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

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], as last amended by Regulation (EC) No 973/2001 [2], and in particular Article 48 thereof,

Whereas:

(1) Regulation (EEC) No 2108/84 of 23 July 1984 laying down detailed rules for determining the mesh size of fishing nets [3], as amended by Regulation (EC) No 2550/97, has been substantially amended and since further amendments are to be made, it should be replaced by this Regulation in the interests of clarity and rationalisation.

(2) In order to ensure compliance with technical measures for the conservation of fishery resources, it is necessary to lay down detailed rules for determining the mesh size and the thickness of twine of fishing nets.

(3) For the purpose 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.

(4) It is necessary to lay down the conditions whereby the control procedure determines that the thickness of twine of fishing nets exceeds the maximum thickness permitted.

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

(6) 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

GENERAL PROVISIONS

Article 1

Definitions

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

(a) 'active gear': trawls, Danish seines and similar towed nets;

(b) 'passive gear': gill nets, entangling nets, trammel nets, which may consist of one or more separate nets which are rigged with top, bottom and connecting ropes, and may be equipped with anchoring floating and navigational gear.

CHAPTER II

MESH SIZE OF ACTIVE GEAR

Article 2

Gauge for determining mesh sizes

1. Gauges to be used for determining mesh sizes shall be 2 mm thick, flat, of durable material and capable of retaining their shape. They shall have either a series of parallel-edged sides connected by intermediate tapering edges with a taper of one to eight on each side, or only tapering edges with the taper of one to eight on each side. They shall have a hole at the narrowest extremity.

2. The gauges shall be marked 'EC gauge'. Each gauge shall be inscribed on its face with the width in millimetres both on the parallel-side section, if any, and on the tapering section. In the case of the latter the width shall be inscribed at every 1 mm interval and the indication of the width shall appear at regular intervals. A model of the gauges is shown in Annex I.

Article 3

Use of the gauge in diamond mesh

1. In the case of diamond mesh panels, the net shall be stretched in the direction of the long diagonal of the meshes as shown in Annex II.

2. A gauge as described in Article 2 shall be inserted by its narrowest extremity into the mesh opening in a direction perpendicular to the plane of the net.

3. The gauge shall be inserted into the mesh opening using either manual force or using a weight or dynamometer, until it is stopped at the tapering edges by the resistance of the mesh.

[1] OJ L 125, 27.4.1998, p. 1.
[2] OJ L 137, 19.5.2001, p. 1.
[3] OJ L 194, 24.7.1984, p. 22.

Article 4

Use of the gauge in square meshes

1. In the case of square mesh panels, the net shall be stretched first in one diagonal direction and then in the other diagonal direction of the meshes as shown in Annex II.

2. The procedure laid down in Article 3(2) and (3) shall apply to the measurement of each diagonal direction of the square mesh.

Article 5

Selection of meshes

1. Meshes to be measured shall form a series of 20 consecutive meshes chosen in the direction of the long axis of the net.

2. Except in square mesh panels, meshes less than 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. Nor shall any mesh be measured which has been mended or broken or has attachments to the net fixed at that mesh.

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

Article 6

Measurement of each mesh

1. Nets shall be measured only when wet and unfrozen.

2. The size of each diamond mesh shall be the width of the gauge at the point where the gauge is stopped, when using this gauge in accordance with Article 3.

3. The size of each square mesh shall be the width of the gauge at the point where the gauge is stopped when measuring both diagonals in accordance with Article 4.

Where there is a difference in measurement between the diagonals of an individual mesh, the size of the largest diagonal shall be used when calculating mesh size of the square mesh netting.

Article 7

Determination of the mesh size

The mesh size of the net shall be the arithmetical mean in millimetres of the measurements of the total number of meshes selected and measured as provided for in Articles 5 and 6, the arithmetical mean being rounded up to the next millimetre.

Article 8

Inspection procedure

1. The inspector shall measure one series of 20 meshes, selected in accordance with Article 5, inserting the gauge manually without using a weight or dynamometer.

The mesh size of the net shall then be determined in accordance with Article 7.

2. If the calculation of the mesh size shows that the mesh size does not appear to comply with the rules in force, then two additional series of 20 meshes selected in accordance with Article 5 shall be measured.

The mesh size shall then be recalculated in accordance with Article 7, taking into account all 60 meshes already measured. Without prejudice to Article 9, this shall be the mesh size of the net.

Article 9

Measurement in case of disputes

1. If the master of the vessel disputes the mesh size determined in accordance with Article 8, such measurement shall not be considered for the determination of the mesh size and the net shall be re-measured.

2. A weight or dynamometer attached to the gauge shall be used for re-measurement.

The choice of weight or dynamometer shall be at the discretion of the inspector.

The weight shall be fixed to the hole in the narrowest extremity of the gauge using a hook. The dynamometer may either be fixed to the hole in the narrowest extremity of the gauge or be applied at the largest extremity of the gauge.

The accuracy of the weight or dynamometer shall be certified by the appropriate national authority.

3. For nets of a mesh size of 35 mm or less as determined in accordance with Article 8, a force of 19,61 newtons (equivalent to a mass of 2 kilograms) shall be applied and for other nets a force of 49,03 newtons (equivalent to a mass of 5 kilograms).

4. For the purposes of determining the mesh size in accordance with Article 7 when using a weight or dynamometer, one series of 20 meshes only shall be measured.

5. The result of this measurement shall be final.

CHAPTER III

MESH SIZE OF PASSIVE GEAR

Article 10

Gauge for determining mesh sizes

1. The mesh gauge shall be of durable material and capable of retaining its shape. A model of the gauge is shown in Annex III.

2. When extended, the mesh gauge shall be capable of measuring mesh sizes up to 300 mm. The scale shall be graduated in intervals of 1, and 5 and 10 millimetres.

3. Mesh gauges which conform to paragraphs 1 and 2 shall be marked 'EC gauge'.

4. The jaws of the mesh gauge measuring the opening of the mesh shall be at least 1 millimetre thick but no more than 3 millimetres and shall have rounded edges.

5. No force other than manually extending the gauge, shall be used measuring a stretched mesh.

Article 11

Selection of meshes

1. The inspector shall select twenty meshes from the net. In the case of trammel nets, the meshes shall be selected from the part of the net having the smallest meshes.

2. The selection shall in no circumstances include the following meshes:

(a) meshes at the top or bottom of a net selvedge attached to a length of rope or a support frame, or other attachments;

(b) meshes within two meshes of lacings and ropes;

(c) meshes that have been broken or repaired.

Article 12

Measurement of each mesh

1. Nets shall be measured when unfrozen.

2. The inspector shall measure the opening of each mesh by inserting the gauge in a mesh, in either direction whichever is the longer, and the mesh shall be stretched manually until the sides of the mesh are straight and taut.

Article 13

Determination of the mesh size

The mesh size shall be the arithmetical mean in millimetres, rounded up to the next millimetre, of the sum of the results of the measurement of each of the meshes selected and measured.

Article 14

Inspection procedures

The inspector shall measure one series of 20 meshes selected in accordance with Article 11. The mesh size of the net shall then be determined in accordance with Article 13.

Article 15

Measurement in case of disputes

If the master disputes the result of the measurement, the inspector shall again select and measure 20 meshes in another part of the net in conformity with the provisions of Articles 11 to 14. The mesh size shall then be recalculated in accordance with Article 13, taking into account all 40 meshes measured. The result of this measurement shall be final.

CHAPTER IV

TWINE THICKNESS

Article 16

Gauge for determining twine thickness

1. Gauges for determining the thickness of twine shall be made of durable, non-corrosive material. A model of the gauge is shown in Annex IV.

2. When the jaws are closed the circular hole shall have the diameter, in millimetres, marked on one of the jaws, adjacent to the hole. The jaws are closed when the surface of both internal sides of the jaws touch each other and are flush.

3. Mesh gauges which conform to paragraphs 1 and 2 shall be marked 'EC gauge'.

Article 17

Selection of twines to be assessed

1. The inspector shall select meshes from any part of the net which is subject to a maximum permitted twine thickness.

2. Twines within a mesh that are broken or have been repaired shall not be selected.

3. Where any of the meshes selected are found to have been repaired or are broken, an inspector may select meshes elsewhere in the net.

Article 18

Assessment of twines

1. Twines shall be assessed when unfrozen.

2. Twines in diamond mesh netting shall be assessed, as shown in Annex II, as follows:

(a) in the case of single twine netting, the twine on opposite sides of 10 meshes selected shall be assessed;

(b) in the case of double twine netting, each strand of twine on opposite sides of five meshes selected shall be assessed.

3. Twines in square mesh netting shall be assessed, as shown in Annex II, as follows:

(a) in the case of single twine netting, the twine on only one side of 20 meshes selected shall be assessed, with the same side being selected in each mesh;

(b) in the case of double twine netting, each strand of twine on only one side of 10 meshes selected shall be assessed, with the same side being selected in each mesh.

Article 19

Inspection procedure for the determination of twine thickness

1. A gauge with a circular hole with a diameter equal to the maximum twine thickness permitted shall be used by the inspector. When the thickness of the twine prevents the closure of the jaws of the gauge or, the twine does not pass easily through the hole when the jaws are closed, the assessment of the thickness of a twine shall be noted by the inspector as a negative assessment (-).

2. If more than five negative assessments (-) of the 20 twines assessed are found, an inspector, shall again select and assess a further 20 twines in accordance with the provisions of Articles 17 and 18.

3. If more than 10 negative assessments (-) of the total 40 twines assessed are found, the twine thickness determined exceeds the maximum twine thickness permitted for that part of the net.

Article 20

The determination of twine thickness in case of disputes

If the master of the vessel disputes the result of the assessment determined in accordance with Article 19, such assessment shall not be considered for the determination of twine thickness.

For the purpose of determining the twine thickness the inspector shall again select and measure 20 different twines in the same part of the net and if more than five negative assessments (-) of the total 20 twines assessed are found, the twine thickness determined exceeds the maximum twine thickness permitted for that part of the net. The result of this determination shall be final.

CHAPTER V

FINAL PROVISIONS

Article 21

Repeal

Regulation (EEC) No 2108/84 is hereby repealed.

Reference to the repealed Regulation shall be construed as reference to this Regulation and shall be read in accordance with the correlation table set out in Annex V.

Article 22

Entry into force

This Regulation shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Communities*.

Articles 17 to 20 shall apply from 1 July 2003.

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

Done at Brussels, 24 January 2003.

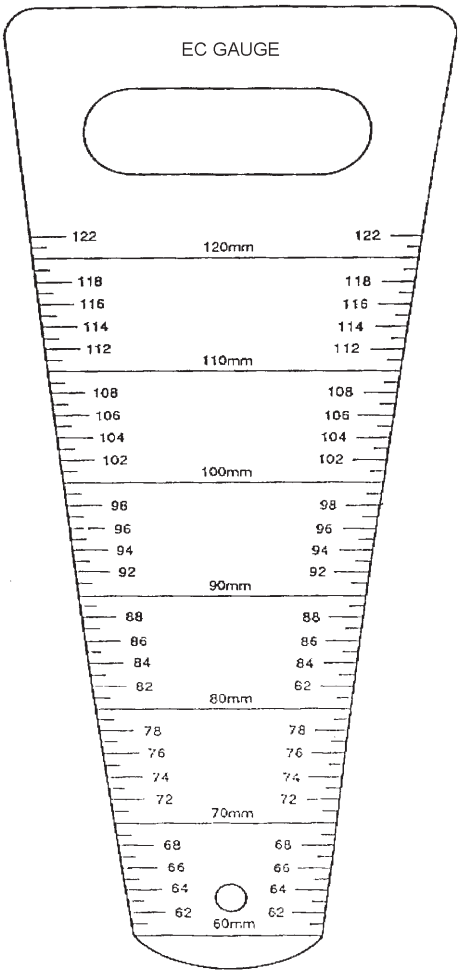
For the Commission

Franz FISCHLER

Member of the Commission

ANNEX I

EC GAUGE
WITH TAPERING EDGES



EC GAUGE
WITH PARALLEL EDGES

