

# **NWIFCA Technical, Science and Byelaw Committee**

**4<sup>th</sup> February 2020: 10:00 a.m.**

**AGENDA  
ITEM NO.**

**9**

## **CONSIDERATION OF THE NEED FOR A MINIMUM CONSERVATION REFERENCE SIZE (MCRS) BYELAW**

### **RECOMMENDATIONS**

1. The Authority considers the need for a Byelaw to restore IFCA powers to require non-licensed fishers to comply with Minimum Conservation Reference Sizes (MCRS and Minimum Landing Sizes (MLS)) provisions of EU850/98 which were excluded from EU1241/19.
2. Subject to paragraph 1 above, the byelaw at Annex B be presented to be made by the Authority at the March meeting.

### **Why is the byelaw under consideration now?**

1. In July 2019 EC850/98 was revoked and replaced by Council regulation 1241/2019. The new regulation diminishes the effectiveness of minimum sizes as a management measure by not providing IFCAs with powers in 850/98 to enforce MCRS for unlicensed fishing. IFCA powers to enforce prohibitions on transshipping, landing, transporting, storing, selling and or offering for sale undersize marine organisms taken by unlicensed fishers are also excluded.
2. NB: The application of MCRS in 850/98 to unlicensed fishers was extensively debated. This debate led some SFC including the NWSFC to clarify the application of MCRS to unlicensed fishers by making byelaw 19 as explained below.

### **Background**

3. Use of MLS has been a primary measure to promote long-term, sustainable fisheries throughout the 20<sup>th</sup> century. Most recently in Council Regulation (EC) No 850/98. The NWIFCA inherited NWSFC byelaw19 which placed the MCRS provisions of 850/98 in an SFC byelaw to overcome legal uncertainty about their application to unlicensed fishing.
4. The reason why EU/Defra have removed the MCRS enforcement duty from IFCA is unclear. The landing obligation on commercial fishing has reduced the importance of MCRS but this applies only to licensed vessels and does not include shellfish.
5. Four IFCA (K&EIFCA, EIFCA, NEIFCA and NIFCA) have made emergency byelaws to restore powers to enforce MCRS for non-commercial fishing and are proceeding to make full byelaws at forthcoming meetings
6. Six IFCA including NWIFCA have taken no action, having assessed the risk of significant increases in landing of small fish as low. There is also uncertainty from Defra about the extent of the policy change. Defra have said (email at Annex A) they do not support IFCA MCRS byelaws.
7. There is doubt about the legality of the emergency byelaws. The effects of EC 1241/19 were foreseen in May 2019 and reported to both UK and EU governments.

8. Support for MCRS remains high amongst fishing organisations including the NFFO and Angling Trust where there is concern about moving to landing obligations to reduce fishing effort.

### **The NWIFCA position**

9. NWSFC byelaw 19 applies to the NWIFCA District south of Haverigg point near Barrow in Furness in Cumbria. North of Haverigg point, the Cumbria SFC District there is no MCRS byelaw. This inconsistency should be and would be addressed in the byelaw review in due course
10. In August 2019 following the introduction of EC1241/19 The risk of harm arising from the non-inclusion of some MCRS powers was assessed as low because there have been no prosecutions under Byelaw 19 in the last 10 years.
11. Since EC1241/19 was introduced there has been intelligence (4 reports in 4 months) of non-commercial fishers in Cumbria taking fish which may have been illegal under 850/98.

### **Options**

12. **Do nothing:** This may be preferred short term because:
  - i. Defra and EU removed MCRS from non-commercial fishing having been advised of possible adverse impacts. They may consider that non-commercial fishing of unregulated species is not a threat to stocks so MCRS are now redundant.
  - ii. Defra advised in Aug/Sept that restoration of MCRS powers using IFCA byelaws would not be supported. 4 IFCA are testing this by seeking confirmation of MCRS bylaws. NWIFCA could wait for the outcome.
  - iii. The amount of unlicensed 'undersize' fish landed may remain low. If concern arises, the Authority could proceed quickly to make a byelaw using those of other IFCA as templates.
  - iv. Defra may consider a national SI to restore MCRS powers if concern about the landing of undersize fish becomes widespread.
13. **Make a District wide MCRS byelaw:** The purpose of the byelaw would be to prohibit all undersize fish and shellfish of all species subject to an MCRS taken by non-licensed fishers and fish not subject to landing obligation taken by licensed fishers being removed from the fishery, retained on board, transhipped, landed, transported, stored, sold, displayed or offered for sale.
14. Using draft byelaw being proposed by other IFCA as a template, the byelaw at Annex B could be made at the March meeting followed by the statutory 1 month consultation
15. **Make an emergency Byelaw to do the above urgently.** 4 IFCA have gone down this route and are already consulting on a full byelaw. There are 2 tests which must be satisfied to justify making an emergency byelaw: 1. there must be an urgent need for the byelaw and 2. the urgent need should not have been foreseeable.

**CEO and HOE**  
**15<sup>th</sup> January 2020**

Email from Rachel Hanbury, Defra, to Kent and Essex IFCA, 7 August 2019.

re MCRS emergency byelaws

**From:** Hanbury, Rachel <[Rachel.Hanbury@defra.gov.uk](mailto:Rachel.Hanbury@defra.gov.uk)>  
**Sent:** 07 August 2019 13:07  
**To:** Dominic Bailey <[dominic.bailey@kentandessex-ifca.gov.uk](mailto:dominic.bailey@kentandessex-ifca.gov.uk)>  
**Cc:** Horsburgh, Grant <[grant.horsburgh@defra.gov.uk](mailto:grant.horsburgh@defra.gov.uk)>; Robertson, Ross <[Ross.Robertson@defra.gov.uk](mailto:Ross.Robertson@defra.gov.uk)>  
**Subject:** MCRS - Tech Con - Recreational Angling

Hi Dominic

Sorry for missing your call yesterday. You mention a letter sent by Rob Clark at Southern IFCA, sorry but I don't know the letter you refer to. Both yourself and Rob have asked what the Defra policy is on MCRS applying to recreational angling so have copied in Grant who I believe deals with recreational angling. I'm afraid my team don't lead in this area nor do we work on tech con and the issue you raise in relation to this.

We have already discussed that Defra do not feel the continued absence of mandating MCRS in Tech Con for recreational angling is an emergency byelaw issue. If you have any questions regarding the SI my team are doing to give IFCOs powers to enforce the new Tech Con provisions please contact Ross, copied in.

Many thanks

Best wishes

Rachel Hanbury | Fisheries - Head of Control, Enforcement and IUU | Department for Environment, Food and Rural Affairs | Tel: 0208 225 6658 | Mobile: 07815 840617 | Address: DEFRA 2nd Floor, Foss House, York, YO1 7PX |

North Western Inshore Fisheries and Conservation Authority

**MARINE AND COASTAL ACCESS ACT 2009 (c.23)**

**NWIFCA Byelaw 1. MINIMUM CONSERVATION REFERENCE SIZES 2020**

The Authority for the North Western Inshore Fisheries and Conservation District, in exercise of the power conferred by section 155 and 156 of the Marine and Coastal Access Act 2009 makes the following byelaw for that District.

**Interpretation**

- 1) In this byelaw-
  - a) "the Authority" means the North Western Inshore Fisheries and Conservation Authority as defined in articles 2 and 4 of the North Western Inshore Fisheries and Conservation Order 2010 (SI2010 No. 2200);
  - b) "North Western IFC District" means the North Western Inshore Fisheries and Conservation District as defined in articles 2 and 3 of the North Western Inshore Fisheries and Conservation Order 2010 (S.I. 2010 No. 2200) as amended by the North Western Inshore Fisheries and Conservation (Amendment) Order 2019.

**Catch Prohibitions and Restrictions**

- 2) This byelaw does not apply to any fish which must be landed under Article 15 of Regulation (EU) 1380/2013; the landing obligation.
- 3) Subject to paragraphs 4, and 7, a person must not remove from the fishery, retain on board, tranship, land, transport, store, sell, display or offer for sale, any of the species named in paragraph 7 that measure less than the minimum conservation reference sizes specified but shall return them immediately to the sea.
- 4) Paragraph 3 shall not apply to herring, horse mackerel and mackerel, within a limit of 10 % by live weight of the total catches retained of each of these species. The percentage of herring, horse mackerel or mackerel below the minimum conservation reference size shall be calculated as the proportion by live weight of all marine organisms retained after sorting or on landing. The percentage may be calculated on the basis of one or more representative samples. The limit of 10% shall not be exceeded during transshipment, landing, transportation, storage, display or sale.
- 5) The marine organisms specified in paragraph 7 shall be measured in accordance with Schedule 1.
- 6) Named crustaceans and named molluscs for which a size is specified in paragraph 7 may only be retained on board whole and may only be landed whole with the exception of the Norway Lobster.
- 7) Specified minimum conservation reference sizes are as follows
  - (a) Named Fish Species

Bass ( <i>Dicentrarchus labrax</i> )	420 mm
Blue Ling ( <i>Molva dypterygia</i> )	700 mm
Bluefin tuna ( <i>Thunnus thynnus</i> )	700 mm or 6.4kg
Brill ( <i>Scophthalmus rhombus</i> )	300 mm

Cod ( <i>Gadus morhua</i> )	350 mm
Conger eel ( <i>Conger conger</i> )	580 mm
Dab ( <i>Limanda limanda</i> )	150 mm
Flounder ( <i>Platichthys flesus</i> )	250 mm
Grey mullet ( <i>Chelon labrosus</i> )	200 mm
Hake ( <i>Merluccius merluccius</i> )	270 mm
Haddock ( <i>Melanogrammus aeglefinus</i> )	300 mm
Herring ( <i>Clupea harengus</i> )	200 mm
Horse Mackerel ( <i>Trachurus trachurus</i> )	150 mm
Lemon Sole ( <i>Microstomus kitt</i> )	250 mm
Ling ( <i>Molva molva</i> )	630 mm
Megrim ( <i>Lepidorhombus</i> spp.)	200 mm
Mackerel ( <i>Scomber scomber</i> )	200 mm
Plaice ( <i>Pleuronectes platessa</i> )	270 mm
Pollack ( <i>Pollachius pollachius</i> )	300 mm
Red Mullet ( <i>Mullus surmuletus</i> )	150 mm
Red Seabream ( <i>Pagellus bogaraveo</i> )	250 mm
Saithe ( <i>Pollachius virens</i> )	350 mm
Sole ( <i>Solea solea</i> )	240 mm
Turbot ( <i>Psetta maxima</i> )	300 mm
Whiting ( <i>Merlangius merlangus</i> )	270 mm
Witch Flounder ( <i>Glyptocephalus cynoglossus</i> )	280 mm
Any skate or ray between wing tips	45mm
Any skate or ray wing	22mm
(b) Named Mollusc Species	
Bean Solen ( <i>Pharus legume</i> )	65 mm
Carpet shell ( <i>Venerupis corrugate</i> )	38 mm
Clam ( <i>Venus verrucosa</i> )	40 mm
Donax clam ( <i>Donax</i> spp.)	25 mm
Hard clam ( <i>Callista chione</i> )	60 mm
Queen scallop ( <i>Chlamys</i> spp.)	40 mm
Razor Clam ( <i>Ensis</i> spp.)	100 mm
Scallop ( <i>Pecten maximus</i> )	110 mm
Short necked clam ( <i>Ruditapes phillipinarum</i> )	40 mm
Surf Clam ( <i>Spisula solidissima</i> )	25 mm
Octopus ( <i>Octopus vulgaris</i> )	750 grams
Whelk ( <i>Buccinum undatum</i> )	55mm
Winkle ( <i>Littoriina littorea</i> )	must not pass through gauge having square aperture of 16mm each side
(c) Named Crustacea Species	
Edible crab ( <i>Cancer pagurus</i> )	130mm
European lobster ( <i>Homarus gammarus</i> )	87mm
Spider Crab ( <i>Maja squinado</i> )	
Male	130 mm
Female	120 mm
Velvet swimming Crab ( <i>Necora puber</i> )	65 mm
Crawfish ( <i>Palinurus</i> spp.)	95mm
Norway Lobster ( <i>Nephrops norvegicus</i> )	
Total length	70 mm
Carapace length	20 mm

## Revocations

- 8) The Byelaw with the title "SPECIFIED FISH SIZES" made by North Western Sea Fisheries Committee on the 24<sup>th</sup> July 2009 and which was in force immediately before making this byelaw is revoked.

- 9) The byelaw with the title Byelaw 9- Skate Fishery made by Cumbria Sea Fisheries Committee on the 16<sup>th</sup> April 1993 and which was in force immediately before making this byelaw.
- 10) Section 2 of the byelaw with the title Byelaw 7 Winkles – Method of Fishing and Minimum Size made by Cumbria Sea Fisheries Committee on 21 April 2004 and which was in force immediately before making this byelaw is revoked.

I hereby certify that MINIMUM SIZES BYELAW 2019 was made by North Western Inshore Fisheries and Conservation Authority at their meeting on 19<sup>th</sup> March 2020.

Dr Stephen Atkins, Chief Executive Officer  
North Western Inshore Fisheries and Conservation Authority  
1 Preston Street, Carnforth, Lancashire LA5 9BY

*The Secretary of State for Environment, Food and Rural Affairs in exercise of the powers conferred by section 155(3) and (4) of the Marine and Coastal Access Act 2009, confirms the minimum Sizes Byelaw 2020 made by the North Western IFCA on 19<sup>th</sup> March 2020.*

*The said byelaw comes into force on: .....*

#### Explanatory Note

*(This note is not part of the Byelaw)*

This byelaw prohibits the removal from the fishery, retention on board, transshipping, landing, transporting, storing, selling, displaying or offering for sale specified marine organisms below specified sizes. The byelaw also prohibits the retention on board or landing of crustaceans unless they are whole, with the exception of the Norway Lobster.

The byelaw provisions shall not apply to any catch that is subject to Article 15 of Regulation (EU) 1380/2013 or any subsequent regulation that requires fish to be retained and landed in order to prohibit discarding at sea.

The byelaw includes methods of measurement according to the anatomy of the named species.

The byelaw also contains provisions for retaining 10% undersize catch in relation to sardine, anchovy, herring, horse mackerel or mackerel.

Minimum sizes for Cockle (*Cerastoderma edule*), Mussels (*Mytilus edulis*) can be found in NWIFCA Byelaw 3.

Minimum sizes for Edible Crabs (*Cancer pagarus*), European Lobster (*Homarus gammarus*), Whelk (*Buccinum undatum*) can be found in the NWIFCA Potting Byelaw.

## SCHEDULE 1

### Measurement of the size of a marine organism

1. The size of any fish shall be measured, as shown in Figure 1 for illustrative purposes, from the tip of the snout to the end of the tail fin.
2. The size of a Norway lobster shall be measured as shown in Figure 2 for illustrative purposes:
  - a. as the length of the carapace, parallel to the midline, from the back of either eye socket to the distal edge of the carapace, and/or,
  - b. as the total length, from the tip of the rostrum to the rear end of the telson, not including the setae, and/or,
  - c. in the case of detached Norway lobster tails: from the front edge of the first tail segment present to the rear end of the telson, not including the setae. The tail shall be measured flat, unstretched and on the dorsal side.
3. The size of a lobster shall be measured, as shown in Figure 3 for illustrative purposes, as the length of the carapace, parallel to the midline, from the back of either eye socket to the distal edge of the carapace.
4. The size of a spider crab shall be measured, as shown in Figure 4 for illustrative purposes, as the length of the carapace, along the midline, from the edge of the carapace between the rostrums to the posterior edge of the carapace.
5. The size of an edible crab shall be measured, as shown in Figure 5 for illustrative purposes, as the maximum width of the carapace measured perpendicular to the antero-posterior midline of the carapace.
6. The size of a velvet swimming crab shall be measured, as shown in Figure 6 for illustrative purposes, as the maximum width of the carapace measured perpendicular to the antero-posterior midline of the carapace, excluding the spines.
7. The size of any bivalve mollusc shell be measured, as shown in Figure 7 for illustrative purposes, across the longest part of the shell.
8. The size of a crawfish shall be measured, as shown in Figure 8 for illustrative purposes, as the length of the carapace from the tip of the rostrum to the midpoint of the distal edge of the carapace.

Figure 1

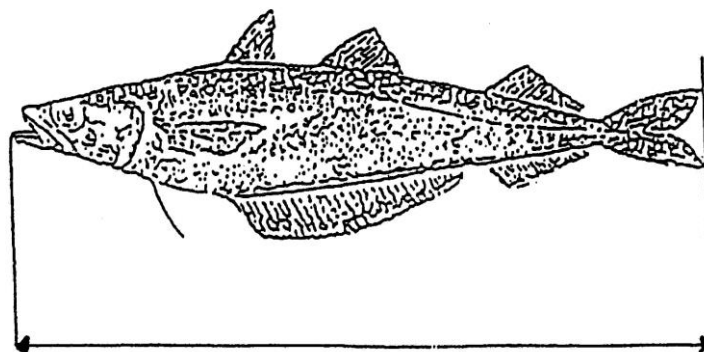


Figure 2

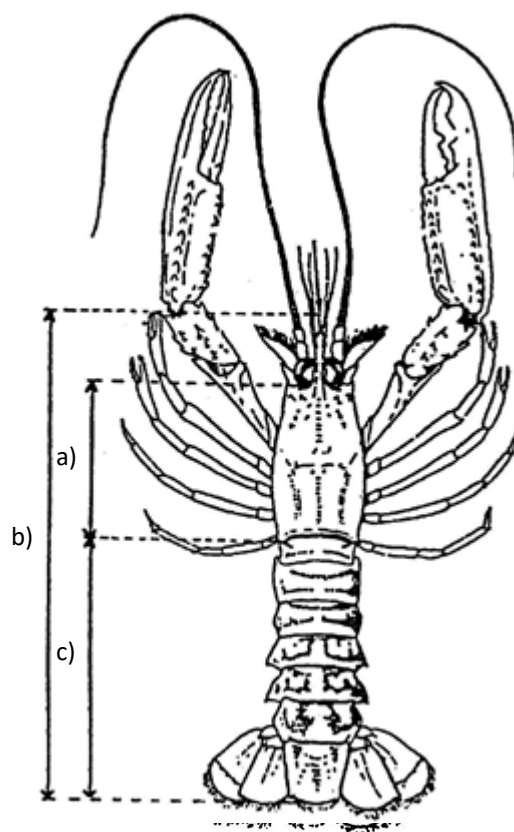




Figure 3

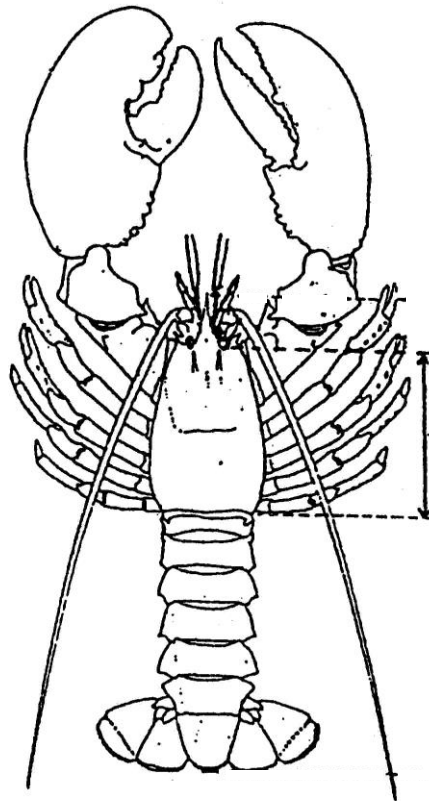


Figure 4

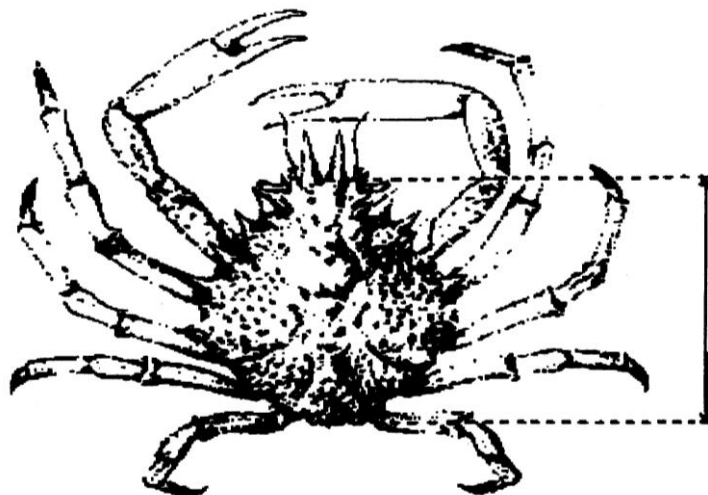


Figure 5

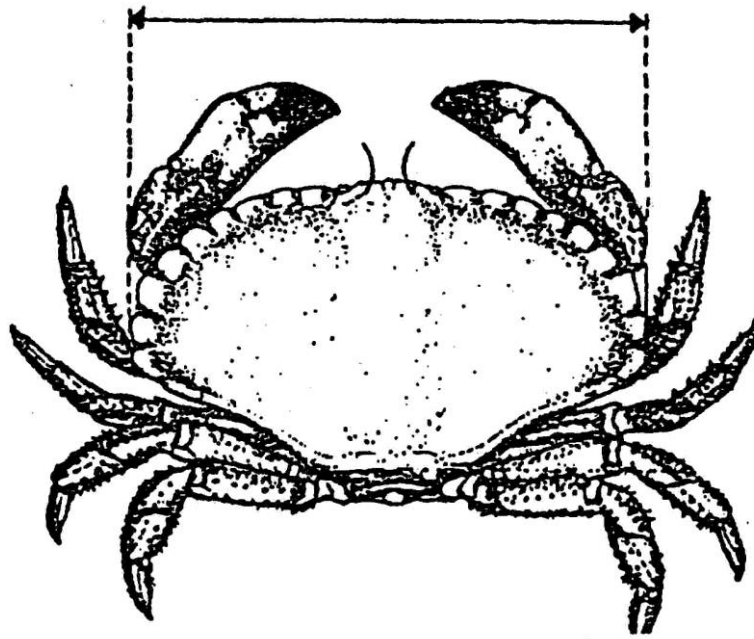


Figure 6

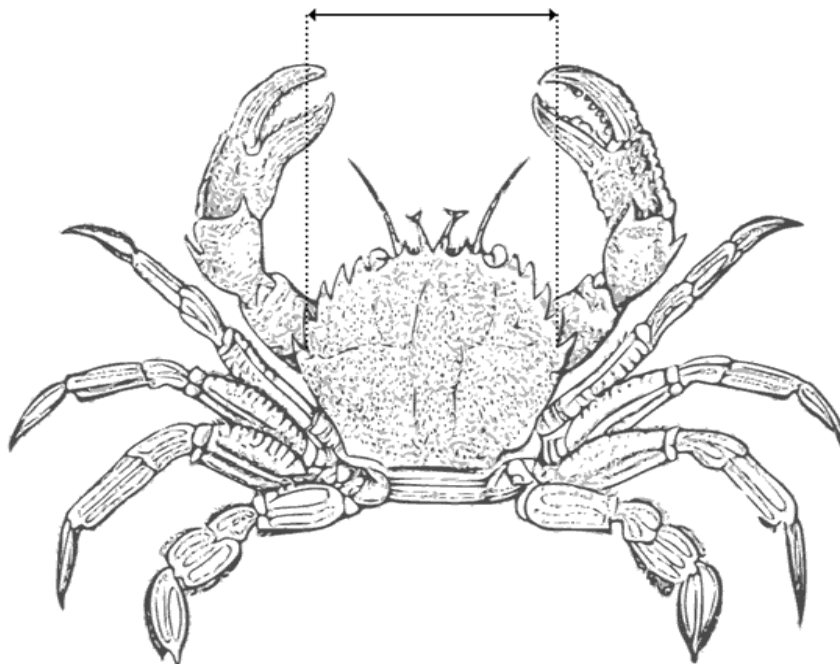


Figure 7

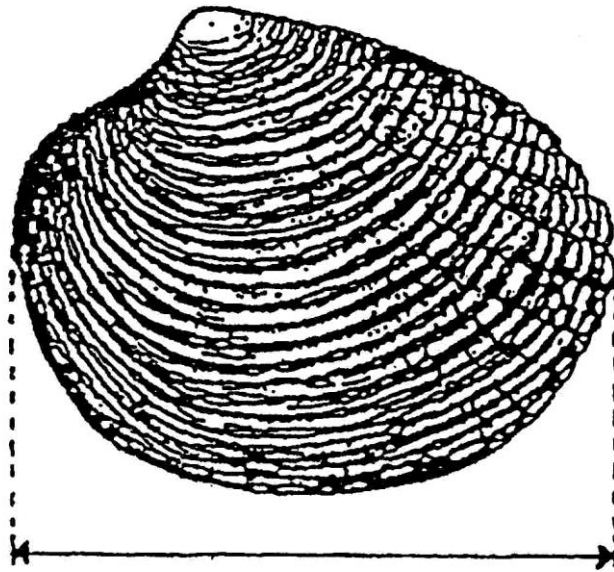


Figure 8

