I

(Acts whose publication is obligatory)

# COUNCIL REGULATION (EEC) No 1866/86

of 12 June 1986

laying down certain technical measures for the conservation of fishery resources in the waters of the Baltic Sea, the Belts and the Sound

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 170/83 of 25 January 1983 establishing a Community system for the conservation and management of fishery resources (1), and in particular Article 11 thereof,

Having regard to the proposal from the Commission,

Whereas Article 2 of Regulation (EEC) No 170/83 states that the conservation measures necessary to achieve the aims set out in Article 1 of the Regulation must be formulated in the light of the available scientific advice;

Whereas 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 and hereinafter referred to as 'the Baltic Sea Convention', was approved by Decision 83/414/EEC (1);

Whereas the Convention entered into force with respect to the Community on 18 March 1984 and the Community accepted all the rights and obligations of Denmark and the Federal Republic of Germany as laid down by the Baltic Sea Convention;

Whereas the International Baltic Sea Fishery Commission set up by the Baltic Sea Convention and hereinafter referred to as 'the Baltic Sea Commission' has adopted, since it was set up, a body of measures for the conservation and management of fishery resources in the Baltic Sea which were last amended by its recommendations of 20 September 1985;

Whereas the aforesaid Convention provides that the Community must bring these recommendations into force in the waters of the Baltic Sea and the Belts subject to the objections which have been lodged in accordance with the procedure laid down in Article XI of the Convention,

HAS ADOPTED THIS REGULATION:

#### Article 1

# Definition of the geographical area

- 1. This Regulation concerns the taking and landing of fishery resources occurring in the waters of the Baltic Sea, the Belts and the Sound bounded to the west by a line drawn from Hasenøre Head to Gniben Point, from Korshage to Spodsbjerg and from Gilbjerg Head to the Kullen. It does not apply to waters within the baselines.
- 2. It applies to:
- (i) Community fishermen in the geographical area described in paragraph 1;
- (ii) all fishermen in the waters of this area which lie under the sovereignty or jurisdiction of the Member States.
- 3. The geographical area is divided into 11 subdivisions numbered 22 to 32 which are described in Annex I.

# Article 2

# Ban on fishing for certain species in certain geographical areas during certain periods

1. It shall be prohibited to retain on board the following species of fish which have been taken in the waters and during the periods listed below:

<sup>(</sup>¹) OJ No L 24, 27. 1. 1983, p. 1. (²) OJ No L 237, 26. 8. 1983, p. 4.

Species	Waters	Period of prohibition	
Flounder (Platichthys flesus)	subdivision 26	1 February to 30 April	
Flounder	subdivisions 27, 28 and 29 south of latitude 1 February to 31 May 59°30′ N		
Flounder	subdivision 32	1 February to 30 June	
Female flounder	subdivision 22 south of the boundary indicated in Annex II	1 February to 30 April	
Plaice (Pleuronectes platessa)	subdivision 26	1 February to 30 April	
Plaice	subdivisions 27, 28 and 29 south of latitude 59°30′ N	1 February to 31 May	
Plaice	subdivision 32	1 February to 30 June	
Female plaice	subdivision 22 south of the boundary indicated in Annex II and subdivisions 24 and 25	1 February to 30 April	
Turbot (Psetta maxima)	subdivisions 22, 24, 25 and 26	1 June to 31 July	
Brill (Scophthalmus rhombus)	subdivisions 22, 24, 25 and 26	1 June to 31 July	
Salmon (Salmo salar)	subdivision 22 south of the boundary indi- cated in Annex II and beyond four nautical miles measured from the baselines	15 June to 31 August (1)	
	subdivisions 23 to 31 beyond four nautical miles measured from the baselines	15 June to 31 August (1)	
I	subdivision 32 beyond four nautical miles measured from the baselines	1 July to 31 August (1)	
Sea trout (Salmo trutta)	subdivision 22 south of the boundary indi- cated in Annex II and beyond four nautical miles measured from the baselines	15 June to 31 August (1)	
	subdivisions 23 to 31 beyond four nautical miles measured from the baselines	15 June to 31 August (1)	
	subdivision 32 beyond four nautical miles measured from the baselines	1 July to 31 August (1)	

(1) For 1986, the closed season for salmon and sea trout fishing in the Baltic Sea shall be extended from 31 August to 15 September.

2. By way of derogation from the provisions of paragraph 1, by-catches of flounder and plaice in fishing for cod, taken during the periods of prohibition referred to in that paragraph, may be retained on board within a limit of 10 % by weight of the total catch of cod on board the vessel.

of all species on board.

# Article 3

## Minimum fish sizes

- 1. A fish shall be regarded as undersized if it is smaller than the minimum size specified in Annex III for the species and waters in question.
- 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.
- 3. Fish smaller than the minimum size, even where such fish are part of a by-catch, shall not be retained on board or be transhipped, landed, transported, processed, preserved, sold or stored, displayed or offered for sale. They must be returned to the sea, if at all possible while still alive, immediately after being taken.

# Article 4

By way of derogation from paragraph 3, undersized

cod taken south of latitude 59°30′ N may be retained on

board within a limit of 5 % by weight of the total catch

## Determination of by-catch percentage

- 1. The percentage of the by-catches referred to in Article 2 (2) shall be measured as a proportion by weight of the total quantity of cod on board after sorting or of all cod in the hold or on landing.
- 2. The percentage of the by-catches referred to in Article 3 (4) shall be measured as a proportion by weight of the total quantity of fish on board after sorting or of all fish in the hold or on landing.

3. Detailed rules for the determination of percentage by-catches may be adopted in accordance with the procedure referred to in Article 13.

#### Article 5

#### Minimum mesh size

- 1. It shall be prohibited to use or to tow any trawl, Danish seine or similar net having meshes of a smaller size than those laid down in Annex IV for the waters, species or group of species of fish concerned.
- 2. It shall be prohibited to use anchored floating nets or drift nets having meshes of a smaller size than those laid down in Annex IV for salmon fishery.

#### Article 6

#### Measurement of mesh size

- 1. In the case of trawls, Danish seines and similar nets, anchored floating nets, drift nets, meshes shall be measured using a flat gauge which is 2 mm thick and which is made of durable material that will retain its shape. It shall have one or more parallel-edge sides connected by intermediate tapering sides with a taper of 2 cm in 8 cm. The gauge shall be inscribed on one side with the width in millimetres both on the parallel-sided section or sections and on the tapering sections. In the case of the latter, the width shall be inscribed every 1 mm interval and the indication of the width shall appear at regular intervals.
- 2. To measure the size of a mesh, tha gauge shall be inserted by its narrowest extremity into the mesh opening in a direction perpendicular to the plane of the net so as to measure the long axis of the mesh when stretched diagonally lengthwise. The gauge shall be inserted into the mesh opening with manual force until it is stopped at the tapering edges by the resistance of the mesh. The size of an individual mesh shall be the width of the gauge at the point where the gauge is stopped.
- 3. The mesh size of a net shall be the average size of at least one series of 20 consecutive meshes in the direction of the long axis of the net, chosen at random. Meshes less than 10 meshes and within 50 cm from lacings, ropes or codline shall not be measured. This distance shall be measured perpendicular to the lacings, ropes or codline with the net stretched in the direction of that measurement.
- 4. The meshes of a net shall be measured only when the net is wet.
- 5. An individual mesh shall not be considered undersized if the section of the gauge corresponding to the minimum size listed in Annex IV for the species, waters and type of net concerned passes easily through it.

# Article 7

## Attachments to nets

- 1. By way of derogation from Article 5 (1) it shall be permitted to attach to the outside of the lower half of the codend of any trawl, Danish seine or similar net, 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.
- 2. By way of derogation from Article 5 (1) it shall be permitted to attach to the outside of the codend and the lengthening piece a strengthening bag. A strengthening bag is a cylindrical piece of netting completely surrounding the codend. It may be made of either the same or heavier material as the codend or lengthening piece. The mesh size of the strengthening bag shall be at least twice as large as that of the mesh size of the codend except that its minimum mesh size shall not be less than 80 mm.

A strengthening bag may be attached at the following points:

- (a) at its forward edge; and
- (b) at its rear edge; and, either
- (c) laced circumferentially to the codend around one row of meshes; or
- (d) laced longitudinally along a single row of meshes.
- 3. By way of derogation from Article 5 (1), it shall be permitted to use in trawls, Danish seines and similar nets a non-return net or flapper which has a mesh size smaller than 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 8

# Use of gear

- 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:
- in the case of trawls, Danish seines and similar nets,
  - (a) the trawl boards are made fast to the inner or outer side of the bulwark or the gallows; and
  - (b) sweep lines or warps are unshackled from the trawl boards or weights;

- in the case of salmon-fishing gear,
  - (a) the nets are stowed under a lashed cover;
  - (b) the lines and hooks are kept in closed boxes;
- in the case of purse seines, the main or bottom wire is unshackled from the seine.

#### Article 9

# Restrictions on fishing effort for salmon and sea trout

In the waters referred to in Article 1 (1) except north of the boundaries specified in Annex II it shall be prohibited, in fishing for salmon or sea trout:

- where fishing is conducted using anchored floating nets and drift nets, to use more than 600 nets at once per vessel, the length of each net not exceeding 35 metres measured in the gear's headrope. In addition to the permitted number of nets, not more than 100 reserve nets may be kept on board,
- where fishing is conducted by means of drifting lines, to use more than 2 000 hooks at once per vessel.

Hooks on drifting lines and fixed lines shall have a minimum distance between the point and the shaft of at least 19 mm.

In addition to the numer of hooks permitted in fishing, a maximum of 200 reserve hooks may be kept on board.

## General Provisions

## Article 10

- 1. It shall be prohibited to fish directly for cod and flatfish (Pleuronectidae) with the intention of landing them for purposes other than human consumption.
- 2. Explosives, poisonous or stupefying substances may not be used for the purpose of catching fish.
- 3. It shall be prohibited to use anchored or drifting gear without marking it with buoys or other identification marks.
- 4. It shall be prohibited to release exotic species into the Baltic Sea, the Belts and the Sound or to fish for exotic species and sturgeon, unless authorized by the rules adopted in accordance with the procedure referred to in Article 13 and with the obligations arising from the Baltic Sea Convention. Exotic species are defined as those which do not occur naturally in the Baltic Sea, the Belts and the Sound.

# Article 11

This Regulation shall not apply to fishing operations conducted solely for the purpose of scientific investigations which are carried out with the permission and under the authority of the Member State or Member States concerned and of which the Commission and the

Member State or Member States in whose waters the research is carried out have been informed in advance.

Fish, crustaceans and molluscs caught for the purposes specified in the first subparagraph may be sold, stored, displayed or offered for sale provided that:

- they meet the standards laid down in Annexes II and III and the marketing standards adopted pursuant to Articles 2 and 3 of Council Regulation (EEC) No 3796/81 of 29 December 1981 on the common organization of the market in fishery products (1), or
- they are sold directly for purposes other than human consumption.

A vessel conducting any of the operations referred to in the first paragraph must carry on board an authorization issued by the Member State whose flag the vessel is flying.

#### Article 12

This Regulation shall not apply to fishing operations carried out during the course of artificial restocking or transplantation of fish, crustaceans or molluscs.

Fish, crustaceans and molluscs caught for the purposes set out in the first subparagraph may not be sold directly for human consumption, or held in possession, displayed or offered for sale in contravention of the other provisions of this Regulation.

# Article 13

- 1. Member States may take measures for the conservation and management where such measures concern:
- (a) strictly local stocks of value only to the fishermen of the relevant Member State; or
- (b) conditions or procedures designed to limit catches by technical measures
  - (i) supplementing those defined in Community fisheries regulations; or
  - (ii) going beyond minimum requirements set out in such regulations,

provided that such measures are applicable solely to the fishermen of the Member State concerned, are compatible with Community law and consistent with the Common fisheries policy or with obligations under the Baltic Sea Convention.

2. The Commission shall be informed of any draft for the introduction or amendment of national technical measures early enough to make its comments.

If within one month after such notification the Commission so requests, the Member State concerned shall suspend the entry into force of the planned measures for three months from the date of notification to enable the Commission to rule within this time limit on the compatibility of the measures with the provisions of paragraph 1.

<sup>(1)</sup> OJ No L 379, 31. 12. 1981, p. 1.

Where the Commission finds, in a decision of which it must inform the other Member States, that a planned measure does not comply with the provisions of paragraph 1, the Member State concerned may not implement the measure without making the necessary changes.

The Member State concerned shall communicate without delay to the other Member States and the Commission the measures adopted, where appropriate after making the necessary changes.

- 3. The Member States shall supply to the Commission, on its request, all information needed for the assessment of whether the national technical measures comply with the provisions of paragraph 1.
- 4. At the initiative of the Commission or on a request from any Member State, the question of whether a national technical measure implemented by a Member State complies with the provisions of paragraph 1 may be referred to the Management Committee for examination in accordance with Article 15 of Regulation (EEC) No 170/83, and a decision may be taken in accordance with the procedure laid down in Article 14 of that Regulation. Where such a decision is taken, the third and fourth subparagraphs of paragraph 2 shall apply mutatis mutandis.
- 5. Where the Commission finds that a measure notified does not comply with the provisions of paragraph 1, it shall adopt a decision, within not more than one year from the date of notification of the measure, to the effect that the Member State must terminate or amend the measure within a time limit which the Commission shall indicate. The provisions of subparagraph 4 of paragraph 2 shall apply *mutatis mutandis*.
- 6. Measures concerning aquaculture and fishing from the shore shall be notified by the Member State to the Commission for information purposes only.

'Aquaculture' shall be taken to mean the farming of fish, crustaceans or molluscs in salt or brackish water.

#### Article 14

Detailed rules for the application of this Regulation shall be adopted in accordance with the procedure laid down in Article 14 of Regulation (EEC) No 170/83.

#### Article 15

This Regulation shall enter into force on the third day following its publication in the Official Journal of the European Communities.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Luxembourg, 12 June 1986.

For the Council
The President
P. WINSEMIUS

#### 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 the German Democratic Republic; then in a south-westerly direction along the coasts of the German Democratic Republic and the Federal Republic 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 the German Democratic Republic 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 Oland; then, after passing south of the island of Oland 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 the USSR; then in a southerly direction along the coasts of the USSR 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 Oland; then, after passing south of the island of Oland, 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 the USSR; then in a southerly direction along the west coast of the USSR 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 the USSR; then in a southerly direction along the west coast of the USSR 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 the USSR 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

## BOUNDARIES OF CERTAIN GEOGRAPHICAL AREAS REFERRED TO IN ARTICLE 2

Boundaries of the geographical areas, in the Sound, the Great Belt and the Little Belt, as regards fishing for female flounder, female plaice, salmon and sea trout.

- Falsterbo lighthouse Stevns lighthouse
- Jungshoved Bøgenæssand
- Hestehoved lighthouse Maddes Klint
- Skelby church Flinthorne Odde
- Kappel church Gulstav
- Ristingehale Ærøhale
- Skjoldnæs Pøls Huk
- Christian X bridge, Sønderborg

#### ANNEX III

# MINIMUM SIZES REFERRED TO IN ARTICLE 3 (3)

Species	Species Waters	
Cod (Gadus morhua)	all subdivisions south of latitude 59°30′ N	30 cm
Flounder (Platichthys flesus)	subdivisions 22 to 25 subdivisions 26 to 28 in both subdivisions 29 and 32 south of latitude 59°30′ N	25 cm 21 cm 18 cm
Plaice (Pleuronectes platessa)	subdivisions 22 to 25 subdivisions 26 to 28 subdivision 29 south of latitude 59°30′ N	25 cm 21 cm 18 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 with the exception of the waters situated north of the boundaries laid down in Annex II	60 cm

ANNEX IV

MINIMUM MESH SIZE PROVIDED FOR IN ARTICLE 5

Species	Waters	Type of net  Length of diago	
Cod (Gadus morhua)	south of latitude 59°30′ N	trawls, Danish seines and similar nets	95 mm
Flatfish (Pleuronectidae)	subdivisions 22 to 27 and subdivision 28 west of longitude 21°00′ E and subdivision 29 south of latitude 59°30′ N and west of longitude 21°00′ E	trawls, Danish seines and similar nets	90 mm
	subdivision 28 east of longitude 21°00' E	trawls, Danish seines and similar nets	80 mm
	subdivisions 29 and 32 south of latitude 59° 30′ N and east of longitude 21° 00′ E	trawls, Danish seines and similar nets	70 mm
Herring (Clupea harengus)	subdivisions 22 to 27	trawls, Danish seines and similar nets	32 mm
	subdivisions 28 and 29 south of latitude 59° 30′ N	trawls, Danish seines and similar nets	28 mm
	subdivisions 30 to 32 and subdivision 29 north of latitude 59°30′ N	trawls, Danish seines and similar nets	16 mm
Sprat (Clupea sprattus)	subdivisions 22 to 32	trawls, Danish seines and similar nets	16 mm
Salmon (Salmo salar)	subdivisions 22 to 32, with the exception of the waters situated north of the boundaries laid down in Annex II	anchored floating nets and drift nets	165 mm (natural fibres) 157 mm (synthetic fibres)