COUNCIL REGULATION (EEC) No 2243/87

of 23 July 1987

amending Regulation (EEC) No 2245/85 laying down certain technical measures for the conservation of fish stocks in the Antarctic

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 on fishery resources (1), as amended by the Act of Accession of Spain and Portugal, and in particular Article 11 thereof,

Having regard to the proposal from the Commission,

Whereas, under Article 2 of Regulation (EEC) No 170/83, the conservation measures necessary to achieve the aims set out in Article 1 of that Regulation are to be formulated in the light of the available scientific advice;

Whereas the Convention on the Conservation of Antarctic Marine Living Resources, hereinafter called 'the Convention', was approved by Decision 81/691/EEC (2); whereas it entered into force for the Community on 21 May 1982;

Whereas the Commission for the conservation of Antarctic marine living resources, established by the Convention, adopted, and notified to the Contracting Parties on 29 September 1986, recommendations made by its Scientific Committee that directed fishing for *Notothenia rossii* off the Peninsula and the South Orkneys be prohibited and by-catches taken during fishing for other species be reduced to a minimum, and that detailed rules on measurement of the mesh size of fishing nets be laid down;

Whereas, in the absence of objections from any of the contracting parties to the Convention, the said recommendations became binding on 29 March 1987 under Article IX (6) of the Convention;

Whereas the Community is therefore under an obligation to implement those recommendations as far as its fishermen are concerned;

Whereas Regulation (EEC) No 2245/85 (3), as amended by Regulation (EEC) No 2296/85 (4), must be amended accordingly,

(1) OJ No L 24, 27. 1. 1983, p. 1.
(2) OJ No L 252, 5. 9. 1981, p. 26.
(3) OJ No L 210, 7. 8. 1985, p. 2.
(4) OJ No L 201, 24. 7. 1985, p. 2.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2245/85 is hereby amended as follows:

1. Article 2 shall be replaced by the following:

'*Article 2*

Prohibition on fishing

Subject to Article 1:

(a) all fishing shall be prohibited within 12 nautical miles of the coasts of South Georgia;

(b) directed fishing for *Notothenia rossii* shall be prohibited:

— in the Peninsular area (FAO Antarctic sub-area 48.1) (1),

— off the South Orkneys (FAO Antarctic sub-area 48.2) (1),

— off South Georgia (FAO Antarctic sub-area 48.3) (1);

in these zones, by-catches of *Nothothenia rossii* taken in the course of directed fishing for other species shall be kept at a level that permits optimum stock replenishment.

(1) The FAO zones mentioned in this Regulation are defined in Commission communication 85/C 335/02 (OJ No C 335, 24. 12. 1985, p. 2.).'

2. Article 4 shall be replaced by the following:

'*Article 4*

Determination of mesh size

For nets as referred to in Article 3 the minimum mesh size provided for in the Annex shall be determined in accordance with the following rules:

1. *Description of gauges*

(a) The gauges to be used for determining mesh size 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 specified above. They shall have a hole at the narrowest extremity.

(b) Each gauge shall be inscribed on its face with the width in millimetres both of the parallel-sided section, if any, and of the tapering section. In the case of the latter, the width shall be inscribed at intervals of 1 mm and shall be indicated at regular intervals.

2. *Use of the gauge*

(a) The net shall be stretched in the direction of the diagonal of the meshes.

(b) A gauge as described in point 1 shall be inserted by its narrowest extremity into the mesh opening in a direction perpendicular to the plane of the net.

(c) The gauge shall be inserted into the mesh opening either manually or using a weight or dynamometer, until it is stopped at the tapering edges by the resistance of the mesh.

3. *Selection of meshes to be measured*

(a) Meshes to be measured shall form a series of 20 consecutive meshes running in the direction of the long axis of the net.

(b) 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.

(c) By way of derogation from (a), the meshes to be measured need not be consecutive if the application of (b) prevents it.

(d) Nets shall be measured only when wet and unfrozen.

4. *Measurement of each mesh*

The size of each mesh shall be the width of the gauge at the point where the gauge is stopped when it is used in accordance with point 2.

5. *Determination of the mesh size of the net*

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 points 3 and 4, the arithmetical mean being rounded off to the nearest millimetre.

The total number of meshes to be measured is specified in point 6.

6. *Sequence of inspection procedure*

(a) The inspector shall measure one series of 20 meshes, selected in accordance with point 3, inserting the gauge manually without using a weight or dynamometer.

The mesh size of the net shall then be determined in accordance with point 5.

If the calculation of the mesh size shows that the mesh size does not appear to comply with the rules in force, two additional series of 20 meshes selected in accordance with point 3 shall be measured.

The mesh size shall then be recalculated in accordance with point 5, taking into account the 60 meshes already measured. Without prejudice to (b), this shall be the mesh size of the net.

(b) If the skipper of the vessel contests the mesh size determined in accordance with (a), such measurement shall not be considered for the determination of the mesh size and the net shall be remeasured.

A weight or dynamometer attached to the gauge shall be used for remeasurement.

The choice of weight or dynamometer shall be left to 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 widest extremity of the gauge.

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

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

For the purposes of determining the mesh size in accordance with point 5 when a weight or dynamometer is used, one series of 20 meshes only shall be measured.'

Article 2

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

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

Done at Brussels, 23 July 1987.

For the Council

The President

K. E. TYGESEN