

**COUNCIL REGULATION (EEC) No 3781/85**  
of 31 December 1985

**laying down the measures to be taken in respect of operators who do not comply with certain provisions relating to fishing contained in the Act of Accession of Spain and Portugal**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

HAS ADOPTED THIS REGULATION:

Having regard to the Act of Accession of Spain and Portugal, and in particular Articles 163 (3), 164 (2), 165 (8), 349 (5), 351 (5) and 352 (9) thereof,

Having regard to the proposal from the Commission,

Whereas, in order to ensure compliance with the rules on access to waters and resources laid down in the Act of Accession, it is necessary to adopt provisions under which Member States prohibit, for a certain period, fishing by an operator who does not comply with those rules, supplementing Council Regulation (EEC) No 2057/82 of 29 June 1982 establishing certain control measures for fishing activities by vessels of the Member States <sup>(1)</sup>, as last amended by Regulation (EEC) No 3723/85 <sup>(2)</sup>;

Whereas, pursuant to Article 164 (2) of the Act of Accession, the specialized fishing activities of vessels flying the flag of a present Member State in the waters falling under the sovereignty or within the jurisdiction of Spain are to be carried out in accordance with the same access and control procedures as those specified for Spanish vessels authorized to carry out their fishing activities in the fishing zones of the present Member States; whereas, as regards the other fishing activities carried out under Article 164 (1) of the Act of Accession, it is appropriate to apply to the vessels concerned arrangements comparable to those applicable to the non-specialized fishing activities of vessels flying the flag of Spain in waters falling under the sovereignty or within the jurisdiction of the present Member States;

Whereas provision should be made for adopting the necessary implementing rules in accordance with the procedure laid down in Article 14 of Council Regulation (EEC) No 170/83 of 25 January 1983 establishing a Community system for the conservation and management of fishery resources <sup>(3)</sup>;

Whereas, pursuant to Article 2 (3) of the Treaty of Accession of Spain and Portugal, the institutions of the European Communities may adopt before accession the measures referred to in Articles 163, 164, 165, 349, 351 and 352 of the Act of Accession, these measures entering into force subject to and on the date of accession.

*Article 1*

This Regulation lays down the measures intended to ensure compliance with the rules on access to waters and resources contained in Articles 163, 164, 165, 349, 351 and 352 of the Act of Accession by fishing vessels flying the flag of a Member State or registered in a Member State.

*Article 2*

1. The competent authorities of Member States shall without delay notify the Commission and the flag Member State or the Member State of registration, hereinafter referred to as the 'Member State', of any infringement of the rules referred to in Article 1, giving the name and identification marks of the vessel concerned, the name of the skipper, owner and, where appropriate, charterer, the circumstances of the infringement and any penal, administrative or other measures taken, and any court decision relating to such infringement.

2. On the basis of a judicial decision notified or in any other case of recorded infringement of the rules mentioned in paragraph 1, the Member State may no longer enter the vessel concerned, under the conditions provided for in Articles 3 and 4, on the draft periodical lists which it submits to the Commission.

*Article 3*

1. Subject to paragraph 2, the Member State may no longer enter the vessel for which the infringement has been recorded pursuant to Article 2 (2) on a draft periodical list during a period of four months; such a period may be extended to up to twelve months in the case of a further infringement.

2. In the case of the specialized fishing referred to in Articles 160, 164, 349 and 351 of the Act of Accession, and in the case of fishing for albacore tuna, swordfish, blue shark and Ray's bream as referred to in Articles 165 and 352 of the said Act, the period of non-entry shall be two months and may be extended to up to four months in the case of a further infringement.

*Article 4*

1. Where it has been recorded, pursuant to Article 2 (2), that a vessel has fished without authorization, it may no

<sup>(1)</sup> OJ No L 220, 29. 7. 1982, p. 2.

<sup>(2)</sup> OJ No L 361, 31. 12. 1985, p. 42.

<sup>(3)</sup> OJ No L 24, 27. 1. 1983, p. 1.

longer be entered by the flag Member State on a draft periodic list:

- (a) for a period of four months in the case of the specialized fishing referred to in Articles 160, 164, 165, 349 and 351 of the Act of Accession and in the case of fishing for albacore tuna, swordfish, blue shark and Ray's bream, as referred to in Articles 165 and 352 of the said Act; such period may be extended to up to six months in the case of a further infringement.
- (b) for a period of eight months in the case of fishing other than that referred to in (a); such period may be extended to up to eighteen months in the case of a further infringement.

2. However, instead of taking the measures provided for in paragraph 1, the Member State may refuse entry on a draft

periodic list, for the same periods, to another vessel, fitted out by the owner or charterer of the first vessel, which, when the infringement occurred, appeared on a periodic list.

*Article 5*

Detailed rules for the application of this Regulation shall be adopted in accordance with the procedure laid down in Article 14 of Regulation (EEC) No 170/83.

*Article 6*

This Regulation shall enter into force on 1 January 1986, subject to the entry into force of the Treaty of Accession of Spain and Portugal.

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

Done at Brussels, 31 December 1985.

*For the Council*  
*The President*  
R. STEICHEN