall not be landed for purposes other than direct human consumption unless they are first offered for sale for direct human consumption and fail to find a buyer.";

4) in Article 3 (2) the first indent is deleted.

Article 34
Repeal

Regulation (EC) No 88/98 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 V.

Article 35
Entry into force

This Regulation shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Union*.

It shall apply from 1 January 2006.

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

SUBDIVISIONS OF THE GEOGRAPHICAL AREA REFERRED TO IN ARTICLE 1

Subdivision 22

The waters bounded by a line drawn from Hasenøre Head (56° 09' N, 10° 44' E) on the east coast of Jutland to Gniben Point (56° 01' N, 11° 18' E) on the west coast of Zealand; then along the west coast and south coast of Zealand to a point situated at longitude 12° 00' E; from there, due south to the island of Falster; then along the east coast of the island of Falster to Gedser Odde (54° 34' N, 11° 58' E); then due east to longitude 12° 00' E; then due south to the coast of Germany; then in a south-westerly direction along the coast of Germany and the east coast of Jutland as far as the point of departure.

Subdivision 23

The waters bounded by a line drawn from Gilbjerg Head (56° 08' N, 12° 18' E) on the north coast of Zealand to Kullen (56° 18' N, 12° 28' E) on the coast of Sweden; then in a southerly direction along the coast of Sweden to the Falsterbo lighthouse (55° 23' N, 12° 50' E); then through the southern entrance to the Sound to the Stevns lighthouse (55° 19' N, 12° 28' E) on the coast of Zealand; then in a northerly direction along the east coast of Zealand as far as the point of departure.

Subdivision 24

The waters bounded by a line drawn from the Stevns lighthouse (55° 19' N, 12° 28' E) on the east coast of Zealand through the southern entrance to the Sound to the Falsterbo lighthouse (55° 23' N, 12° 50' E) on the coast of Sweden; then along the south coast of Sweden to the Sandhammaren lighthouse (55° 24' N, 14° 12' E); from there to the Hammerodde lighthouse (55° 18' N, 14° 47' E) on the north coast of Bornholm; then along the west and south coasts of Bornholm to a point situated at longitude 15° 00' E; from there due south to the coast of Poland; then in a westerly direction along the coasts of Poland and Germany to a point situated at longitude 12° 00' E; then due north to a point situated at latitude 54° 34' N and longitude 12° 00' E; then due west to Gedser Odde (54° 34' N, 11° 58' E); from there, along the east and north coast of the island of Falster to a point situated at longitude 12° 00' E; from there, due north to the south coast of Zealand; then in a westerly and northerly direction along the west coast of Zealand as far as the point of departure.

Subdivision 25

The waters bounded by a line drawn from a point on the east coast of Sweden at latitude 56° 30' N and proceeding due east to the west coast of the island of Öland; then, after passing south of the island of Öland to a point on the east coast situated at latitude 56° 30' N, due east to longitude 18° 00' E; then due south to the coast of Poland; then in a westerly direction along the coast of Poland to a point situated at longitude 15° 00' E; then due north to the island of Bornholm; then along the south and west coasts of Bornholm to the Hammerodde lighthouse (55° 18' N, 14° 47' E); then to the Sandhammaren lighthouse (55° 24' N, 14° 12' E) on the south coast of Sweden; then in a northerly direction along the east coast of Sweden as far as the point of departure.

Subdivision 26

The waters bounded by a line drawn from a point situated at latitude 56° 30' N and longitude 18° 00' E and proceeding due east to the west coast of Latvia; then in a southerly direction along the coasts of Latvia, Lithuania, Russia and Poland to a point on the Polish coast situated at longitude 18° 00' E; then due north as far as the point of departure.

Subdivision 27

The waters bounded by a line drawn from a point on the east mainland coast of Sweden situated at latitude 59° 41' N and longitude 19° 00' E and proceeding due south to the north coast of the island of Gotland; then in a southerly direction along the west coast of Gotland to a point situated at latitude 57° 00' N; then due west to longitude 18° 00' E; then due south to latitude 56° 30' N; then due west to the east coast of the island of Öland;

then, after passing south of the island of Öland, to a point on its west coast situated at latitude 56° 30' N; then due west to the coast of Sweden; then in a northerly direction along the east coast of Sweden as far as the point of departure.

Subdivision 28

The waters bounded by a line drawn from a point situated at latitude 58° 30' N and longitude 19° 00' E and proceeding due east to the west coast of the island of Saaremaa; then, after passing north of the island of Saaremaa, to a point on its east coast situated at latitude 58° 30' N; then due east to the coast of Estonia; then in a southerly direction along the west coast of Estonia and the north and west coasts of Latvia to a point situated at latitude 56° 30' N; then due west to longitude 18° 00' E; then due north to latitude 57° 00' N; then due east to the west coast of the island of Gotland; then in a northerly direction to a point on the north coast of Gotland situated at longitude 19° 00' E; then due north as far as the point of departure.

Subdivision 29

The waters bounded by a line drawn from a point on the east mainland coast of Sweden situated at latitude 60° 30' N and proceeding due east to the mainland coast of Finland; then in a southerly direction along the west and south coasts of Finland to a point on the south mainland coast situated at longitude 23° 00' E; then due south to latitude 59° 00' N; then due east to the mainland coast of Estonia; then in a southerly direction along the west coast of Estonia to a point situated at latitude 58° 30' N; then due west to the east coast of the island of Saaremaa; then, after passing north of the island of Saaremaa, to a point on its west coast situated at latitude 58° 30' N; then due west to longitude 19° 00' E; then due north to a point on the east mainland coast of Sweden situated at latitude 59° 41' N; then in a northerly direction along the east coast of Sweden as far as the point of departure.

Subdivision 30

The waters bounded by a line drawn from a point on the east coast of Sweden situated at latitude 63° 30' N and proceeding due east to the mainland coast of Finland; then in a southerly direction along the coast of Finland to a point situated at latitude 60° 30' N; then due west to the mainland coast of Sweden; then in a northerly direction along the east coast of Sweden as far as the point of departure.

Subdivision 31

The waters bounded by a line drawn from a point on the east coast of Sweden situated at latitude 63° 30' N and proceeding, after passing north of the Gulf of Bothnia, to a point on the west mainland coast of Finland situated at latitude 63° 30' N; then due west as far as the point of departure.

Subdivision 32

The waters bounded by a line drawn from a point on the south coast of Finland situated at longitude 23° 00' E and proceeding, after passing east of the Gulf of Finland, to a point on the west coast of Estonia situated at latitude 59° 00' N; then due west to longitude 23° 00' E; then due north as far as the point of departure.

ANNEX II

ACTIVE GEAR : MESH SIZE RANGES, TARGET SPECIES AND REQUIRED CATCH PERCENTAGES APPLICABLE

Target species	Mesh size range (millimetres)											
	<16	16-31	16-31	32-89	≥90	≥105[4]						
	Sub-divisions											
	22-32	22-24	25-32	22-32	22-32	22-32						
	Minimum percentage of target species											
	90[1]	90[1]	90[1]	90[1]	90	90						
Sand eels *(Ammodytidae*)	*	*	*	*	*	*						
Sprat *(Sprattus sprattus)*		*	*	*	*	*						
Herring *(Clupea harengus)*			*	*	*	*						
Sole *(Solea vulgaris)*					*	*						
Plaice *(Pleuronectes platessa)*					*	*						
Whiting *(Merlangius merlangus)*					*	*						
Brill *(Scophthalmus rhombus)*					*	*						
Dab *(Limanda limanda)*					*	*						
Flounder *(Platichthys flesus)*					*	*						
Lemon sole *(Microstomus kitt)*					*	*						
Turbot *(Psetta maxima)*					*	*						
Cod (*Gadus morhua)*						*						

1. The catch retained on board shall consist of no more than 3% of cod by live weight.

2. Applying Bacoma exit window with mesh size and specifications as laid down in the Appendix.

APPENDIX TO ANNEX II: SPECIFICATIONS OF TOP WINDOW CODEND "BACOMA"

1. In order to guarantee the selectivity of trawls, Danish seines and similar nets with special mesh openings as referred to in Annex II, only the "BACOMA" exit window model as described below shall be authorised.

a. Identification of the Window

i. The window shall have square meshes with a minimum size of 110 mm, measured as inner diameter opening.

ii. The minimum mesh size of the codend shall be 105 mm.

iii. The window shall be a rectangular section of netting in the codend. There shall be only one window. The window shall not be obstructed in any way by either internal or external attachments.

b. Size of the codend, extension piece and the rear end of the trawl

i. The codend shall be constructed of two panels of equal size, joined together by selvedges one on each side of equal length.

ii. The minimum mesh size of the diamond meshes shall be105 mm. The material of the yarn shall be of braided polyethylene threads with a single twine thickness of no more than 6 mm or with double twine thickness of no more than 4 mm respectively.

iii. It is prohibited to use cod-ends and extension pieces which are made of only one piece of net material and have only one lestridge.

iv. The carrying on board of a net having more than 100 open diamond meshes in any circumference of the codend, excluding the joining or the selvedges shall be prohibited.

v. The number of open diamond meshes, excluding those in the selvedges, at any point on any circumference of any extension or lengthening piece shall not be less or more than the maximum number of meshes on the circumference of the front end of the codend and the rear end of the tapered section of the trawl excluding meshes in the selvedges (Figure 1).

c. Location of the window

i. The window shall be inserted into the top panel of the codend (Figure 2.).

ii. The window shall terminate not more than 4 meshes from the codline, inclusive of the hand braided row of meshes through which the codline is passed (Figure 3 or 4).

d. Size of the window

i. The width of the window, expressed in number of mesh bars, shall be equal to the number of open diamond meshes in the top panel divided by two. If necessary, it will be allowed to maintain at the most 20 % of the number of open diamond meshes in the top panel divided evenly on the both sides of the window panel. (Figure 4).

ii. The length of the window shall be at least 3.5 meters.

e. Netting of the window

i. The meshes shall have a minimum mesh opening of 110 millimetres. The meshes shall be square meshes i.e. all four sides of the window netting will be cut all bars.

ii. The netting shall be mounted such that the bars run parallel and perpendicular to the length of the codend. The netting shall be knotless braided single twine or netting with similar proven selective properties. 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.

iii. The diameter of the single yarn shall be at least 4.9 millimetres.

f. Other Specifications

i. The mounting specifications are defined in Figures 3 and 4.

ii. The length of the lifting strap shall not be less than:

1. 4.5 m for a codend of circumference of between 100 and 91 meshes;

2. 4 m for a codend of circumference between 90 and 71 meshes and;

3. 3 m for a codend of circumference of less than 71 meshes.

iii. A back strap shall not encircle the "BACOMA" exit window. It shall be made of rope not more than 20mm in diameter and be at least 2 m long.

iv. A cod-end buoy shall be spherical in shape and have a maximum diameter of 40 cms. It shall be fastened through the buoy rope to the cod line.

v. The length of the buoy rope shall be not less than two and a half times the square root of the depth.

vi. It is permitted to install a flapper or non return device in the extension piece or in the body of the net. The flapper shall not overlap the BACOMA exit window.

2. Conditions for the Repair of Square mesh Panels.

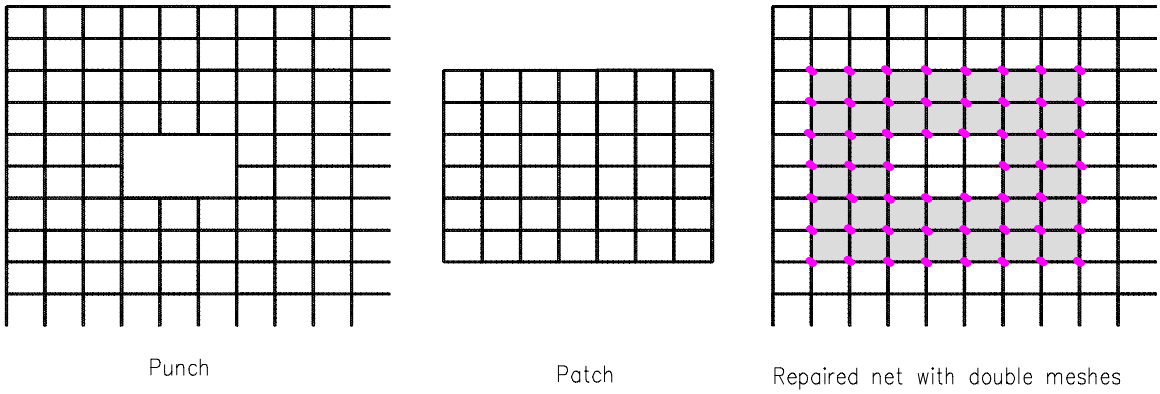
a. For the purpose of inspection it is necessary to describe detailed rules for the repair of damaged square meshes in the square mesh BACOMA exit window:

i. It is prohibited to use a square mesh BACOMA exit window which has 10% or more meshes repaired.

ii. Square meshes which have been damaged shall be repaired according to the prescribed method.

iii. A repaired mesh is any mesh opening which is affected by a repair.

b. Method for Repairing the "BACOMA" exit window.



i. Clean the hole by melting the ends of the twine around the edge of the hole to prevent the twines from un-braiding.

ii. Count the meshes to be replaced. Prepare a patch using knotless braided single twine that is the same material, diameter and strength of the net needing to be patched.

iii. The patch should be two meshes larger in each direction than the cleaned-up hole to provide sufficient netting to overlap the edges of the hole.

iv. Clean the patch by melting the ends of the twine around the edge of the patch.

v. Lay the patch over the hole and lace it to the existing netting using braided twine, as shown in the illustration.

vi. Make sure to lace the crosses of the netting together.

vii. Continue lacing around the hole so that you have at least two rows of lacing around the patch.

viii. The patched hole will resemble this illustration when finished.

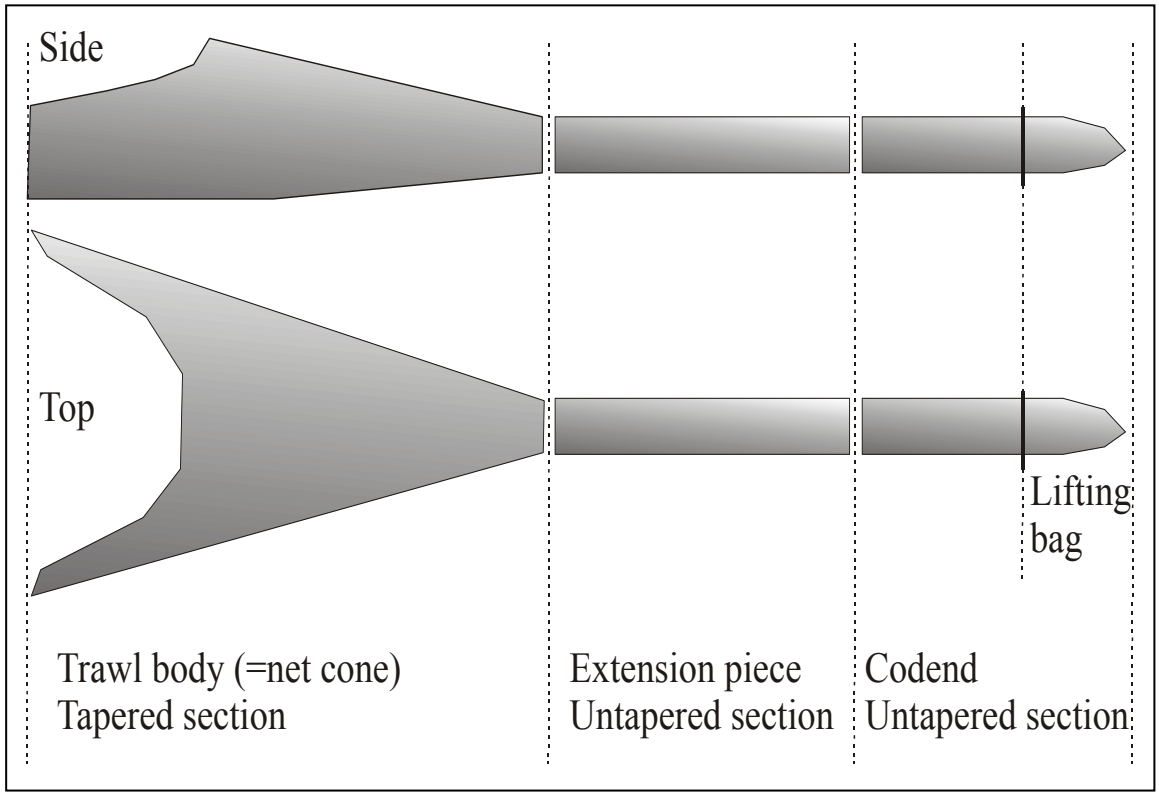


Figure 1. Trawl gear can be divided into three different sections according to shape and function. The trawl body is always a tapered section often between 10 and 40 m long. The extension piece is an untapered section normally manufactured of either one or two pieces of nets giving a stretched length between 6 or 12 m. The codend is also an untapered section often made of double twine in order to have a better resistance against heavy wearing. The codend length is often 6 metres although shorter codends (2-4) exists in smaller vessels. The part below the lifting strap is called lifting bag

Figure 2

A Extension piece

B Codend

C Escape Window, Square mesh panel

1 Upper panel, max 50 open diamond meshes

2 Lower panel, max 50 open diamond meshes

3 Selvedges

4 Joining round or lacing

5 Lifting strap

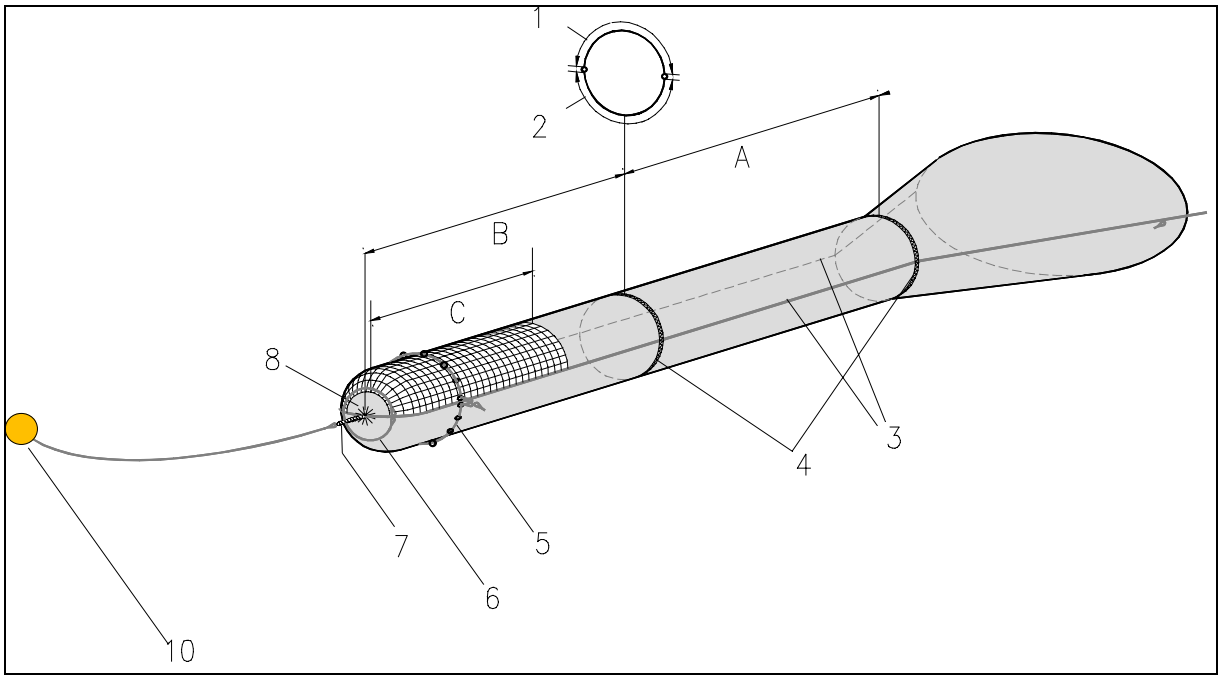
6 Back strap

7 Codline

8 Distance of window from codline (Fig 3 and 4)

9 Buoy rope

10 Codend buoy



MOUNTING OF WINDOW PANEL

Figure 3

A 110mm Square mesh panel (25bars)

B Joining of Square mesh panel to selvedge

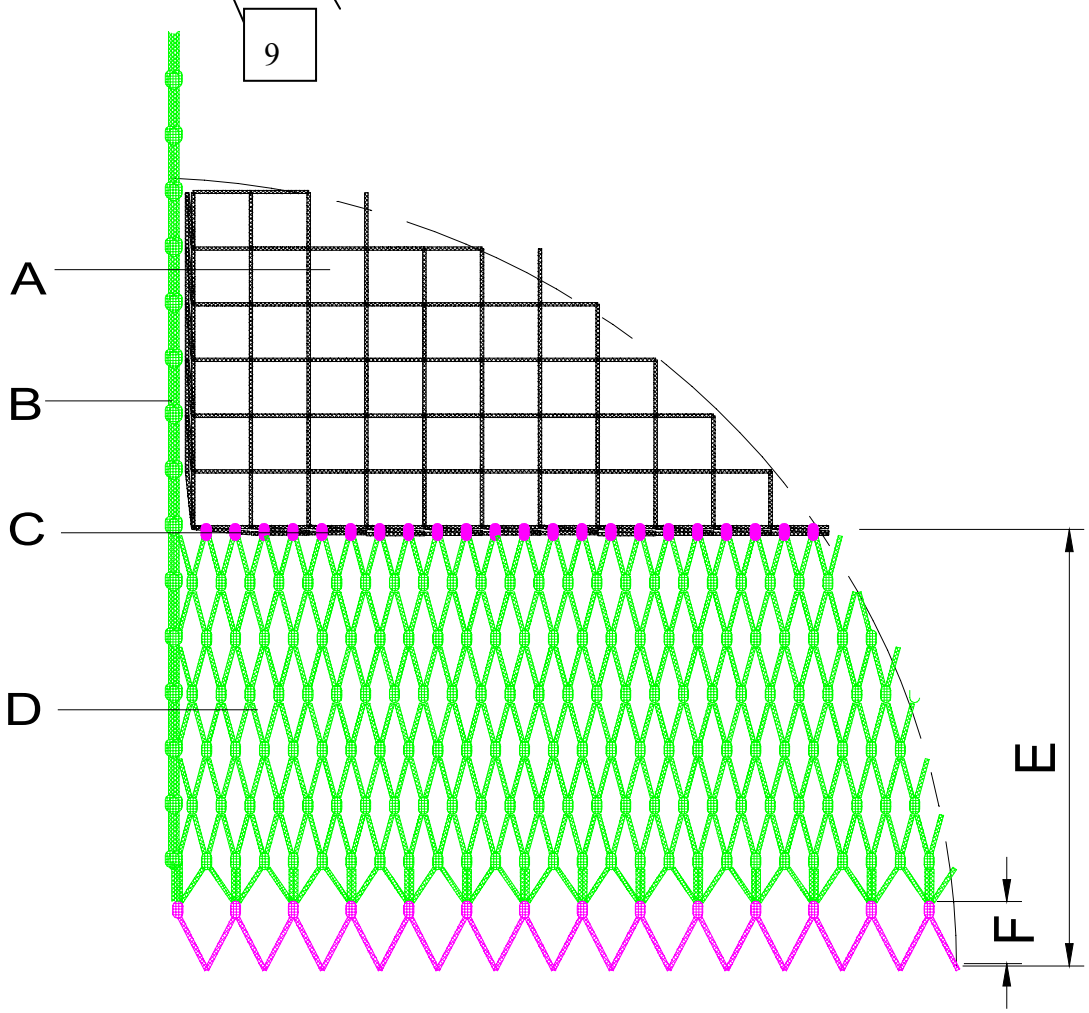
C Joining of Square mesh panel to Diamond Mesh net

2 diamond meshes bars / bar in a square mesh

D 105mm Diamond Mesh net (Max 50 0pen meshes)

E Distance of the window panel from the cod line. The window shall terminate not more than 4 meshes from the codline, inclusive of the hand braided row of meshes through which the codline is passed

F One row of hand-braided cod line row



MOUNTING OF WINDOW PANEL

Figure 4

A 110mm Square mesh panel (20 bars)

B Joining of Square mesh panel to selvedge

C Joining of Square mesh panel to Diamond Mesh net

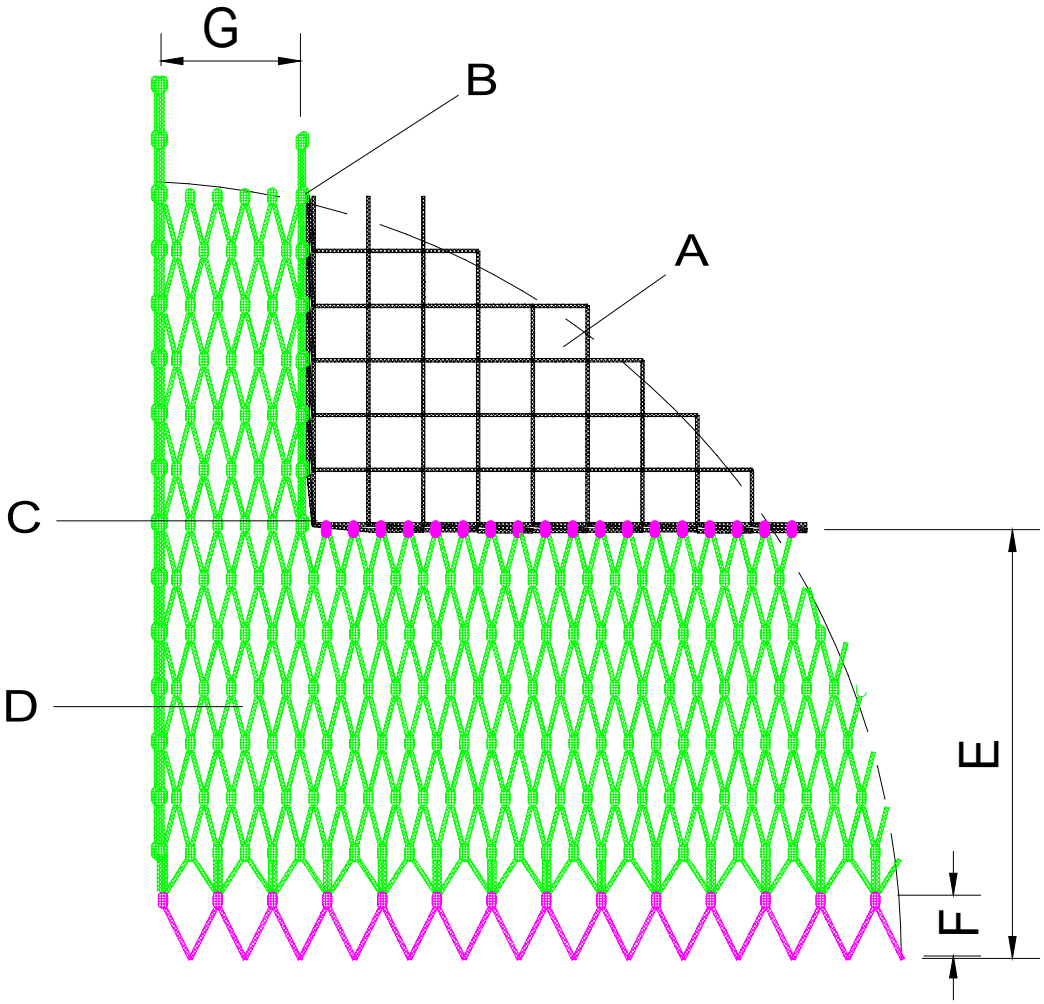
2 diamond meshes bars / 1bar in a square mesh

D 105mm Diamond Mesh net (Max 50 0pen meshes)

E Distance of the window panel from the cod line. The window shall terminate not more than 4 meshes from the codline, inclusive of the hand braided row of meshes through which the codline is passed

F One row of hand-braided cod line row

G Max 10% in both sides of open meshes D



ANNEX III

GILLNETS, ENTANGLING NETS AND TRAMMEL NETS: Mesh size ranges and target species

Target species	Mesh size range (millimetres)													
	16 – 31	16 – 89	32 - 89	90 - 109	110 - 156	≥157								
	Sub-divisions													
	22 - 24	25 - 32	22 - 24	22 - 32	22 – 32	22 - 32								
	Minimum percentage of target species													
	90[1]	90[1]	90[1]	90	90	90								
Sprat *(Sprattus sprattus)*	*	*	*	*	*	*								
Herring *(Clupea harengus)*		*	*	*	*	*								
Sole *(Solea vulgaris)*				*	*	*								
Plaice *(Pleuronectes platessa)*				*	*	*								
Whiting *(Merlangius merlangus)*				*	*	*								
Brill *(Scophthalmus rhombus)*				*	*	*								
Dab *(Limanda limanda)*				*	*	*								
Flounder *(Platichthys flesus)*				*	*	*								
Lemon sole *(Microstomus kitt)*				*	*	*								
Turbot *(Psetta maxima)*				*	*	*								
Cod *(Gadus morhua)*					*	*								
Salmon *(Salmo salar)*						*								
Sea trout *(Salmo trutta)*						*								

1. The catch retained on board shall consist of no more than 3% of cod by live weight.

ANNEX IV

MINIMUM LANDING SIZES

Species	Geographical area	Minimum size
Cod *(Gadus morhua)*	Subdivisions 22-32	38 cm
Flounder *(Platichthys flesus)*	Subdivisions 22 to 32	21 cm
Plaice *(Pleuronectes platessa)*	Subdivisions 22 to 32	25 cm
Turbot *(Psetta maxima)*	Subdivisions 22 to 32	30 cm
Brill *(Scophthalmus rhombus)*	Subdivisions 22 to 32	30 cm
Eel *(Anguilla anguilla)*	Subdivisions 22 to 32	35 cm
Salmon *(Salmo salar)*	Subdivisions 22 to 32	60 cm

ANNEX V

CORRELATION TABLE

Council Regulation (EC) No 88/98	This Regulation
Article 1	Article 1
Article 2	Article 21
Article 3(1) and (2)	Article 17
Article 3(3)	Article 18 (1)
Article 3 (4)	–
Article 3(5)	–
Article 4	–
Article 5(1)	Article 3
Article 5(2) and (3)	Article 8
Article 6	Article 14
Article 7	Article 5
Article 8(1)	Article 16(1)
Article 8(2)	Article 16(2)
Article 8(3)	Article 7
Article 8(4)	Article 16(3)
Article 9(1)	Article 22
Article 9(2)	Article 10(1)
Article 10(1)	–
Article 10(2)	Article 27(2)
Article 10(3)	Article 11
Article 10(4)	–
Article 11	Article 28
Article 12	Article 29

Article 13	Article 30
Article 14	Article 31
Article 15	Article 34
Article 16	Article 35
Annex I	Annex I
Annex II	–
Annex III	Annex IV
Annex IV	Annexes II and III
Annex V	Appendix to Annex II
Annex VI	Annex V