

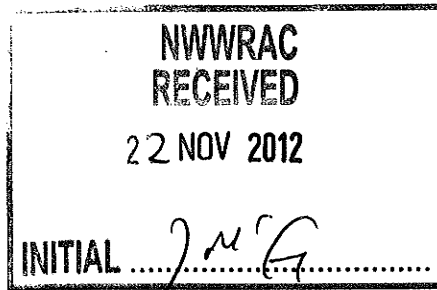


EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR MARITIME AFFAIRS AND FISHERIES

THE DIRECTOR-GENERAL

Brussels, 07 NOV. 2012  
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Mr Bertie Armstrong  
North Western Waters Regional  
Advisory Council  
Bord Iascaigh Mhara  
Crofton Road  
Dun Laoghaire  
Ireland



**Subject: Interpretation of EU Legislation on Technical Conservation Measures**

Dear Mr Armstrong,

Thank you for your correspondence regarding the interpretation of EU legislation on Technical Conservation Measures and specifically Regulations (EC) No. 850/98, 494/2002 and 517/2008. Please accept my apologies for the very late reply.

1. On your first query regarding catch composition rules, you would like to know whether having on board a trawl net of 80 mm mesh size prevents retaining on board hake in excess of 20% of the total catches by fishing trip.

First of all, according to Article 4 of Regulation (EC) No 850/98 vessels may carry on board gears with different mesh sizes, provided they are included as permissible mesh size combinations in Annexes VIII to XI of Regulation (EC) No 850/98 or stowed on board in compliance with provisions included under Article 47 of Regulation (EC) No 1224/2009.

Furthermore, in order to avoid an interruption of the application of technical measures adopted in 2001 for the recovery of the stock of hake which would cause serious harm to the stock pending the revision of Regulation (EC) No 850/98, Regulation (EC) No 494/2002 establishes additional technical measures relevant to the recovery of the stock of hake in ICES sub-areas III, IV, V, VI and VII and ICES divisions VIII a, b, d, e (as indicated in its recitals 4 and 5). On this ground, the specific rules concerning catch composition contained in Article 2(1) of Regulation (EC) No 494/2002 take precedence over the general provisions included under Article 4 and Annexes VIII to XI of Regulation (EC) No 850/98.

Therefore, in the areas where Regulation (EC) No 494/2002 applies, if a vessel carries a towed gear with a mesh size in the range of 55-99 mm, the maximum amount of hake allowed to be retained on board is 20% of the weight of the total catch.

2. On your second query, you would like to know if there is a contradiction between Article 3(c) of Regulation (EC) No 494/2002 and Article 2(g) of Commission Regulation (EC) No 517/2008 regarding the rules to determine mesh size and also the measurement of meshes.

Article 2(g) of Commission Regulation (EC) No 517/2008 defines a diamond mesh as being "composed of four bars of the same length" and Article 3(c) of Regulation (EC) No 494/2002 prohibits the use of any demersal towed net which includes any individual quadrilateral mesh of which the bars of the mesh are not of approximately equal length. In consequence, there is no contradiction between the two provisions. In your letter, you seem to refer to so-called "k-mesh" netting, in which the mesh is made up of two long bars and two short bars. The use such netting does not comply with the above-mentioned provision. Indeed such netting does not open to the same extent as normal diamond mesh netting under tension and consequently reduces selectivity.

Finally, I would also point out that your reference to Articles 12 and 13 of Regulation 517/2008 is not relevant in the present instance. Indeed these articles concern the measurement of the mesh size defined as "the longest distance between two opposite knots in the same mesh when fully extended" and not the bar length which are referred to in Articles 2(g) of Regulation (EC) No 517/2008 and Article 3(c) of Regulation (EC) No 494/2002.

I hope this clarifies the situation for your members and please do not hesitate to contact us if you have any further queries. Please note that this interpretation does not prejudge any interpretations that the Court of Justice of the European Union might give about those issues eventually. Only the Court of Justice of the European Union may issue legal opinions on the validity and interrelation of applicable legally binding Union acts.

Yours sincerely,

  
Lowri EVANS