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COMMISSION OF THE EUROPEAN COMMUNITIES

COM(83) 215 final

Brussels, 11 May 1983

Proposal for a
COUNCIL REGULATION (EEC)
amending Regulation (EEC) No 171/83 laying down certain technical
measures for the conservation of fishery resources

(submitted to the Council by the Commission)

COM(83) 215 final

EXPLANATORY MEMORANDUM

1. The present proposal provides for amendments to Council Regulation (EEC) No. 171/83 of 25 January 1983 (1) laying down certain technical measures for the conservation of fishery resources in order to enable the Council to decide
 - before 31 July 1983 on the increase or maintenance of mesh sizes for certain areas and species and the by-catch rate in shrimp fishery as provided for in Articles 2, 4 and 8 of the regulation;
 - on the incorporation of fishery rules for the Skagerrak and Kattegat agreed between the Community, Norway and Sweden on 5 May 1982;
 - the modification of a number of rules according to the most recent scientific advice, in particular that given by the Commission's Scientific and Technical Committee for Fisheries (STCF) taking account of the declarations made at the Council of 25 January 1983;
 - drafting improvements which include the transfer of some provisions, hitherto contained in the regulation on TACs, quotas and conditions of fishing (2), into the regulation on technical measures in view of their permanent nature.

The basis of each of the proposed amendments is shown in the attached comparative table.

2. As far as the mesh size increases are concerned the Commission recalls the provisions of Regulation No. 171/83 according to which
 - the mesh size shall be increased, for white fish in the North Sea, from 80 mm to 90 mm with effect from 1 January 1984; however, the Council shall decide, before 31 July 1983, whether and until which date this increase shall be deferred, whether fishing for sole by vessels exceeding 300 bhp is to be exempt from such increase and whether the mesh size for the fishing for sole by vessels not exceeding 300 bhp which had been fixed at 70/75 mm (depending on the twine used) should be increased (Article 2 paragraph 2 with Annex I);
 - the Council shall decide, before 31 July 1983, whether the mesh size in the English Channel should be increased from 75 to 80 mm (Article 2 paragraph 3);

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(1) O.J. No. L 24 of 27.1.1983, p. 14

(2) For 1983 Council Regulation (EEC) No. 172/83 - O.J. No. L 24 of 27.1.83, p. 30

- the Council shall decide, before 31 July 1983, whether the Nephrops mesh size should be increased in waters off Ireland and in Region 3 (Article 4 paragraph 2).

On the first item, the general mesh size increase for white fish in the North Sea, no new information has become available which would justify deferring further the increase decided by the Council. STCF already in its Second Report (SEC(80) 1750) "very definitely" drew attention to the strong recommendations of the Advisory Committee on Fishery Management (ACFM) to increase the mesh size in the North Sea, the Skagerrak and Kattegat to 90 mm (item 5.1 of the Report). In its Third Report (SEC(81) 1995) STCF points out that the increase from 80 to 90 mm would have no effect on cod, plaice and saithe fisheries; for haddock and whiting the long-term gains would outweigh short-term losses, although the short-term losses in certain whiting fisheries might cause serious problems. It should be noted, however, that the Community caught little more than half its TAC for whiting in the North Sea in 1982. For both haddock and whiting considerable gains would result from a large decrease in the quantity of fish discarded (item 3.4 of the Report).

Concerning sole, the Commission proposes to exempt vessels exceeding 300 bhp fishing for sole from the increase by 1 January 1984 because the Third STCF Report continues that the short-term losses in the sole fishery could be unacceptably high if the mesh size was increased to 90 mm, whereas the long-term gains would be 5% since the mesh size at present in use was less than the 80 mm legally required. The Commission will be particularly vigilant concerning the enforcement by Member States of the 80 mm mesh size in the sole fishery (except for vessels not exceeding 300 bhp) and considers that a decision on a mesh size increase should be deferred to 1 July 1985 when the effective mesh size will have been 80 mm for some time. For vessels not exceeding 300 bhp fishing for sole in the North Sea, the Commission, when proposing that a decision on the increase of mesh size should be deferred until 31 December 1984, takes account of STCF advice (Fifth Report - SEC(83) 152, item 2.3) according to which there is no definitive scientific advice on this topic, pending advice which ACFM has been asked to provide.

Again following STCF advice, the Commission proposes to delay the decision on the increase of the mesh size for whitefish in the English Channel and for Nephrops in waters around Ireland pending the result of further scientific studies.

Finally, the Commission proposes, following STCF advice, to maintain the allowance of 50% by-catches in the shrimp fishery; whitefish will be protected by an additional limit of 10% for undersized whitefish.

3. The incorporation of the fishery rules for the Skagerrak and Kattegat concerns by-catches and the methods to measure the size of shellfish.
4. The amendments on the basis of scientific recommendations again deal with shellfish; it is proposed that the complicated rules on shellfish and molluscs in the Channel will be established by the Management Committee procedure.

The proposal further follows scientific advice by the introduction of a minimum size for mackerel in Region 2 and by the reduction of the allowed by-catch of undersized mackerel to 10%.

The Commission has finally followed scientific advice concerning the increase of the minimum mesh size for herring in Region 2.

5. With particular reference to the declaration concerning conservation made at the Council of 25 January 1983, the Commission has proposed some measures concerning lobster, Nephrops and plaice. However, it did not propose to increase the minimum size for Nephrops, plaice and dab in the North Sea since the scientific advice did not favour such increase and any problem which a Member State might have with the existing regulation could be resolved by the adoption of national measures in conformity with Article 20 of the Regulation.

INDEXATIVE TABLE

Article 1 para. No.	Reference Reg. No. 171/83	Proposed amendment	Basis for Modification
1	Art. 2(1)	Art. 2(1)	Drafting
	Art. 2(2)	Art. 2(2)	3rd STCF - 3.4; 3.5 5th STCF - 2.3
	Art. 2(3)	Art. 2(3)	3rd STCF - 3.6 5th STCF - 2.4
2	Art. 4(2)	Art. 4(2)	4th STCF - I.
3	Art. 8(1)	Art. 8(1)	4th STCF - III; IV
4	Art. 8(4)	-	no longer necessary
5	Art. 9(1)	Art. 9(1)	Fishery rules Skagerrak/ Kattegat and drafting
	Art. 9(2)	Art. 9(2)	Fishery rules Skagerrak/ Kattegat and drafting
	Art. 9(3)	Art. 9(3)	Drafting
	Art. 9(4)	Art. 9(4)	Fishery rules Skagerrak/ Kattegat and drafting
6	<u>Title III</u>	<u>Title III</u>	
	Art. 11(1), (2) and (3)	Art. 11(1), (2) and (3)	Drafting
	Art. 11(1) (first 3 indents)	Art. 11(1)	Fishery rules Skagerrak/ Kattegat 3rd STCF - 1.2.12
	Art. 11(4) (+ Annexes V + VI)	Art. 11(4)	Fishery rules Skagerrak/ Kattegat 3rd STCF - 4.7 4th STCF - II. 5th STCF - 2.5 Council Declaration
	-	Art. 11(5)	} 3rd STCF - 6.2.2
	Art. 11(5)	Art. 11(6)	
	-	Art. 11(7)	5th STCF - 3.
7	Art. 12(1)	Art. 12(1)	Salmon Convention
8	Art. 13	Art. 13	Drafting
	Art. 13(1)	Art. 13(1)	3rd STCF - 1.3.1
	Art. 13(2)	Art. 13(2)(a)	Drafting
		Art. 13(2)(b)	Transfer from Reg.172/83 (Art. 8(7))
	Art. 13(2)(c)	Transfer from Reg.172/83 (Art. 8(7))	
9	Art. 13	Art. 13 bis	Council Declaration
10	Art. 15(3)	Art. 15(3)	Drafting
11	Art. 16	Art. 16(1)	Drafting
		Art. 16(2)	Transfer from Reg.172/83 (Art. 8(2) b ii))

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Comparative table - cont'd

Article 1 para. No.	Reference Reg. No. 171/83	Proposed amendment	Basis for Modification
12	Arts. 17 + 18	Arts. 17 + 18	Drafting
13	Annex I	Annex I	Council Declaration
14	Annex II	Annex II	3rd STCF - 3.4. 3rd STCF - 2.3.
15	Annex V	Annex V	Drafting
16	Annex VI	Annex VI	3rd STCF - 1.2.12;

Proposal for
COUNCIL REGULATION (EEC) No. /83
amending Regulation (EEC) No. 171/83 laying down certain
technical measures for the conservation of fishery resources.

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 Articles 2 and 11 thereof,

Having regard to the proposal from the Commission,

Whereas Council Regulation (EEC) No. 171/83 (2) lays down general rules for the fishing and landing of biological resources found in Community waters;

Whereas the Council is to decide before 31 July 1983 whether to defer the increase in mesh size in the North Sea to 90 mm and whether to exempt from this increase vessels exceeding 300 bhp fishing for sole; whereas the latest available scientific information indicates that the dates already adopted for increasing mesh size in the North Sea from 80 mm to 90 mm should be retained but that the increase in mesh size for the fishing of sole by vessels exceeding 300 bhp should be deferred pending the increase in actual mesh size;

Whereas the Council is to decide before 31 July 1983 whether and to what extent the mesh size for the fishing of sole in the North Sea by vessels not exceeding 300 bhp should be increased from 1 January 1984, whether the mesh size in the English Channel should be increased to 80 mm from 1 January 1984, whether the mesh size for the fishing of Nephrops should be increased to 70 mm in the Irish Sea and part of the south coast of Ireland and to 60 mm in region 3 from 1 January 1984; whereas, in the absence of a definitive scientific opinion on these points, the Commission proposes that such decisions be deferred;

Whereas the Council is to decide before 31 July 1983 on the by-catch percentage in fishing for prawns of the genus Pandalus except Pandalus montagui in region 2;

(1) OJ No. L 24 of 27.1.1983, p. 1

(2) OJ No. L 24 of 27.1.1983, p. 14

whereas scientific recommendations confirm that the current 50% is justified;

Whereas the Scientific and Technical Committee on Fisheries advises against defining the waters situated within the 12-mile limit from baselines within which the rule on by-catches in fishing for shrimps of the genus Crangon does not apply and that the limit for by-catches should be set at 50% of the volume of the catches; whereas the Committee has also proposed that, within the 50% by-catch limit authorized in fishing for prawns and shrimps (Pandalus and Crangon), not more than 10% of the volume of the total catch should consist of undersized fish;

Whereas the opinion given by the Scientific and Technical Committee on Fisheries (STCF) involves certain amendments to Regulation (EEC) No 171/83, notably in respect of the landed catches of undersized mackerel, the boundaries of the area off the east coast of Greenland in which the use of specific gear is prohibited, the increase in the minimum mesh size for herring fishing in the North Sea and the fixing of a minimum size for certain molluscs and crustaceans;

Whereas the ban on salmon fishing outside the boundaries of the areas of fisheries jurisdiction of coastal States, provided for in Article 2 of the Convention for the Conservation of Salmon in the North Atlantic Ocean (1) should be implemented by the Community;

Whereas the rules governing fishing operations in the Skagerrak and Kattegat agreed between the delegations of the Community and of Norway and Sweden incorporate requirements in addition to or different from those laid down in Regulation (EEC) No. 171/83, notably in respect of the limiting of by-catches in certain types of fishing and the method for measuring the minimum size of Nephrops and lobsters;

Whereas, in view of their permanent nature, a number of provisions hitherto contained in the annual regulations fixing TACs, quotas and fishing conditions should now appear in Regulation (EEC) No. 171/83;

Whereas, in view of their complexity, rules concerning certain species of molluscs and crustaceans in the English Channel or the ban on fishing for female sole should be adopted under the management committee procedure;

(1) OJ No. L 378, 31.12.1982, p. 16.

Whereas Regulation (EEC) No. 171/83 should therefore be amended,

HAS ADOPTED THIS REGULATION :

Article 1

Regulation (EEC) No. 171/83 is hereby amended as follows:

1. Article 2(1), (2) and (3) are replaced by the following:

"1. The use or hauling of trawls, Danish seines or similar nets having anywhere a mesh smaller than that laid down in Annex I for the region and type of net concerned shall be prohibited from the dates specified.

2. The Council shall, on a proposal from the Commission, decide by a qualified majority not later than 31 December 1984 whether and to what extent the mesh size for the fishing of sole in the North Sea by vessels not exceeding 300 bhp and vessels exceeding 300 bhp should be increased from 1 July 1985.

3. The Council shall, on a proposal from the Commission and in the light of scientific opinion based on further research, decide by a qualified majority not later than 31 December 1984 whether the mesh size in the English Channel, irrespective of the type of net used, should be increased to 80 mm from 1 July 1985."

2. Article 4(2) is replaced by the following:

"2. The Council shall, on a proposal from the Commission, in the light of experience and scientific advice, decide by a qualified majority not later than 31 December 1985 whether the mesh size should be increased to 70 mm in ICES division VII a) (Irish Sea) and ICES division VII g) and h) (south of Ireland) and to 60 mm in region 3 from 1 July 1986."

3. Article 8(1) is replaced by the following:

"1. By-catches of the species listed in Annex V in those regions for which an entry has been made in the said Annex or of cuttlefish taken with small-meshed nets in accordance with Article 3 shall not exceed 10% by weight of the total catch.

However, in the case of by-catches taken in fishing for prawns of the genus Pandalus or shrimps of the genus Crangon, this limit shall be increased to 50%.

By-catches taken in fishing for prawns or shrimps (Pandalus or Crangon), as referred to in the above subparagraphs, may not include by weight of the total catch, more than 10% of species under the minimum size required by Annex V for the species and region concerned."

4. Article 8(4) is deleted.

5. Article 9(1) to (4) is replaced by the following:

"1. By-catches of the species listed in Annex V or of cuttlefish taken with nephrops nets in accordance with Article 4 shall not exceed 60% of the total catch in the regions given in the said Annex.

In the Skagerrak and Kattegat this limit shall be increased to 70%.

2. By-catches taken in any region except the Skagerrak and Kattegat with nets not complying with Article 5 but complying with Annex I for the region and type of net concerned shall not include more than 30% of hake.
3. Where herring by-catches are authorized in fishing for other species, the percentage shall be measured in accordance with Article 10(1).
4. In the Skagerrak and Kattegat, by-catches of the species listed in Annex V taken in fishing for whiting with nets having a mesh size smaller than 80 mm shall not exceed 30% by weight of the total catch."

6. Title III is replaced by the following:

"TITLE III

FISH, CRUSTACEAN AND MOLLUSC SIZES

Article 11

1. Undersized fish, crustaceans and molluscs shall not be retained on board or be transhipped, landed, transported, sold or held in possession, displayed or offered for sale, but shall be returned immediately to the sea.

However, the previous subparagraph shall not apply to:

- herring or mackerel taken in any region or part thereof, or the species listed in Annexes V and VI taken in the Skagerrak or Kattegat, within a limit of 10% by weight of catches of these species,
- cod measuring less than 45 cm, but not less than 30 cm, taken in the Irish Sea (ICES division VII a)) between 1 October and 31 December within a limit of 10% by weight of cod taken.

The percentage of undersized fish, crustaceans and molluscs shall be measured in accordance with the provisions of the first subparagraph of Article 10(1).

2. Undersized fish, crustaceans and molluscs taken as by-catch within the limits specified in Article 8(1) shall not, for the purpose of human consumption, be retained on board or be transhipped, landed, transported, sold or held in possession, displayed or offered for sale.

3. A fish, crustacean or mollusc shall be regarded as undersized if its size is smaller than the minimum size specified in Annex V or VI for the species and region in question.

4. The size of a fish shall be measured from the tip of the snout to the end of the tail fin.

The size of a crustacean shall be expressed as cephalothorax length measured parallel to the mid-line from the back of either eye-socket to the distal edge of the cephalothorax.

The size of a mollusc shall correspond to the measurement of the longest part of the shell.

The length of lobsters or nephrops taken in the Skagerrak or Kattegat may also be expressed as total length measured from the tip of the rostrum to the rear end of the telson, not including the setae.

In cases where only Nephrops tails are landed, length may be expressed as tail length. In such cases, tail length shall be measured in millimetres from the front edge of the first tail segment to the rear end of the telson. The tail shall be measured flat with the segments unstretched.

5. In regions or parts thereof where a minimum size is laid down for lobsters in accordance with Annex VI, the landing solely of lobster tails or claws shall be prohibited.

6. The size of a fish equivalent to the size measured according to paragraph 4 may be expressed in number of fish per unit of weight according to the procedure provided for in Article 21.

7. Provisions relating to the fishing in ICES divisions VII d,e (English Channel) for certain species of mollusc and crustacean, together with the minimum sizes referenced "token entry" in Annex VI, shall be adopted in the light of experience and of scientific opinions, in accordance with the procedure provided for in Article 21."

7. The following sentence is added to the first paragraph of Article 12:

"Without prejudice to the provisions of Article 1(1), the first sentence shall also apply to maritime waters outside the boundaries of the areas under the sovereignty or jurisdiction of the Member States."

8. Article 13 is replaced by the following:

"Article 13

For the protection of spawning ground and nursery areas for redfish to the east of Greenland and for herring to the west of Scotland and in the Irish Sea, fishing or the use of specific gear shall be prohibited for the following species, areas and periods:

1. Bottom trawling for all species during the whole year in the area adjacent to the east coast of Greenland from a point on the coast at latitude 67°N, bounded by a line joining the following points:

- latitude 67°N, longitude 30°30'W,
- latitude 65°40'N, longitude 30°30'W,
- latitude 65°40'N, longitude 31°50'W,
- latitude 65°30'N, longitude 33°10'W,
- latitude 65°10'N, longitude 34°W,
- latitude 65°N, longitude 35°05'W,
- latitude 64°20'N, longitude 35°35'W,
- latitude 64°20'N, longitude 36°W,
- latitude 63°50'N, longitude 36°50'W,
- latitude 63°15'N, longitude 39°30'W,
- latitude 63°25'N, longitude 39°30'W,

as far as the coast of Greenland at latitude 63°25'N."

2. Herring

(a) each year from 15 August to 30 September in the maritime area bounded by a line joining the following points:

- the Butt of Lewis,
- Cape Wrath,
- latitude $58^{\circ}55'N$, longitude $05^{\circ}00'W$,
- latitude $58^{\circ}55'N$, longitude $07^{\circ}10'W$,
- latitude $58^{\circ}20'N$, longitude $08^{\circ}20'W$,
- latitude $57^{\circ}40'N$, longitude $08^{\circ}20'W$,
- the west coast of North Uist at latitude $57^{\circ}40'N$,
- then along the north coast of the island as far as latitude $57^{\circ}40.6'N$, longitude $07^{\circ}20.65'W$.
- latitude $57^{\circ}50.05'N$, longitude $07^{\circ}8.1'W$,
- then north-east along the west coast of Lewis as far as the point of departure (Butt of Lewis).

(b) the whole year: in the Irish Sea (ICES division VII a)) in the maritime area between the west coasts of Scotland, England and Wales and a line drawn twelve miles from the baselines of these coasts bounded to the south by latitude $53^{\circ}20'N$ and to the north-west by a line drawn between the Mull of Galloway (Scotland) and the Point of Ayre (Isle of Man).

(c) from 20 September to 15 November: in the part of the Irish Sea (ICES division VIIa)) north of latitude $53^{\circ}30'N$, except for Logan Bay, which shall be closed to herring fishing during the whole year.

These areas may be altered in accordance with the procedure laid down in Article 21."

9. The following Article 13a is inserted:

"Article 13 a

Female plaice

Provisions prohibiting the catching of female plaice in the North Sea and the Skagerrak and Kattegat during the first quarter of each year may be adopted in accordance with the procedure provided for in Article 21."

10. Article 15(3) is replaced by the following:

(concerns only the French version)

11. Article 16 is replaced by the following:

"Article 16

1. The carrying out on vessels of processing operations other than:

- evisceration,
 - salting,
 - boiling and shelling of prawns and shrimps,
 - canning, barrelling and pickling of mackerel and herring,
 - filleting,
 - freezing,
 - physical or biochemical processing of offal and unavoidable by-catches taken within the authorized maximum limit,
- shall be prohibited.

2. Without prejudice to Article 3, the use of graders for herring shall be prohibited on vessels fishing for herring unless the nets used, irrespective of type, have a mesh size not smaller than 32 mm."

12. In Articles 17 and 18 the word "fish" is replaced by the terms "fish, crustacean and mollusc" or "fish, crustaceans and molluscs" whichever is the more appropriate; the term "fish stocks" is replaced by the term "fish, crustacean and mollusc stocks".

- 13 . In Annex I the following footnote (4) is added for the entry "90":
"(4) Except for fishing for sole by vessels exceeding 300 bhp, for which the minimum mesh size is 80 mm."

- 14 . In Annex II the minimum mesh size for herring in region 2 should read as follows:
"40".

- 15 . In Annex V the entry in respect of lobster (Homarus gammarus) is deleted.

16. Annex VI is replaced by the following:

"ANNEX VI

Minimum size referred to in Article 11(3)

Species	Region	Part of region	Minimum size
Herring (<u>Clupea harengus</u>)	1 2 3	Except Skagerrak and Kattegat	20 cm
	2	Skagerrak and Kattegat only	18 cm
Mackerel (<u>Scomber scombrus</u>)	2	Except Skagerrak and Kattegat	30 cm
Mackerel (for industrial purposes)	2	Skagerrak and Kattegat only	30 cm
Whole Nephrops (<u>Nephrops norvegicus</u>)	2	Skagerrak and Kattegat only	40 mm cephalothorax length 130 mm overall length
	2	Except Skagerrak and Kattegat	25 mm
	3		20 mm
Nephrops tails	2	Skagerrak and Kattegat only	72 mm
	2	Except Skagerrak and Kattegat	46 mm
	3		37 mm
Lobster (<u>Homarus gammarus</u>)	2	Except Skagerrak and Kattegat	85 mm
	2	Skagerrak and Kattegat only	78 mm cephalothorax length 22 cm overall length
Spinous spider crab (<u>Maia squinado</u>)	2		120 mm
	3		token entry
Edible crab (<u>Cancer pagurus</u>)	2		token entry
	3		token entry

Species	Region	Part of region	Minimum size
Scallop (<u>Pecten maximus</u>)	2	ICES divisions VII d) and e) only	95 mm
	2		token entry
	3		token entry
Clam (<u>Venus verrucosa</u>)	2	ICES divisions VII d) and e) only	30 mm

Article 2

This Regulation shall enter into force on 1 August 1983.

Article 1(10) shall apply with effect from 1 January 1984.

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

Done at Brussels,

For the Council
The President