COMMISSION OF THE EUROPEAN COMMUNITIES

COM(78) 635 final Brussels, 16 November 1978

Modified proposal for a COUNCIL REGULATION (EEC) on technical measures for the conservation of fishery resources

(submitted to the Council by the Commission in accordance with Article 149, indent 2 of the EEC Treaty)

COM(78) 635 final

EXPLANATORY MEMORANDUM

- 1. The present proposal submitted in conformity with Article 149 paragraph 2 of the Treaty, is a revised version of the Commission's proposal as elaborated in the Council (1) to take into account
 - drafting errors or mistakes which have become evident since January 1978,
 - amendments proposed by the Commission in its Proposal for a Regulation laying down certain technical measures for the conservation of fishery resources (COM(78) 490 of 22 September 1978 which was submitted to the Council together with a Proposal for a Regulation laying down measures for the Nephrops fishery (COM (78) 491 of 22 September 1978),
 - some further measures applied by Member States which are in conformity with the aims of the Regulation and the scientific advice available,
 - scientific advice given by the Advisory Committee on Fishery Management of the International Council for the Exploration of the Sea and by a Group of National Scientific Experts assisting the Commission in the drawing up of Proposals for the Conservation of Fishery Resources.
- 2. Substantive amendments to the previous proposals include:
 - Redrafting of Article 6 (3) to prohibit the utilisation for human consumption of undersized fish of protected species,
 - Introduction of a minimum landing size for herring in the Kattegat in Article 8(1) and increase of the minimum mesh size for herring in Kattegat and Skagerrak (Annex II),
 - Decrease of the minimum landing size for Nephrops in Articles 9 and 10,
 - Prohibition of the use of beam trawls in the Kattegat and limitation of the area where certain vessels are not allowed to fish with trawl specifically arranged for catching flatfish in Article 13,
 - Increase of minimum landing size for whiting and fixing c h size for Bass in Region 2.

⁽¹⁾ See document R/168/78 (AGRI 49/RELEX 2) Part III

<u>Basis</u>: COM(78) 7 final (see COM(77) 515 final) of 16 January 1978.

COUNCIL REGULATION (EEC)

on

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 Regulation (EEC) No /78 of establishing a Community system for the conservation and management of fishery resources (1), and in particular Article 2 thereof.

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament (2),

⁽¹⁾ OJ No

^{(&}lt;sup>2</sup>) OJ No C 6 of 9 January 1978.

- Whereas Article 2 of Regulation (EEC) No /78 of
 - requires the Council to adopt the conservation measures necessary
 - to achieve the protection of fishing grounds and fish stocks and the balanced exploitation of fishery resources;

Whereas, to prevent discrimination and distortion of competition between Member States, it is indispensable that conservation measures should be taken by the Community;

Whereas until now Member States have applied certain conservation measures either on their own initiative or as a result of recommendations or proposals from the relevant international fishery commissions;

Whereas these latter measures are largely based on scientific findings which have already been accepted by Member States;

Whereas, as a first step these measures should be adopted, provided that they are consistent with the conservation aims of the Community;

Whereas measures which are not of a permanent nature should be taken by means of additional regulations on a yearly basis;

whereas the minimum mesh sizes for protected species in the North Sea should be increased and in that respect measures should be based on the scientific information given by the International Council for the Exploration of the Sea (ICES), although additional information on other areas seems necessary;

Whereas, according to the same information, nephrops should be excluded from the species to be caught with small-meshed nets; whereas, however, a transitional period should be fixed during which the mesh size for nephrops should be increased in all parts of the North East Atlantic to the mesh size already required in the most important areas;

Whereas, subject to Community examination, Member States may, in cases where conservation is seriously threatened, take conservation measures in addition to those contained in the present Regulation;

Whereas urgent new conservation measures and detailed rules on the implementation of this Regulation may be necessary; whereas such measures and rules should be adopted in accordance with the procedure laid down in Article 14 of Council Regulation (EEC) No /78,

HAS ADOPTED THIS REGULATION:

- This Regulation applies to the taking and landing of biological resources arising in all maritime waters under the sovereignty or jurisdiction of the Member States and subject to Community fisheries legislation in the following Regions:
 - Region 1: all waters off the coasts of Greenland and St. Pierre et Miquelon;
 - Region 2: all waters situated in the area defined by Article 1 of the North

 East Atlantic Fisheries Convention of 24 January 1959 morth of 48°

 latitude North except those in Region 1;
 - Region 3: all waters situated in the area defined by Article 1 of the North East Atlantic Fisheries Convention of 24 January 1959 south of 48° latitude North;
 - Region 4: all waters off the coast of the French department of Guyana;
- Region 5: all waters off the coast of the French departments of Martinique and Guadeloupe;
 - Region 6: all waters off the coast of the French department of Réunion.
- 2. The regions may be divided according to statistical sub-areas or divisions of the International Council for the Exploration of the Sea (ICES) or sub-areas or divisions of the International Convention on the North West Atlantic Fisheries (ICNAF) or parts thereof or by other geographical criteria.

1. No vessel shall use or tow any trawl, Danish seine or similar net which has in any part meshes smaller than those specified in Annex I for the relevant region and type of net.

These provisions shall apply from 1 January 1981 in the North Sea section of Region 2.

2. Hesh sizes smaller than those fixed for these zones in Annex I may be used in the North Sea Section of Region 2 as follows:

- until 31 December 1978:

any part of any net in single twine

70

any part of any net in double twine

75

- from 1 January 1979 until 31 December 1980:

any part of any net in single twine

75

any part of any net in double twine

80

The Council shall, in the light of the relevant available scientific information, re-examine before 1 April 1979 the mesh dimension fixed in Annex I for regions and types of net and, acting by a qualified majority on a proposal from the Coumission, take suitable measures, in particular as regards the mesh dimensions for trawls to be used for catching whiting in the North Sca and the mesh dimensions used for fishing in ICDS Divisions IIIa, VIa, b and VIIa, b, c, d, e, f, g, h, j, k.

Article 3

When fishing in certain regions for the species listed in Annex II and Article 9 vessels may use trawls, Danish seines or similar nets having mesh sizes smaller than those specified in Annex I but not smaller than those specified in Annex II and Articles 9 and 10. These provisions do not apply to vessels trawling in certain areas for the species listed in Annex III.

2. Without prejudice to Articles 9 and 10, in Region 2, no vessel shall use any net having in the codmend meshes of dimensions between 40 millimetres and those specified in Annex I for that region, except in waters each of a line drawn from Hanstholm to Lindesnes.

Article 4

- 1. Notwithstanding Articles 3 and 10:
 - catches of such species of fish as are listed in Annex VI taken during a voyage by a vessel carrying only nets not complying with Article 2(1) may not exceed 10% by weight of all fish on board or of any representative sample thereof of at least 100 kilograms after sorting, in the hold or on landing; by-catches of salmon and trout shall be prohibited; however, in the case of fishing for sandeel with nets of dimensions of less than 16 millimetres, not more than 10% by weight of the fish, or any part thereof exceeding 100 kilograms, on board ship at any time or on landing may consist of other species.
 - catches taken during a voyage by a vessel using both nets complying with Article 2(1) and others not complying therewith shall respect the percentage fixed in the preceding indent only in the case of the quantities taken with nets not complying with Article 2(1). Where the master of the vessel has not kept precise records in accordance with Article 3 of Council Regulation (EEC) No. /78 of laying down certain fishing supervisory measures applicable to Member State vessels (1) all the fish on board shall be deemed to have been caught by means of nets not complying with Article 2(1).
 - 2. Paragraph 1 shall apply with effect from 1 January 1981 to fishing for shrimp of the species Crangon within a 12-mile limit measured from the baselines of the Member States.
 - 3. Paragraph 1 shall apply with effect from 1 January 1981 to the Kattegat (ICES Division IIIa south of a line drawn from Skagen to Pater Noster Lighthouse).

Until paragraph 1 becomes applicable the percentage referred to therein shall be:

- 20 % until 31 December 1978;
- 15 % from 1 January 1979 to 31 December 1980.

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- The appropriate minimum mesh size shall be measured in accordance with Annex IV.
- 2. No device shall be used by means of which the mesh in any part of a fishing net may be obstructed or otherwise effectively diminished. This provision does not exclude the use of the devices referred to in Annex V.

Article 6

- 1. Undersized fish shall not be retained on board any vessel but shall be returned immediately to the sea and shall not be landed, transported, sold, displayed or offered for sale.
- 2. A fish shall be regarded as undersized if its size, measured from the tip of the snout to the end of the tail fin, is smaller than the minimum size specified in Annex VI for the various species and regions.
- Notwithstanding paragraph 1, on any voyage on which any net not complying with Article 2(1) is carried, not more than 10% by weight of all fish on board or of any representative sample thereof of at least 100 kilograms, after sorting, in the hold or on landing, may at any time consist of undersized fish as specified in paragraph 2; by-catches of salmon and trout shall be prohibited. Such fish shall not be landed, transported, sold, displayed or offered for sale for the purpose of human consumption.

Articles 2(1) and 6 shall not apply to whiting fished by vessels not exceeding 150 brake horsepower east of a line drawn from Hanstholm to Lindesnes provided that the landings thereof do not include other species of fish listed in Annex VI.

Article 8

- 1. Fishing for herring of a size smaller than 20 centimetres measured from the tip of the snout to the end of the tail fin or the catching of a number of herring per unit weight greater than a number to be determined shall be prohibited. In the Kattegat, however, the minimum size for herring shall be 18 centimetres. Article 6(1) shall apply.
- 2. Notwithstanding paragraph 1, landings of herring may consist up to 10 % by weight of herring which are undersized or underweight expressed as a maximum number of herring per unit of weight.
- 3. Mackerel smaller than 30 centimetres measured from the tip of the snout to the end of the tail fin may not be caught for purposes other than human consumption. Article 6(1) shall apply.
- 4. Notwithstanding paragraph 3, landings of mackerel for purposes other than human consumption may consist of up to 20 % by weight of undersized mackerel.

Article 9

- 1. No vessel fishing for Nephrops shall use any trawl which has in any part meshes of dimensions smaller than 70 millimetres in Region 2 and 60 millimetres in Region 3, both measured in single twine.
- Fishing for Nephrops of a total length smaller than 86 millimetres in Region 2 and 71 millimetres in Region 3 measured from the tip of the rostral spine to the end of the telson, or the catching of a number of Nephrops per unit of weight greater than a number to be determined, shall be prohibited. Article 6(1) shall apply.
- 3. By way of derogation from the first indent of Article 4(1), the by-catches of protected species taken during each voyage of any vessel fishing for Nephrops in certain maritime areas in Regions 2 and 3 may constitute up to a maximum of 50% by weight of the entire catch on board or any representative sample thereof weighing at least 100 kilograms, after sorting, either in the hold or on landing.

The Council, acting by a qualified majority on a proposal from the Commission, shall define the maritime zones concerned before

1 July 1979.

- 4. Paragraphs 1, 2 and 3 shall apply:
 - from 1 September 1979 in Region 2;
 - from 1 January 1982 in Region 3.
- 5. By way of derogation from paragraphs 1, 2 and 4, the minimum mech and fish size authorized in fishing for Nephrops in the Skagerrak and Kattegat (ICES Division IIIa) shall be 70 millimetres and 130 millimetres respectively.

. Article 10 .

The following measures shall apply to vessels fishing for Wephrops until the provisions laid down in Article 9 take effect:

(a) Region 2

Until 31 August 1979:

- the minimum mesh size shall be 55-60 millimetres;
- the minimum fish size shall be 70 millimetres;
- the percentage for authorized by-catches of the species listed in Annex VI shall be 40%.

(b) Region 3

Until 31 December 1979:

- the minimum mesh size shall be 45 50 millimetres;
- the minimum fish size shall be 70 millimetres;
- the percentage for authorized by-catches of the species listed in Annex VI shall be 60%.

From 1 January 1980 to 31 December 1981:

- the minimum mesh size shall be 50 millimetres measured in single twine and 55 millimetres measured in double twine;
- the minimum fish size shall be 70 millimetres;
- the percentage for authorized by-catches of the species listed in Annex VI shall be 60%.

Article 11

Fishing for salmon in that part of Region 1 east of 44°W and in Regions 2 and 3 shall be prohibited outside 12 miles, measured from the base times of the Member States.

Article 12

For the protection of spawning grounds and nursery areas, fishing for the following species shall be prohibited in the following areas and periods:

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1. Redfish

- (a) Northern area from the coast of Greenland at latitude 67°00 N to:
 - latitude 67°00° 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°00° W
 - latitude 65°10' N, longitude 35°00' W
 - latitude 64°45' N, longitude 35°20' W
 - as far as the coast of Greenland at latitude 64°35' N.
- (b) Southern area from the coast of Greenland at latitude 64°20° N to:
 - latitude 64°20° N, longitude 36°20° W
 - latitude 63°50' N, longitude 36°50' W

- latitude 63°15° N, longitude 39°30° W
- latitude 63°45° N, longitude 39°30° W
- as far as the coast of Greenland at latitude 63°45° N.
- 2. Fishing for herring in ICES Division VI a shall be prohibited every 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
 - to the north, at latitude 58°55' N and longitude 05°00' W
 - to the west, at latitude 58°55° N and longitude 07°10° W
 - to the south-west, at latitude 58°20' N and longitude 08°20' W
 - to the south, at latitude 57°40' N and longitude 08°20' W

- 1. The use of vessels which carry out processing operations other than the salting, boiling and shelling of prawns and shrimps, or filleting, freezing and the reduction of offal and unavoidable by-catches taken within the authorized maximum limit shall be prohibited.
- 2. In the Kattegat, the use of beam trawls shall be prohibited.

3. Inside an area within 12 miles of the mainland coasts of Belgium, Germany, the Netherlands, and the west coast of Denmark as far as Hirtshals lighthouse, measured from the baselines from which the territorial waters are measured, no vessel exceeding 50 Gross Registered Tons or 300 brake horsepower shall trawl for sole or plaice with any beam or other trawl specifically arranged for catching flat fish. Nor shall vessels carry such beams or trawls within the aforementioned areas unless these are properly lashed and stowed in such a way that they may not be readily used.

Notwithstanding the first subparagraph, vessels fishing for other species in the area shall not retain on board sole and plaice in an amount exceeding 10 % by weight of the entire catch on board.

Article 14

The use of purse seines for herring fishing within the area bounded by latitudes 49° and 52°30'N and longitudes 5° and 9°W (Celtic Sea) shall be prohibited.

Article 15

This Regulation shall not apply to fishing operations conducted solely for the purpose of scientific investigation, artificial restocking or transplantation by vessels authorized by a Member State for that purpose, or to fish caught in the course of such operations. The Member States concerned shall inform the Commission that authorization for such operations has been granted.

Fish caught for the purposes set out in the first subparagraph in contravention of the other provisions of this Regulation may not be sold, displayed or offered for sale.

Article 16

1. In the case of strictly local stocks of interest to the fishermen of one Member State only, that Member State may take measures for the conservation and management of those stocks, provided that such measures shall not conflict with Community provisions.

Before adopting these measures the Kember State concerned shall obtain the agreement of the Commission on the finding that these stocks interest only the said Lember State.

2. The other Member States and the Commission shall be informed of any such measures.

Article 17

- action, the Commission may, by way of derogation from the provisions of this Regulation, adopt any measures necessary in accordance with the procedures laid down in Article 14 of Regulation (EEC) No /78. Measures may also be adopted to this end which have not been specifically provided for in the present Regulation.
- 2. Where the conservation of certain species or fishing grounds is seriously threatened and where any delay would result in damage which would be difficult to repair, the coastal State may take appropriate non-discriminatory conservation measures in respect of the waters under its jurisdiction.
- 3. These measures, together with an explanatory memorandum, shall be notified to the Commission and the other Member States by telex as soon as they are decided on.

- 4. Within 10 days from receipt of such notification, the Commission shall confirm, cancel or amend the measures. The Commission decision shall be immediately notified to the other Member States.
- 5. Any Member State may refer the Commission decision to the Council within 10 days of receiving the notification referred to in paragraph 4.
- 6. The Council, acting by a qualified majority, may adopt a decision differing from the Commission decision within 30 days of the matter being referred to it.

. Article 18

Detailed rules for the implementation of this Regulation shall be adopted in accordance with the procedure laid down in Article 14 of Regulation (EEC) No /78.

Article 19

This Regulation shall enter into force on 1 December 1978.

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

Done at Brussels,

For the Council

The President

MINIMUM MESH SIZE REFERRED TO IN ARTICLE 2

REGION	- TYPE OF NET	MINIMUM MESH SIZE (IN MM)
1	All	120
2 outside North Sea (a)	Any part of any net made of single twine	70
	Any part of any net made of double twine	75
2 North Sea (a)	Any part of any net made of single twine	80
	Any part of any net made of double twine	90
3	Any part of any net made of single twine	60
	Any part of any net made of double twine	65
4	All	45

⁽a) For the purpose of the Regulation, the North Sea shall be regarded as being ICES - Division VII d., ICES Sub-Area IV and the adjoining part of Division II a insofar as they are subject to the sovereignty or jurisdiction of a Member State.

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ANNEX II

	SPECIES	Minimum mesh size, in mm
REGION 1	Polar cod (Boreogadus saïda)	16
	Capelin (Mallotus villosus)	•••
	Blue Whiting (Micromesistius poutassou)	91
	Argentine (Argentina spp)	• 86
	Herring (Clupea harengus)	97
	Molluscs	
•	Silver pout (Gadiculus thorii)	, 11
	Nephrops (Nephrops norvegicus)	Ħ
	Norway pout (Trisopterus esmarkii)	•
	Prawms (Pandalus spp) except as specified below:	Ħ
	Prayms in ICNAF Sub-area 1 (offshore)	40
	Redfish in ICNAF Division 3P	none
	Clupeoid fish other than herring	11
	Ecls (Anguilla anguilla)	#
	Great weevers (Trachinus draco)	
	Horse mackerel (Trachurus trachurus)	, w
	Mackerel (Scomber scombrus)	,
	Sandeels (Ammodytidae)	n
	Saury (Scomberesox saurus)	•
	Shrimps (Crangon spp)	*
	Smelts (Osmerus spp)	w

REGION 2	<pre>! Herring (Clupea harengus) except as specified below:</pre>	16
	Herring in ICES Sub-area IIIa	32
	Mackerel (Scomber scombrus) Horse mackerel (Trachurus trachurus) Sprat (Clupea sprattus)	16 "
	Norway pout (Trisopterus esmarkii)	11
	Blue whiting (Micromesistius poutassou)	11
	Argentine (Argentina spp)	**
	Prawns (Pandalus spp)	**
	Shrimps (Crangon spp) (except as specified below:	11
	Shrimps within 12 miles of the mainland coast of the Member States	none
	Eels (except elvers) (Anguilla anguilla)	16
	Great weevers (Trachinus draco)	"
	Molluscs (except cuttlefish - sepia officinalis)	**
	Sandeels (Ammodytidae) except as specified below:	none
	Sandeels in ICES Sub-area IV in the period between 1 November and the last day of February inclusive and in ICES Sub-area IIIa South (Kattegat) between	
	1 August and the last day of February inclusive.	16
	Capelin (Mallotus villosus)	11
	Saury (Scomberesox saurus)	11
	Smelts (Osmerus spp)	**
	Sardines (Sardina pilchardus) -	20

REGION 3	Bastard sole (Dicologlossa cuneata)	40
	Sardine (Sardina pilchardus)	20
	Prawns (Pandalus spp)	•
	Shrimps (Crangon spp)	#
	Eels (except elvers) (Anguilla anguilla)	, 20
	Sprat (Clupea sprattus)	16
	Anchovy (Engraulis encrassicholus)	10
	Sandeel (Ammodytidae)	, 10
	Herring (Clupea harengus)	40
	Horse mackerel (Trachurus trachurus)	
	Madreral (Scombon gcombing)	

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SPECIES AND AREAS FOR WHICH SMALL MESH NETS ARE NOT AUTHORIZED

- 1. Blue Whiting (Micromesistus poutassou), in that part of Region 2 to the south of latitude 52°30° N and west of longitude 7°00° W:
- 2. Bastard sole (Dicologlossa cuneata), in all parts of Region 3 outside a line connecting the following points, where the first sentence of Article 3(1) applies for vessels not exceeding 150 bhp:

46°16' latitude North, 01°36' longitude West (Phare des baleines)

46°05° latitude North, 01°44° longitude West

45°40° latitude North, 01°34° longitude West

44°40' latitude North, 01°34' longitude West

and then due east to the coast:

- 3. Shrimp and prawn, outside the 12-mile limit measured from the baselines of the territorial waters in Region 3;
- 4. Norway pout (Trisopterus esmarkii), in that part of the North Sea bounded by a line connecting the following points:
 - East coast of United Kingdom at 56000 latitude north
 - 55°00° latitude worth 00°00° longitude
 - 60°00! latitude north 00°00! longitude
 - 60°00' latitude north 03°00' longitude west
 - 58°30' latitude north 03°00' longitude west
 - East coast of United Kingdom at 58°30° latitude north

METHOD OF MEASURING MESH SIZES

The minimum mesh size shall be such that when the mesh is stretched diagonally lengthwise of the net a flat gauge 2mm thick of the appropriate width passes through it easily. When the net consists of non-synthetic fibres, it shall be measured wet.

The mesh size of a net shall be determined by the average of the measurements of any series of twenty consecutive meshes, at least ten meshes from the lacings, measured in the cod-end of the net beginning at the aft end and running parallel to the long axis.

PROVISIONS REFERRED TO IN ARTICLE 5(2)

- 1. Any canvas, netting, or other material attached to the underside of the cod-end of a trawl net for the purpose of preventing wear or tear, fastened to the cod-end only along the forward and lateral edges of the device.
- 2. A strengthening bag made of heavier material than the cod-end and having a minimum mesh size of 80 mm, attached to trawl nets with meshes of dimensions smaller than those specified in Annex I, with the exception of those nets mentioned in Articles 9 and 10.
- 3. Notwithstanding paragraph 2, a chafer or a cover made of a piece of netting consisting of the same material as the cod-end, having in all its parts a mesh twice the mesh size of the cod-end and fastened to the cod-end along the forward, lateral and rear edges only of the netting in such a way that each mesh of the netting coincides with four meshes of the cod-end, may be attached to trawl nets with meshes of dimensions smaller than those specified in Annex I in Regions 2 and 3 and to all trawl nets in Region 1.

MINIMUM FISH SIZE (CM) REFERRED TO IN ARTICLE 6

	That part of Region 1 inside ICES Sub-areas II, V, XII and XIV	Region 2	Region
Cod (Gadus morhua)	34(a)	30	30
Haddock (Melanogrammus aeglefi	nus) 31	27	27
Hake (Merluccius merluccius)	30	30	30
Plaice (Pleuronectes platessa)	25	25	25
Witch (Glyptocephalus cynoglos	sus) 28	28	28
Lemon sole (Microstomus kitt)	25	25	25
Sole (Solea solea)	24	24	24
Turbot (Psetta maxima) *	30	30	30
Brill (Scophthalmus rhombus)	30	30	30
Megrim (Lepidorhombus spp)	·	25	25
Whiting (Merlangius merlangus)	27_	27	23
Dab (Limanda limanda)	15	15	15
Saithe (Pollachius virens)	35	· 30(b)	30
Common sea bream (Pagellus bog	garaveo) (-	day.	13
Red mullet (Mullus surmuletus	-		15
Bass (Dicentrarchus labrax)		. 26	25
Conger eel (Conger conger)	_		58
Pollack (Pollachius pollachiu	s) –	-	22
Ling (Molva molva)	•	400	63
Shad (Alosa spp)	-	(49	· 3 0
Sturgeon (Acipenser sturio)	; •	.	145
Grey mullet (Mugil spp)	-	-	20
Salmon (Salmo salar)	•	. ***	48
Trout (Salmo trutta)	an	-	23

⁽a) The minimum size in sub-area ICNAF 1 shall be 40 cm
(b) Except landings of saithe caught in the area east of a line drawn from Hanstholm to Lindesnes.