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(Acts whose publication is obligatory)

COUNCIL REGULATION (EEC) No 2241/87
of 23 July 1987
establishing certain control measures for fishing activities

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 of fishery resources⁽¹⁾, and in particular Article 11 thereof,

Having regard to the proposal from the Commission,

Whereas, following the substantial amendments made with regard to the inspection and control of fishing activities dealt with in Regulation (EEC) No 2057/82⁽²⁾, as last amended by Regulation (EEC) No 4027/86⁽³⁾, it is appropriate, for reasons of clarity, to consolidate the said Regulation;

Whereas, for catches by fishing vessels, it is important to adopt rules for control in order to ensure that the limits fixed elsewhere for permissible levels of fishing are observed;

Whereas these rules must include measures concerning the inspection and monitoring by Member States' authorities of all fishing vessels, including the vessels of third countries, at sea and in port, and all activities whose monitoring would enable verification of the implementation of this Regulation and the taking of proceedings against breaches of the rules concerning conservation and control measures;

Whereas Member States must periodically report to the Commission on their inspection activities and on the action taken with regard to any violations of conservation and control measures;

Whereas the effective control of landings of fish species for which a total allowable catch (TAC) per stock or group of stocks or other form of quantitative limitation has been

fixed requires that skippers of fishing vessels keep a record and submit statements of their fishing activities; whereas, however, it is appropriate to exempt from the obligation to keep a fishing logbook vessels of small size and of limited operating range for which such an obligation would constitute a burden disproportionate to their catch potential;

Whereas, it is nevertheless desirable that skippers of vessels over 10 metres in length or their agents should fill out a declaration of landings at the end of each voyage inasmuch as, having regard to the number of boats in question, this declaration constitutes the sole means of monitoring their activities, thereby permitting the degree of observance of conservation measures in force to be appraised;

Whereas the control of fishing activities requires that Member States should verify the accuracy of entries in logbooks, landing and transhipment declarations;

Whereas Member States should be obliged to record landings of stocks or groups of stocks subject to TACs or quotas and to arrange that the recording of these landings can be verified;

Whereas the communication of more detailed or more frequent information about catches to the Commission at the latter's request would improve the control of fishing activities;

Whereas landings made outside the territory of the Community as well as transhipments of fish from one vessel to another should be recorded;

Whereas it is appropriate to permit the provisions concerning the logbook, the declaration of landings and information about transhipments and registration of catches to be extended to stocks not subject to total allowable catches or quotas;

Whereas it is necessary that, if the fishermen of a Member State have exhausted a quota allocated to that State, the obligation to cease fishing should be the subject of a decision of the Commission;

⁽¹⁾ OJ No L 24, 27. 1. 1983, p. 1.

⁽²⁾ OJ No L 220, 29. 7. 1982, p. 1.

⁽³⁾ OJ No L 376, 31. 12. 1986, p. 4.

Whereas, moreover, the Community is empowered internally under the Treaty to take any measures for the conservation of the biological resources of the sea; whereas, in this context, provision should be made for the possibility of putting a stop to fishing once the TAC, quota, allocation or share available to the Community is exhausted; whereas, however, reparation should be made for the loss sustained by a Member State which has not exhausted its quota, allocation or share of the stock or group of stocks concerned; whereas a compensation mechanism should be provided for that purpose, reconciling the requirements of conservation with the preservation of fishing possibilities per species and per zone as given by the annual setting of TACs and quotas; whereas, to this end, preference should be given when making these deductions and awards, either during the same year or during the following years, to the species and zones for which the annual quotas, allocations or shares have been set;

Whereas certain provisions are necessary to make it possible to verify the implementation of this Regulation;

Whereas, when the Commission or its authorized officials encounter, in carrying out their duties, repeated and unjustified difficulties, the Commission may request of the Member State concerned, in addition to an explanation, the means of fulfilling its task; whereas the Member State concerned is required to ensure fulfilment of its obligations arising from this Regulation by facilitating the performance of the Commission's task;

Whereas control is improved by an obligation to make illegal nets unusable;

Whereas provision should be made for adopting detailed rules for inspection and monitoring so that the activities of fishing vessels may be better controlled;

Whereas this Regulation should not affect national control provisions which fall within its scope and which go beyond its minimum requirements provided that they are in accordance with Community law,

HAS ADOPTED THIS REGULATION:

TITLE I

Inspection and control of fishing vessels and their activities

Article 1

1. In order to ensure compliance with all the Regulations in force concerning conservation and control measures, each Member State shall, within its territory and

within maritime waters subject to its sovereignty or jurisdiction, monitor fishing activity and related activities. It shall inspect fishing vessels and all activities whose inspection would enable verification of the implementation of this Regulation, including the activities of landing, selling and storing fish and recording landings and sales.

2. If the competent authorities of a Member State observe, as a result of monitoring or inspection carried out by them under paragraph 1, that the relevant rules concerning conservation and control measures are not being complied with, they shall take penal or administrative action against the master of such a vessel or any other person responsible.

3. In order to ensure that inspection is as effective and economical as possible, Member States shall coordinate their control activities and shall introduce measures whereby their competent authorities and the Commission may be regularly informed on a reciprocal basis of the experience acquired.

Article 2

1. The inspection and monitoring referred to in Article 1 shall be carried out by each Member State on its own account by an inspectorate appointed by it.

In carrying out the task thus conferred on them, Member States shall ensure that the provisions and measures referred to in Article 1 are complied with. Moreover, their action shall be carried out in such a way as to avoid undue interference with normal fishing activities. They shall also ensure that there is no discrimination as regards the sector and vessels chosen for inspection.

2. The persons responsible for the fishing vessels inspected shall cooperate in facilitating inspections carried out in accordance with paragraph 1.

Article 3

In accordance with the procedure laid down in Article 14, detailed rules may be adopted for the implementation of Articles 1 and 2, concerning in particular:

- (a) the identification of officially designated inspectors, of inspection vessels or of such other similar means of inspection as may be used by a Member State;
- (b) the procedure to be used by inspectors and skippers of fishing vessels, if an inspector wishes to board a vessel;
- (c) the procedure to be used by inspectors, having boarded a fishing vessel, in inspecting that vessel, its gear or its catches;
- (d) the report to be drawn up by inspectors after each boarding;
- (e) the marking and identification of fishing vessels and their gear;

- (f) the certification of the characteristics of fishing vessels related to fishing activities.

Article 4

Member States shall at regular intervals provide the Commission with information on the number of fishing vessels inspected, their nationality, the type of infringements observed and the action taken by them with respect to such infringements.

TITLE II

Monitoring of catches

Article 5

1. The skippers of fishing vessels flying the flag of, or registered in, a Member State and fishing for a stock or group of stocks subject to total allowable catches (TACs) or quotas shall keep a logbook of their operations, indicating, as a minimum, the quantities of each species caught and kept on board, the date and location of such catches by reference to the smallest zone for which a TAC or quota has been fixed and administered and the type of gear used.

2. The skipper of a fishing vessel flying the flag of, or registered in, a Member State, whose vessel's overall length is:

- (a) 10 m or under;
- (b) over 10 m but not over 17 m if carrying out a fishing voyage outside the Skagerrak or the Kattegat of a maximum of 24 hours measured from the time of leaving port to the time of re-entering port; or
- (c) 12 m or under, if operating in the Skagerrak or the Kattegat,

shall be exempted from the obligations defined in paragraph 1.

3. Member States shall take appropriate measures to verify the accuracy of the entries made under paragraph 1.

Article 6

1. At the time of landing after each voyage, the skipper of each fishing vessel, the length of which is over 10 m, flying the flag of, or registered in, a Member State or his agent shall submit to the authorities of the Member States whose landing places he uses a declaration, for the accuracy of which the skipper shall be held primarily responsible, indicating, as a minimum, for each stock or group of stocks subject to a TAC or quota, the quantities landed and indicating the location of catches by reference to the smallest zone for which a TAC or quota has been fixed and administered. Where the catches have been made in waters under the sovereignty or jurisdiction of third coun-

tries, this information shall be listed separately by reference to the waters of each of the third countries concerned.

2. Member States shall take the necessary measures to verify the accuracy of the declarations made under paragraph 1.

Article 7

1. Without prejudice to Article 6, the skipper of a fishing vessel flying the flag of, or registered in, a Member State who:

- tranships to another vessel, hereinafter referred to as 'the receiving vessel', any quantities of catches of a stock or group of stocks subject to a TAC or quota irrespective of the place of landing, or
- directly lands such quantities outside Community territory,

shall, at the time of the transshipment or of the landing, inform the Member State whose flag his vessel is flying or in which his vessel is registered of the species and quantities involved and of the date of transfer or of landing and of the location of catches by reference to the smallest zone for which a TAC or quota has been fixed and administered. If the catches were made in waters under the sovereignty or jurisdiction of third countries, this information must be indicated separately by reference to the waters of each of the third countries concerned.

2. Before the beginning and at the end of a transshipment or a series of transshipments, when this takes place in a port or the maritime waters subject to the sovereignty or jurisdiction of a Member State, the skipper of the receiving vessel shall inform the competent authorities of this Member State of the quantities of catches of a stock or group of stocks subject to a TAC or quota on board his vessel.

The skipper of the receiving vessel shall keep details of the quantities of catches of a stock or group of stocks subject to a TAC or quota received by transshipment, of the date of receipt, and of the vessel transshipping such catches to the receiving vessel. This requirement shall be deemed to be met by retaining copies of the transshipping declaration provided in accordance with the detailed rules for recording information on Member States catches of fish. At the end of the transshipment or series of transshipments the skipper of the receiving vessel shall transmit these details to the competent authorities referred to above within 24 hours.

The skipper of the receiving vessel shall also keep details of the quantities of catches of a stock or group of stocks subject to a TAC or quota which are transhipped by the receiving vessel to a third vessel, and shall inform the competent authorities referred to above of such transshipment at least 24 hours before it takes place. Following transshipment, the skipper shall inform the said authorities of the quantities transhipped.

The skipper of the receiving vessel and of the third vessel referred to above shall permit the competent authorities referred to above to verify the accuracy of the information and details required by this paragraph.

3. Member States shall take appropriate measures to verify the accuracy of the information received under paragraphs 1 and 2, and shall, where appropriate, inform the Member State or Member States in which the receiving vessel and the fishing vessel transhipping to the receiving vessel are registered, or whose flag they are flying, of such information and of the results of verification.

4. Paragraphs 2 and 3 shall also apply to a receiving vessel flying the flag of, or registered in, a third country.

Article 8

Where the transhipment or the landing is likely to take place more than 15 days after the catch, the information required in Articles 6 and 7 shall be submitted to the competent authorities of the Member State whose flag the vessel is flying or in which the vessel is registered not later than 15 days after the catch.

Article 9

1. Member States shall ensure that all landings by fishing vessels flying the flag of, or registered in, a Member State of stocks or groups of stocks subject to TACs or quotas are recorded. For this purpose, Member States may require that the first placing on the market be made by sale by public auction.

Where catches of stocks or groups of stocks subject to TACs or quotas are not placed for the first time on the market by means of sale by public auction, Member States shall ensure that the quantities involved are notified to the centres for sales by public auction or to the bodies designated by such States.

2. Before the 15th of each month, each Member State shall notify the Commission of the quantities of each stock or group of stocks subject to TACs or quotas landed during the preceding month and shall provide it with any information received under Article 7 and 8.

Notifications to the Commission shall indicate the location of the catches as laid down in Articles 5 and 6 and the nationality of the fishing vessels concerned.

Without prejudice to the other provisions of this paragraph Member States shall, at the request of the Commission where catches of stocks or groups of stocks subject to TACs or quotas may reach TAC or quota levels, provide more detailed or more frequent information than this paragraph requires.

3. The Commission shall inform Member States of the notifications received pursuant to this Article within 10 days of the date on which it received them.

4. Each Member State shall keep, or cause to be kept, records submitted to its competent authorities in accordance with Articles 5 and 6 and the particular detailed rules for the application of those Articles, in such a way as to be able to trace back such documents, which form the basis of the notification to the Commission referred to in paragraph 2, over a period of three years from the beginning of the year following the year in which the related landings were made.

Article 10

In accordance with the procedure laid down in Article 14, additional stocks or groups of stocks may be made subject to Articles 5 to 9.

TITLE III

Prohibition of fishing activities

Article 11

1. All catches of a stock or group of stocks subject to quota made by fishing vessels flying the flag of a Member State or registered in a Member State shall be charged against the quota applicable to that State for the stock or group of stocks in question, irrespective of the place of landing.

2. Each Member State shall determine the date from which the catches of a stock or group of stocks subject to quota made by the fishing vessels flying its flag or registered in that Member State shall be deemed to have exhausted the quota applicable to it for that stock or group of stocks. As from that date, it shall provisionally prohibit for that stock or group of stocks by such vessels as well as the retention on board, the transhipment and the landing of fish taken after that date and shall decide on a date up to which transhipments and landings or final notifications of catches are permitted. The Commission shall forthwith be notified of this measure and shall then inform the other Member States.

3. Following notification under paragraph 2 or on its own initiative, the Commission shall fix, on the basis of the information available, the date on which, for a stock or group of stocks, the catches subject to TAC, quota or other quantitative limitation made by fishing vessels flying the flag of, or registered in, any Member State are deemed to have exhausted the quota, allocation or share available to that Member State or, as the case may be, to the Community.

When an assessment of the situation referred to in the first subparagraph is made, the Commission shall advise the Member States concerned of the prospects of fishing being halted as a result of a TACs being exhausted.

Fishing vessels flying the flag of, or registered in, a Member State shall cease fishing in respect of a stock or of a group of stocks subject to quota on the date on which the quota allocated for the stock or group of stocks in question to that Member State is deemed to have been exhausted; such vessels shall equally cease retention on board, transshipment, landing or arranging for transshipment and landing in respect of such catches taken after that date.

4. When the Commission has, by virtue of the first subparagraph of paragraph 3, halted fishing because of the exhaustion of the TAC, quota, allocation or share available to the Community and it appears to the Commission that a Member State has not exhausted its quota, allocation or share of the stock or group of stocks concerned, the following provisions shall apply.

If the prejudice suffered by the Member State for which fishing has been prohibited before its quota was fished has not been removed by action in accordance with the procedure laid down in Article 5 (1) of Regulation (EEC) No 170/83, the matter shall be referred to the Management Committee for Fishery Resources in accordance with Article 15 of that Regulation.

In accordance with the procedure referred to in Article 14 of that Regulation, measures shall be adopted with the aim of remedying in an appropriate manner the prejudice caused. These measures may involve making deductions from a quota, allocation or share of the Member State which has overfished, the quantities so deducted to be allocated appropriately to the Member States whose fishing activities were halted before their quotas were fished. These deductions and the consequent allocations shall be made taking into account as a matter of priority species and zones for which annual quotas, allocations or shares have been fixed. These deductions or allocations may be made during the year in which the prejudice occurred or in the succeeding year of years.

Detailed rules for implementing this paragraph, and in particular for determining the quantities concerned, shall be laid down in accordance with the procedure referred to in Article 14 of Regulation (EEC) No 170/83.

TITLE IV

Implementation and verification of monitoring

Article 12

1. Member States shall provide the Commission with such information as it may request on the implementation of this Regulation. In submitting a request for infor-

mation, the Commission shall specify the time limit within which the information is to be supplied.

2. If the Commission considers that irregularities have occurred in the implementation of this Regulation it shall inform the Member State or States concerned, which shall then conduct an administrative enquiry in which Commission officials may participate. The Member State or States concerned shall inform the Commission of the progress and results of the enquiry and provide the Commission with a copy of the report of the enquiry and the main points used in the preparation of the report.

3. To ensure that Member States comply with this Regulation, the Commission may verify on the spot the implementation thereof, in liaison with the competent national departments.

4. (a) To that end, officials authorized by the Commission shall be entitled to be present, as deemed necessary by the Commission, at inspections and monitoring carried out by national departments. The Commission shall establish appropriate contacts with Member States with a view, wherever possible, to establishing a mutually acceptable programme of inspection and monitoring. Member States shall cooperate with the Commission in its fulfilment of this task. When the Commission or its authorized officials meet difficulties in the execution of their duties, the Member States concerned shall provide the Commission with the means to accomplish its task and shall enable the Commission's authorized officials to oversee the requested inspection or monitoring. However, where inspection at sea or from the air is concerned, in duly substantiated cases where the relevant national departments must carry out other priority tasks relating to, in particular, defence, security or customs inspection, the authorities of the Member State shall retain the right to defer or redirect inspection operations at which the Commission intends to be present; in such circumstances the Member State shall cooperate with the Commission in making alternative arrangements.

(b) In the case of inspections at sea or from the air the commander of the vessel or aircraft shall be in sole charge of the operations, taking account of the obligation on the part of his authorities to implement this Regulation. Commission officials participating in such operations shall abide by the rules and practices laid down by the commander.

(c) In all cases, whether at sea, in the air or on land, Commission officials shall not have rights at enforcement against private citizens, but shall remain at all times responsible for the inspection operations which are carried out.

TITLE V

Use of fishing gear

Article 13

If vessels are fishing for certain species in certain areas or during certain periods for which the use of nets with meshes smaller than those specified in the applicable provisions is not authorized, such nets must be stowed so that they may not readily be used in accordance with the following conditions :

- (a) nets, weights and similar gear shall be disconnected from their trawl boards and towing and hauling wires or ropes ;
- (b) nets which are on or above deck shall be securely lashed to some part of the superstructure.

TITLE VI

General provisions

Article 14

Detailed rules for implementing Articles 3 to 10 of this Regulation shall be adopted in accordance with the procedure laid down in Article 14 of Regulation (EEC) No 170/83.

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

Done at Brussels, 23 July 1987.

Article 15

This Regulation shall apply without prejudice to any national control measures which go beyond any of its minimum requirements, provided that they comply with Community law and are in conformity with the common fisheries policy.

The national measures referred to in the first subparagraph shall be communicated to the Commission in accordance with Article 2 (2) of Council Regulation (EEC) No 101/76 of 19 January 1976 laying down a common structural policy for the fishing industry⁽¹⁾.

Article 16

1. Regulation (EEC) No. 2057/82 is hereby repealed.
2. References to the Regulation repealed under paragraph 1 shall be construed as references to this Regulation.

Citations and references referring to the Articles of the repealed Regulation should be read in accordance with the correlation table in the Annex.

Article 17

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

For the Council

The President

K.E. TYGESEN

⁽¹⁾ OJ No L 20, 28. 1. 1976, p. 19.

ANNEX

CORRELATION TABLE

Regulation (EEC) No 2057/82	This Regulation
Article 1	Article 1
Article 2	Article 2
Article 3	Article 5
Article 4	Article 3
Article 5	Article 4
Article 6	Article 6
Article 7	Article 7
Article 8	Article 8
Article 9	Article 9
Article 9a	Article 10
Article 10	Article 11
Article 11	Article 13
Article 12	Article 12
Article 13	Article 14
Article 14	Article 15
Article 15	Article 16
Article 16	Article 17
Annex	Article 13 (a) and (b)