

COMMISSION REGULATION (EEC) No 3421/84**of 5 December 1984****on sampling of catches for the purpose of determining the by-catch percentage
when fishing with small-meshed nets**

THE COMMISSION OF THE EUROPEAN
COMMUNITIES,

Having regard to the Treaty establishing the European
Economic Community,

Having regard to Council Regulation (EEC) No 171/83
of 25 January 1983 laying down certain technical
measures for the conservation of fishery resources ⁽¹⁾, as
last amended by Regulation (EEC) No 2664/84 ⁽²⁾, and
in particular Article 21 thereof,

Whereas Article 10 of Regulation (EEC) No 171/83
provides for the possibility of using one or more repre-
sentative samples as the basis for determining the
percentage of by-catches;

Whereas it is appropriate to define the meaning of
'representative sample';

Whereas it is necessary to define the terms 'small-
mesh species', 'large-mesh species' and 'small-meshed
nets';

Whereas it is appropriate to define a method of
sampling to be used for determining the percentage of
the by-catches of the species listed in Annex V to
Regulation (EEC) No 171/83 in those regions for
which an entry has been made in that Annex or of
cuttlefish as provided for in the first subparagraph of
Article 8 (1) of Regulation (EEC) No 171/83;

Whereas it is necessary to define the inspection proce-
dure for the purpose of enforcement;

Whereas the measures provided for in this Regulation
are in accordance with the opinion of the Management
Committee for Fishery Resources,

HAS ADOPTED THIS REGULATION:

*Article 1***Representative sample**

For the purpose of determining the percentage of the
by-catches in accordance with the first subparagraph
of Article 8 (1) of Regulation (EEC) No 171/83, fish

samples taken as described in this Regulation shall be
deemed to be representative of all fish either on board
or on board after sorting or in the hold or on landing
within the meaning of Article 10 of Regulation (EEC)
No 171/83.

*Article 2***Definition of groups of species and nets**

For the purpose of this Regulation:

- 'small-mesh species' shall mean those species listed
in Annex II to Regulation (EEC) No 171/83 for
the region concerned,
- 'large-mesh species' shall mean all species except
those listed in Annex II to Regulation (EEC) No
171/83 for the region concerned,
- 'small-meshed nets' shall mean all nets not
complying with Article 2 of Regulation (EEC) No
171/83.

*Article 3***Estimation of weights of fish on board**

If the vessel has both large-mesh species and small-
mesh species on board, the representative of the
competent authorities of the Member State, hereinafter
called 'the inspector', shall determine the weight of
each group of species on board necessary to calculate
the percentage of the by-catch, including any species
listed in Annex V to Regulation (EEC) No 171/83
which were caught with small-meshed nets and which
have been sorted. In determining the weights the
inspector shall take into account the information from
any record of fishing operations (logbook) maintained
in accordance with Article 3 of Council Regulation
(EEC) No 2057/82 ⁽³⁾ and Commission Regulation
(EEC) No 2807/83 ⁽⁴⁾.

*Article 4***Selection of samples**

1. The samples shall be taken and the inspection
procedure carried out by the inspector.

⁽¹⁾ OJ No L 24, 27. 1. 1983, p. 14.

⁽²⁾ OJ No L 253, 21. 9. 1984, p. 1.

⁽³⁾ OJ No L 220, 29. 7. 1982, p. 1.

⁽⁴⁾ OJ No L 276, 10. 10. 1983, p. 1.

2. The captain or his representative shall have the right to be present during the sampling.

3. The samples shall be taken from all parts of the catch comprising small-mesh species and, if present, large-mesh species which are mixed with them.

4. They shall be taken in such a manner that at least one sample is taken from each hold or subdivision of the hold to which access can be gained and which contains small-mesh species and, if present, large-mesh species mixed with them, or from the fish on deck before or after sorting in accordance with Article 10 of Regulation (EEC) No 171/83.

5. In so far as possible, when taking the samples, the inspector shall take them in proportion to his estimate of the weight of fish in each hold or subdivision of the hold or on deck.

6. Where possible samples from different levels within the hold or subdivision of the hold shall be taken.

7. Where sampling is carried out on discharge, samples shall be taken at intervals during discharge.

8. The samples shall be sorted into species or groups of species. After sorting, the total weight of each species or group of species shall be determined.

Article 5

Inspection procedure

1. The initial sampling shall be carried out at sea if technically possible.

2. The captain may require that the sampling be repeated in port either before or during discharge.

The inspector may require that the sampling be repeated in port before discharge and, if the captain decides to discharge the catch, again during discharge.

3. If the captain or the inspector has required that sampling be carried out on discharging the catch, the port chosen by the inspector must have facilities for unloading and processing the catch, subject to any limitations imposed by prevailing conditions which, in the judgement of the inspector, prevent this.

4. The vessel may either be escorted into port or its hold may be sealed and the captain required to take

his vessel into a port specified by the inspector. In the latter case, the inspector shall notify the appropriate control authorities in that port of the name, the registration number and where available the radio call sign of the vessel and its estimated time of arrival. The captain of the vessel shall report to the control authorities immediately on arrival. The seals may be broken only by an inspector.

5. The entire inspection procedure shall be carried out by the inspectors of the same Member State unless that Member State agrees to transfer the control procedures to the competent authorities of another Member State.

6. If the provisions of paragraph 5 are used to permit the transfer of control procedures from one Member State to another, the hold shall be sealed and the provisions of paragraph 4 to vessels whose holds have been sealed shall apply.

Article 6

Relative validity of inspection

1. The result of the calculation of the percentage of the by-catch obtained from sampling in port shall prevail over that obtained from sampling at sea.

2. The result of the calculation of the percentage of the by-catch obtained from sampling during discharge shall prevail over that obtained from sampling at sea or in port without discharging.

Article 7

Minimum sample sizes

1. For sampling at sea, the total weight of the samples selected to Article 4 shall not be less than 100 kilograms.

2. For sampling in port, the total weight of the samples selected pursuant to Article 4 shall be not less than 100 kilograms or one part in 2 000 of the weight of the small-mesh species and, if present, large-mesh species mixed with them, whichever is the greater.

Article 8

This Regulation shall enter into force on the third day following 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, 5 December 1984.

For the Commission
Giorgios CONTOGEORGIS
Member of the Commission
