Commission Regulation (EC) No 517/2008 of 10 June 2008 laying down detailed rules for the implementation of Council Regulation (EC) No 850/98 as regards the determination of the mesh size and assessing the thickness of twine of fishing nets

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms[(1)], and in particular Article 48 thereof,

Whereas:

(1) Regulation (EC) No 850/98 lays down technical conservation measures applying to the taking and landing of fishery resources in maritime waters under the sovereignty or jurisdiction of the Member States. It provides, *inter alia*, that detailed rules are to be adopted for the assessment of twine thickness and the determination of mesh size of fishing nets.

(2) Commission Regulation (EC) No 129/2003 of 24 January 2003 laying down detailed rules for determining the mesh size and thickness of twine of fishing nets[(2)] contains certain technical rules concerning the use of gauges for determining the mesh size and twine thickness of fishing nets. However, the current use of those gauges by fishery inspectors has resulted in certain cases in disputes between fishery inspectors and fishermen as regards the methods and the results of measuring the meshes depending on how those instruments were used.

(3) In addition, recent technical progresses relating to the development of instruments for determining the mesh seize of fishing nets have increased their accuracy. It is appropriate to provide for the use of those improved instruments by Community and national fishery inspectors. Accordingly, the use of the new gauge should be mandatory for Community inspectors and the national fishery inspectors of the Member States and marked as ‘EC gauge’.

(4) For the purposes of the control procedure it is necessary to specify the types of gauge to be used, how they are to be used, how the meshes to be measured are to be chosen, the method by which each of them is to be measured, how the mesh size of the net is to be calculated, the procedure for the selection of twines of meshes for the assessment of thickness of twine, and to describe the sequence of the inspection procedure.

Changes to legislation: *There are outstanding changes not yet made to Commission Regulation (EC) No 517/2008. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(5) Where the master of the fishing vessel disputes the result of a measurement in the course of an inspection, provision should be made for a further and final measurement.

(6) In the interests of clarity of Community legislation, Regulation (EC) No 129/2003 should be repealed and replaced by this Regulation.

(7) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fisheries Resources and Aquaculture,

HAS ADOPTED THIS REGULATION:

CHAPTER I

SUBJECT MATTER AND DEFINITIONS

Article 1

Subject matter

This Regulation lays down detailed rules for the implementation of Regulation (EC) No 850/98 as regards the determination of the mesh size and the assessment of the twine thickness of fishing nets by Community and national inspectors.

Article 2

Definitions

For the purpose of this Regulation, the following definitions shall apply:

(a) ‘mesh gauge’ means a mesh measurement gauge with two jaws, which automatically applies longitudinal forces, in the range of 5 to 180 Newton (N) to the meshes with a precision of 1 N;

(b) ‘active gear’ means any fishing gear for which the catch operation requires an active movement of the gear, including in particular towed gears, encircling gears, trawls, Danish seines and similar towed nets;

(c) ‘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, trap-nets, lines, pots and traps;

(d) ‘N-direction’ for knotted netting means the direction at right angles to the general course of the netting yarn, as shown in Annex I;

(e) ‘T-direction’ means:

  (i) for knotted netting: the direction parallel to the general course of the netting yarn, as shown in Annex I;

  (ii) for knotless netting: the direction at right angle to N-direction;

(f) ‘mesh size’ means:

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(i) for knotted netting: the longest distance between two opposite knots in the same mesh when fully extended as shown in Annex I;

(ii) for knotless netting: the inside distance between the opposite joints in the same mesh when fully extended along its longest possible axis;

(g) 'diamond mesh' means a mesh as shown in figure 1 of Annex II, composed of four bars of the same length where the two diagonals of the mesh are perpendicular and one diagonal is parallel to the longitudinal axis of the net as shown in figure 2 of Annex II;

(h) 'square mesh' means a quadrilateral mesh composed of two sets of parallel bars of the same length, where one set is parallel to, and the other is at right angles to the longitudinal axis of the net;

(i) 'T90 mesh' means a diamond mesh from knotted netting, as shown in figure 1 of Annex II, mounted so that the T-direction of the netting is parallel to the longitudinal axis of the net.

CHAPTER II

EC GAUGES

Article 3

Mesh gauge and twine thickness gauges

1 Community and national inspectors shall use the mesh gauge and twine thickness gauges which comply with the provisions of this Regulation for the determination of the mesh size and the twine thickness of fishing nets when conducting fishery inspections.

2 The technical specifications applying to the mesh gauge are set out in Annex III.

3 The technical specifications applying to twine thickness gauges are set out in Annex IV.

4 The mesh gauge and twine thickness gauges referred to in paragraph 1 shall be marked 'EC gauge' and certified by the manufacturer as complying with the technical specification referred in paragraphs 2 and 3 respectively.

5 The mesh gauge and twine thickness gauges sold or distributed for use by entities or persons other than national fisheries authorities shall not be marked 'EC gauge'.

Article 4

Calibration instruments for the mesh gauge

The calibrated test weights and calibrated test measuring plate provided for in figure 1 of Annex V shall be certified by the competent national authorities and marked 'EC'.

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Article 5

Testing of the mesh gauges

The accuracy of the mesh gauge shall be verified by:

(a) inserting the jaws of the gauge into slots of the calibrated test plate as provided for in figure 1 of Annex V;

(b) hanging the calibrated test weights on the fixed jaw, as provided for in figure 2 of Annex V.

CHAPTER III

DETERMINATION OF MESH SIZE

Article 6

Selection of meshes in active gear

1 The inspector shall select a series of 20 consecutive meshes from the net, chosen in the following direction:

a for diamond and square meshes, in the direction of the longitudinal axis of the net;

b for T90 meshes, perpendicular to the direction of the longitudinal axis of the net.

2 Meshes less than three meshes from the selvedge, lacings, ropes or cod line shall not be measured. That distance shall be measured perpendicular to the lacings, ropes or cod line with the net stretched in the direction of that measurement. Meshes which are broken or have been repaired or have attachments to the net fixed at that mesh shall not be measured.

3 By way of derogation from paragraph 1, the meshes to be measured need not to be consecutive if the application of paragraph 2 prevents it.

Article 7

Selection of meshes in passive gear

1 The inspector shall select 20 meshes from the fishing net. In the case of different mesh sizes in the fishing net, the meshes shall be selected from the part of the fishing net having the smallest meshes.

2 When selecting meshes in accordance with paragraph 1, the following meshes shall not be included:

a meshes at the top, bottom or side of a net selvedge;

b meshes within three meshes of lacings and ropes;

c meshes that have been broken or have been repaired.

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Article 8

General provisions on the preparation and operation of mesh gauges

The mesh gauge shall be:

(a) prepared in accordance with Annex VI;

(b) operated in accordance with Annex VII.

Article 9

Operation of the mesh gauge for measuring diamond and T90 meshes

When measuring diamond and T90 meshes in:

(a) knotted and knotless netting when the N-direction can be determined, the netting shall be stretched in the N-direction of the meshes, as shown in Annex VII;

(b) knotless netting when the N-direction cannot be determined, the longest axis of the mesh shall be measured.

Article 10

Operation of the mesh gauge for measuring square meshes

1 When measuring a square mesh panel, the netting shall be stretched first in one diagonal direction and then in the other diagonal direction of the mesh, as shown in Annex VIII.

2 The procedure laid down in Annex VI shall apply to the measurement of each diagonal direction of the square mesh.

Article 11

Measurement conditions

Meshes shall be measured only when wet and unfrozen.

Article 12

Measurement of the size of each selected mesh

1 The size of each mesh shall be the distance between the outside edges of the jaws of the gauge at the point where the movable jaw is stopped.

2 Where there is a difference in measurement between the diagonals of an individual square mesh, then the larger diagonal shall be used.