

**Opinion of the Economic and Social Committee on the 'Proposal for a Council Regulation (EC) laying down certain technical measures for the conservation of fishery resources'**

(97/C 30/10)

On 8 July 1996, the Council decided to consult the Economic and Social Committee, under Articles 43 and 198 of the Treaty establishing the European Community, on the above-mentioned proposal.

The Section for Agriculture and Fisheries, which was responsible for preparing the Committee's work on the subject, adopted its Opinion on 5 September 1996. The Rapporteur was Mr Little.

At its 338th Plenary Session (meeting of 25 September 1996), the Economic and Social Committee adopted the following Opinion by 97 votes to two, with nine abstentions.

## 1. Background

1.1. The current Regulation [(EEC) No 3094/86] laying down technical conservation measures for fisheries in the Atlantic has changed considerably since it was first adopted in October 1986. However, very few of the amendments concern matters of substance and only two of those amendments involve changes with a major impact on resource conservation.

1.2. In the more recent of those two (the eleventh amendment adopted in October 1991), the measures adopted fell well short of the Commission's proposals but the Council undertook that it would adopt further increases in mesh sizes in 1994 if fish stocks did not improve in the meantime. The adoption of such increases has so far been postponed.

1.3. In its Report to the Council in December 1995 (COM(95) 669), the Commission stated that the technical regulations currently in force have not been effective enough in reducing the catch of juvenile fish. The Commission, in conjunction with its experts, concluded that the basic structure of the proposals rejected or postponed by the Council in 1990/91 should be maintained.

1.4. The Commission is now proposing that a new regulation should be adopted which would replace Council Regulation (EEC) No 3094/86.

## 2. Gist of the Commission Proposal

2.1. The prime objective of the proposal is to further reduce the catch of juvenile fish by modifying existing technical measures so as to improve their effectiveness. The most significant of those modifications, which refer principally to the towed gear sector, are as follows:

- the elimination of the concepts of authorized mesh sizes and protected species and the introduction of minimum percentages of target species retained on board, related to specified mesh size categories;
- a general increase in mesh size for towed gear;

- the use of square mesh panels to be mandatory for larger mesh sizes;
- severe limitations on the number of different sized nets carried on board;
- harmonization of mesh sizes throughout the Atlantic (except Skagerrak and Kattegat);
- fish minimum landing sizes to be harmonized and adjusted to correspond to mesh size selectivity;
- a limited extension of areas closed to fishing during certain periods of the year.

2.2. A second objective of the proposal is to simplify the rules to make them more understandable and enforceable. The new provisions are also intended to provide more flexibility to fishermen and to promote a reduction in discards.

## 3. General comments

### 3.1. Conservation

3.1.1. In an Opinion <sup>(1)</sup> on the conservation of fishery resources and fishing rights drawn up on its own initiative and adopted in September 1995, the Committee concluded that the measures taken to conserve the fish population are inadequate and the results obtained have not been satisfactory, suggesting that the objectives are too modest, that the measures are inadequate or that they have not been properly applied.

3.1.2. It is thus already established that the Committee fully shares the Commission's concerns about the state of many fish stocks and, in principle, it supports efforts to improve technical conservation measures as one way to help conserve and improve stocks.

<sup>(1)</sup> OJ No C 39, 12. 2. 1996, p. 32.

3.1.3. In addition to technical measures, the Committee has already expressed its support for other conservation measures such as aid for de-commissioning with the aim of reducing fishing capacity and the level of fishing activity.

### 3.2. *Economic and social effects*

3.2.1. It seems clear that some of the proposed rules would require significant changes to fishing practice with real economic implications and would be likely to have a severe adverse impact on the fishing industry in the short and medium term, although there could be valuable benefits in the longer term. The Commission has made no attempt so far to assess the short term economic and social costs engendered by the proposal and, in fact, makes no reference to the downside aspects. The Committee considers that the lack of such information makes it impossible to determine whether the proposals constitute a reasonable balance between safeguarding the short and medium term interests of the fishing industry and improved conservation of fish resources.

3.2.2. It is likely that, whatever revised technical measures are adopted in due course, there will be negative short-term effects (e.g. loss of earnings and additional outlays on equipment) on the fishing industries of the European Union and within the local communities affected. Whilst acknowledging that socio-economic measures would not be dealt with under the proposed regulation, the Committee wishes to draw attention again, as it did in the above-mentioned Own-initiative Opinion, to the possible need for such compensatory measures to help to offset the short-term effects and to assist with necessary structural changes.

### 3.3. *Consultation*

3.3.1. A number of the modified technical measures now proposed are on the broad lines of proposals made by the Commission in July 1990 and which were rejected by the Council after a period of deadlock in October 1991. However, the full details of the Commission's new proposal were made known only at the end of June 1996 and it has been indicated that consultations on the proposal should be completed in time for a decision to be taken by the Fisheries Council in October 1996. In the view of the Committee, such a short period for consultation is wholly inadequate in the light of the far-reaching consequences of the proposed measures and their controversial nature.

3.3.2. There has been no direct discussion between the Commission and the fishing industry of the specific modifications proposed. In most other sectors of industry, major proposals having operational, economic and social effects are the subject of preliminary discussion with operators in the sector before specific proposals are published. In some Member States, successful technical conservation measures have previously emerged from

such dialogue. It is acknowledged that individual Member States will be discussing the proposal with their respective fishing industries but, nevertheless, the Committee considers it to be most regrettable that preliminary consultations on the proposed measures have not taken place directly with fishermen.

3.3.3. The Committee feels that it would be very unwise of the Council and Commission to rush to a decision, without satisfactory consultation having taken place with fishermen and their representatives, on radical and complex ideas which have been presented at short notice after gestating for a number of years.

### 3.4. *Enforcement*

3.4.1. The Committee has previously expressed its concern<sup>(1)</sup> about the difficulties of ensuring enforcement of Community fisheries policies and of the general inadequacy of inspectorate services which are the responsibility of Member States. The Commission acknowledged those difficulties in a recent report 'Monitoring the Common Fisheries Policy'<sup>(2)</sup>. The Committee takes the view that there should be no less inspection at sea as a consequence of the new proposals. Indeed, the Committee calls upon Member States to provide adequate resources so as to achieve improved compliance with their monitoring obligations.

3.4.2. Despite the good intentions of the Commission to simplify and clarify the technical conservation measures, the new rules would continue to be extremely complex and, in some cases, unnecessarily rigid. In the Committee's assessment, the proposed new rules remain difficult to understand and hence difficult to enforce.

3.4.3. Enforcement of the regulations requires the tacit agreement and the cooperation of fishermen. This is much more likely to be forthcoming if fishermen have participated fully and satisfactorily in the debate of the new measures as is recommended in paragraph 3.3 above.

### 3.5. *Flexibility*

3.5.1. The Committee welcomes the effort to provide greater operational flexibility. However, the advantages of the proposal to promote a reduction in discards by permitting the retention on board of species in excess of authorized until the end of the fishing trip would be offset by the loss of flexibility under the related proposal to limit the number of different sized nets carried on board.

(1) OJ No C 108, 19. 4. 1993, p. 36.

(2) COM(96) 100 final.

#### 4. Specific comments

##### 4.1. *Minimum mesh sizes and minimum percentages of target species (Article 5)*

4.1.1. The Commission has not provided scientific evidence that the substantial general increases in minimum mesh sizes, the main thrust of its proposals, would achieve the desired reduction in the catch of juvenile fish. Clearly, for a constant level of effort, there would be a reduced catch in total and that would inevitably threaten the economies of certain fishing operations.

4.1.2. The Committee agrees that harmonization of mesh sizes is generally desirable but takes the view that there should be recognition of the different biological conditions found within different fisheries. Accordingly, the Commission's blanket approach to this aspect does not fit with the real contours of fishing.

4.1.3. It seems likely that to facilitate catching, the proposed elimination of authorized mesh sizes for particular species would encourage the widespread use of nets of smaller mesh than is appropriate and thus lead to wholesale discarding at the end of the voyage so as to meet the desired target species percentage. Furthermore, the opportunity proposed to be given to fish with meshes of less than 110 mm for species such as whiting, sole, plaice, hake and megrim, subject to a minimum target species content of 70 %, is not a practical option as most of these species are found in mixed fisheries. This would also encourage increased discarding. A vessel using 80 mm. mesh ostensibly to target, for example, whiting but exceeding the by-catch percentage of cod and haddock would be able to carry the excess cod and haddock up to the point of landing and then discard the excess.

4.1.4. In such cases, the alternative to substantial discarding is for excess by-catch to be landed illegally. A criterion of minimum target species percentages retained on board at the end of the voyage would have the effect of limiting inspection to the final stage of the fishing operation. It seems to the Committee that, given the insufficiency of inspection resources, enforcement would be more rather than less difficult to achieve. The Committee considers that it would be more effective to retain the main technical criterion of specifying mesh sizes for each fish species requiring the continuation of enforcement through inspection at sea.

4.1.5. The Committee supports the principle of a general increase in mesh sizes but calls on the Com-

mission to reconsider the arbitrary level of increases and decreases proposed and to retain the concept of authorized mesh sizes for each fish species as the principal means of control.

##### 4.2. *Square mesh panels (Article 8)*

4.2.1. The mandatory adoption of square mesh panels in nets with diamond mesh of 70 mm or over is welcomed in principle. However, it is considered that the desired conservation benefits could be achieved without the imposition of a requirement that, in all cases, they be of equivalent size to the diamond mesh used. That would be much too severe in terms of the loss of marketable catch and accordingly the Committee suggests that the Commission should reconsider the minimum size of the proposed mandatory square mesh panel.

##### 4.3. *Restrictions on the number of different sized nets carried on board (Article 9)*

4.3.1. The proposed 'minimizing' (as described by the Commission) of the number of nets of different mesh size would in effect establish a 'one-net rule' for fishing with large mesh nets and a 'two-net rule' for all the other fishing. This would completely remove the flexibility which is so necessary, practically and economically, for the conduct of different fisheries, e.g. nephrops and demersal, on the same voyage. The Committee acknowledges that the proposed rule is theoretically attractive as it would facilitate enforcement, particularly in the light of the proposed flexibility to discard fish at any time. However, the retention of authorized mesh sizes (as recommended in para. 4.1.4 above) combined with the revised fish minimum landing sizes corresponding to mesh size selectivity should help to prevent the use of prohibited mesh sizes without the unnecessary introduction of a 'one-net rule' which would have dramatic economic effects for much of the fishing industry.

4.3.2. The Committee opposes the introduction of a 'one-net rule' as it would deny fishermen too many legitimate fishing opportunities.

##### 4.4. *Restrictions on netting twine (Article 10)*

4.4.1. The Committee recognizes that the specification of a maximum twine diameter of 8 mm and the prohibition of multiple twine would increase the selectivity of towed nets but considers that such rules would be impractical in some fishing operations. For

example, for beam trawlers double twine is essential for integral strength because of the higher degree of abrasion.

#### 4.5. *Minimum size of fish landed (Articles 19-22)*

4.5.1. The Committee feels that the Commission has failed to take the opportunity to increase the minimum permitted size for shellfish. The proposed minimum landing sizes would permit the catching and landing of juvenile shellfish before the females have had a chance to spawn even once.

#### 4.6. *Restrictions on fishing during certain periods of the year (Articles 23-34)*

4.6.1. The Committee agrees that stringent conditions should apply to areas where juveniles of threatened species tend to accumulate and gives general support to the proposed limited extension of areas closed to certain fishing for certain periods of the year.

#### 4.7. *Specific provisions for the Skagerrak and Kattegat (Articles 40-46)*

4.7.1. Although there is no biological reason to justify provisions for Skagerrak and Kattegat being different from those in the North Sea, any modification of the measures applying in those waters needs to be agreed with Norway. The Committee urges that immediate steps be taken to bring those areas into line with the new measures ultimately adopted for the EU sector of the North Sea. Every effort should also be made to persuade Norway to adopt common measures in the Norwegian sector of the North Sea.

### 5. Conclusions

5.1. The Committee fully shares the Commission's concerns about the state of many fish stocks and supports efforts to improve technical measures as one way to help conserve and improve stocks. Better conservation of fish stocks is in the interests of producers and consumer alike.

5.2. A number of the proposed modifications would directly help to reduce the catch of juvenile fish and are welcomed by the Committee as are the changes which would provide greater operational flexibility and which could promote a reduction in the discarding of dead fish.

5.3. However, certain of the core proposals have been put forward without full regard to the practicabilities of fishing operations and without assessment of the economic and social effects. The Committee is not persuaded that the present proposals constitute a reasonable balance between safeguarding the short and medium term interests of the fishing industry and improved conservation of fish resources. Key specific points to which attention is drawn are as follows:

5.3.1. The Committee calls on the Commission to reconsider the changes in mesh sizes proposed and to retain the concept of authorized mesh sizes for each fish species as the principal technical criterion for controlling fishing activities.

5.3.2. The Committee suggests that the proposed minimum size of the square mesh panel, to be mandatory in nets with diamond mesh of 70 mm or over, should be reconsidered.

5.3.3. The Committee is opposed to the introduction of a 'one-net rule' as it would deny fishermen too many legitimate fishing opportunities.

5.4. The Committee calls on the Council and the Commission to ensure that adequate and not merely token discussion takes place with fishermen and their representatives before decisions are taken on the proposals put forward. Enforcement of the regulations requires the tacit agreement and cooperation of fishermen. This is much more likely to be forthcoming if fishermen have participated fully in the debate.

5.5. To endeavour to ensure enforcement of technical measures and other Community fisheries policies, there should be no less inspection at sea in the wake of adoption of any new measures and Member States should provide adequate resources so as to achieve improved compliance with their monitoring obligations.

Brussels, 25 September 1996.

*The President  
of the Economic and Social Committee*

Carlos FERRER