

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(77) 513 final.

Brussels, 13 October 1977.

Proposal for a
COUNCIL REGULATION (EEC)

laying down certain measures of control for fishing
activities by Community vessels

(submitted to the Council by the Commission)

COM(77) 513 final.

EXPLANATORY NOTE

The Common Fisheries Policy must, if it is to be effective, incorporate rules to ensure that fishermen comply with the Community's conservation and management measures, particularly as individual fishermen may derive substantial benefits from non-compliance. Effective control arrangements are, therefore, essential to ensure the viability of the Common Fisheries Policy. Hence the attached proposal for a Council Regulation on certain measures to control Community fishing vessels and their activities.

The Commission, after having examined the situation within the Community, as well as the various existing international control arrangements, considers that the Community's rules on control must cover several elements in order to ensure an effective, credible and non-discriminatory control system. These elements include the inspection of fishing vessels and their activities, the control of catches, the control of fishing effort and Community verification procedures.

As to the inspection of fishing vessels and their activities, the proposed Regulation establishes such rules as are deemed necessary to ensure that inspection by the Member States within their ports and within maritime waters subject to their sovereignty or jurisdiction is effective and non-discriminatory, while the practices used in inspection are to be made as uniform as is deemed necessary.

These objectives are also valid for the proposed rules on the control of catches. However, those rules should also provide the Community with such information on catches as is necessary for the exercise of the Community management functions. Additionally, the Commission considers that although in the first instance there may be national action, a Community decision is necessary, in order to close a fishery to the fishermen of a Member State wh

the quota allocated to that Member State has been exhausted : only a Community decision is directly opposable to the fishermen in the courts of all Member States.

The third aspect covered by the proposed Regulation - control of fishing effort - is to be applied to those fishing activities that require a particularly effective system of control. For such fisheries forward fishing plans should be established on a Community basis.

Finally, the proposed Regulation incorporates provisions to enable the Commission to keep under review the implementation of the above arrangements.

COUNCIL REGULATION (EEC)

laying down certain measures of control for fishing activities by Community vessels

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No. of , establishing a Community system for the conservation and management of fishery resources, and in particular to article 10 and article 2 thereof,⁽¹⁾

Having regard to the proposal from the Commission,

Whereas article 10 of the aforesaid Regulation requires the Council to adopt measures to ensure compliance with the provisions of the Regulation and with any measures adopted in implementation thereof;

Whereas such measures must establish rules on the inspection of fishing vessels, and their activities, in port and at sea, rules on the control of catches, rules on the control of fishing effort, if such rules are deemed necessary, and rules on the verification of the implementation of the above rules;

Whereas inspection of fishing vessels and their activities, carried out by Member States, must be conducted in accordance with certain common rules; whereas it must be possible to ensure, if necessary, uniformity in the practices of inspection;

Whereas Member States should periodically report to the Commission on their inspection activities and on the action taken with regard to any violations of the common fisheries rules;

(1) O.J. No. L

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Whereas an effective control of the catches of species subject to quotas requires the establishment by each Member State of a list of authorized landing places; whereas the establishment of a list of authorized landing places should not unduly interfere with the traditional patterns of landings;

Whereas an effective control of the landings of species subject to quotas makes it necessary that skippers of fishing vessels maintain certain records and submit statements on their activities;

Whereas an effective control of the catches of species subject to quotas makes it necessary that, in certain cases, transfers at sea be recorded;

Whereas Member States should record landings of species subject to quotas and communicate to the Commission the results thereof;

Whereas it is necessary that, if the fishermen of a Member State have exhausted a quota allocated to that Member State, the obligation to cease fishing rests on a decision of the Community; that such decisions should be taken in accordance with the procedure laid down in Article 32 of Council Regulation (EEC) No. 100/76 of 28 January 1976 on the common organisation of the market in fishery products;(1)

Whereas in certain cases to be determined by decision of the Council, it should be possible to control fishing effort; whereas to this end, Member States should submit fishing plans to be adopted by a Community decision;

Whereas arrangements are necessary to verify the implementation of this Regulation;

Whereas it should be possible to adopt detailed rules on the implementation of this Regulation;

(1) O.J. No L 20, 28.1.1976, p. 1.

Whereas the provisions of this Regulation should not prejudice national rules and measures on control falling within the scope of this Regulation which go beyond its minimum requirements;

HAS ADOPTED THIS REGULATION :

Inspection of fishing activities and fishing vessels

Article 1

1. Within ports situated in the territory of the Member States and within maritime waters, subject to their sovereignty of jurisdiction fishing vessels flying the flag of a Member State shall be inspected in order to ensure compliance with the provisions of Regulation (EEC) No. _____ and with any measure adopted in implementation thereof.

2. If a Member State observes, as a result of inspection carried out by it under paragraph 1, that a fishing vessel flying the flag of a Member State does not comply with the provisions of Regulation (EEC) No _____ or with any measure adopted in implementation thereof, it shall take legal action against such vessel.

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Article 2

1. Inspection, as referred to in Article 1, shall be carried out in accordance with the following general rules :
 - (a) it shall be adequate to ensure compliance with the provisions and measures referred to in Article 1;
 - (b) it shall be carried out by inspectors who are officially designated for this purpose by the Member State concerned;
 - (c) it shall not lead to unreasonable interference with normal fishing activities;
 - (d) it shall be non-discriminatory in form and in fact.
2. The fishing vessels referred to in Article 1 shall cooperate in facilitating inspection carried out in accordance with paragraph 1.

Article 3

The skippers of fishing vessels flying the flag of a Member State shall maintain a record of their operations, indicating, as a minimum, the quantities of each species caught, the date and location, as defined in Annex I of this Regulation, of such catches and the type of gear used.

Article 4

In accordance with the procedure laid down in Article 32 of Regulation (EEC) No. 100(76) of 19 January 1976, detailed rules may be adopted for the implementation of the Articles 1 and 2 concerning in particular :

- (a) the identification of officially designated inspectors, of inspection vessels or of such other means of inspection, as may be used by a Member State;

- (b) the procedures to be used by inspectors and fishing vessels, if an inspector wishes to board a vessel;
- (c) the procedures to be used by inspectors, having boarded a fishing vessel, in inspecting this vessel, its gear or its catches;
- (d) the report to be drawn up by inspectors after each boarding; and
- (e) the marking and identification of fishing vessels and their gear.

Article 5

Member States shall provide the Commission on a regular basis 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.

Control of catches

Article 6

1. Species subject to quotas shall be landed only at places included in a list of authorized landing places drawn up every year by each Member State in accordance with paragraph 2.
2. The list of authorized landing places drawn up by each Member State shall include a number of places sufficient to account for at least 80 per cent of the annual average landings of each species subject to quotas in its territory during a period of three years preceding the drawing up of the list.

3. Notwithstanding paragraph 1, species subject to quotas may be landed at places not included in the list of authorized landing places, provided that such landings are carried out by fishing vessels that traditionally use such places and that the species landed were caught by these vessels.
4. Within a period of one month after the entry into force of this Regulation, Member States shall communicate to the Commission the list of authorized landing places drawn up in accordance with paragraph 2, as well as the percentage of the total landings of each species subject to quotas in their territory landed in the places included in the list of authorized landing places during the period referred to in paragraph 2. The Commission shall publish the lists of authorized landing places in the Official Journal of the European Communities.

Article 7

The skipper of each fishing vessel flying the flag of a Member State shall submit to the authorities of the Member State whose authorized landing places he utilizes, a statement, for the accuracy of which he will be held responsible, listing for each species subject to quotas, the quantities landed, the catches made since his last statement and the date and location, as defined in Annex I of this Regulation, of such catches. Member States shall take appropriate measures to verify the accuracy of this statement, in particular by comparing it with the records maintained in accordance with Article 3.

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Article 8

Skippers of fishing vessels transferring at sea to another vessel any quantity of a species subject to quotas, to be then landed outside Community territory, shall inform the Member State whose flag his vessel is flying, of the species and quantities involved in such a transfer.

Article 9

1. Member States shall ensure that all landings of species subject to quotas in their authorized landing places are recorded accurately. Insofar as catches of species subject to 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 communicated to the centres for sales by public auction.
2. Within a month each Member State shall inform the Commission of the quantities of species subject to quotas landed during the preceding month in its authorized landing places, of the estimated landings of such species in places not included in the list of authorized landing places during the same period, as well as of any information received under Article 8. The information forwarded to the Commission shall indicate the date and location, as defined in Annex I of this Regulation, of the catches, as well as the nationality of the fishing vessels concerned.
3. The Commission shall communicate to a Member State whose vessels have landed species subject to quotas in the authorized landing places of another Member State, the information received from the latter State on such landings.

Article 10

Any information received and made available under the Articles 7, 8 and 9 shall be treated as confidential, insofar as it relates to the catches of individual vessels.

Article 11

1. All catches of a species subject to quotas made in maritime waters subject to the sovereignty or jurisdiction of Member States by fishing vessels flying the flag of a Member State shall be debited against the quota allocated, for the species in question, to that Member State, irrespective of the place of landing.
2. Each Member State shall determine the date on which the catches of a species, subject to quotas by fishing vessels flying its flag shall be deemed to have exhausted the quota of that species allocated to it, and shall provisionally prohibit, as from that date, directed fishing for that species by fishing vessels flying its flag. This measure shall be promptly notified to the Commission.
3. Upon notification under paragraph 2 or, on the initiative of the Commission, the date on which the catches of a species subject to quotas by the fishing vessels of a Member State are deemed to have exhausted the quota allocated, shall be fixed on the basis of the available information, in accordance with the procedure laid down in Article 32 of Regulation (EEC) 100/(76).

Fishing vessels flying the flag of a Member State shall cease directed fishing for species subject to quotas after the date on which the quota allocated, for the species in question, to that Member State, is deemed to have been exhausted.

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Control of effort

Article 12

1. Insofar as the Council has decided, in accordance with Article 2 of Regulation (EEC) No. to control fishing effort in certain geographical areas, Member States intending to participate in the fishing activities in question shall submit to the Commission a fishing plan.
2. The plan submitted by a Member State in accordance with paragraph 1 shall take account of the quota allocated, for the species in question, to that Member State and shall indicate the number of fishing vessels to be deployed, their names and registration numbers, their overall length and engine power and it shall provide either for regulation of the intended number of fishing vessels, or for the intended number of fishing days per vessel or group of vessels or for regulation of fishing periods, or for a combination of these elements.

Article 13

1. On the basis of the plans received under Article 12 and in accordance with Article 32 of Regulation (EEC) 100(76), a forward fishing plan shall be adopted for each Member State having submitted a plan.
2. At the request of the Member State concerned, a forward fishing plan adopted under paragraph 1 may be modified in accordance with the procedure laid down in Article 32 of Regulation (EEC) 100(76) .

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Miscellaneous provisions

Article 14

1. Member States shall provide the Commission with such information on the implementation of this Regulation, as it may request. In submitting a request for information, 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 agents may participate. The Member State or States concerned shall inform the Commission of the progress and results of the enquiry.
3. The Commission may verify on the spot the implementation of this Regulation by the Member States. Member States shall assist the agents appointed by the Commission for this purpose.

Article 15

Detailed rules on the implementation of the Articles 3, 5, 6, 7, 9, and 12 of this Regulation may be adopted in accordance with the procedure laid down in Article 32 of Regulation (EEC) 100(76).

Article 16

The provisions of this Regulation shall apply without prejudice to any national measures relating to matters falling within the scope of this Regulation which go beyond its minimum requirements.

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Article 17

This Regulation shall enter into force on 1 January 1978.
It shall be binding in its entirety and directly applicable in
all Member States.

Done at Brussels,

Annex I

Location of catches

1. The location of catches, as referred to in this Regulation, shall be determined upon the basis of the following areas defined by the International Council for the Exploration of the Sea or in the Annex to the International Convention for the Northwest Atlantic Fisheries and covered by Community rules on fishing :

- ICES division III a
- ICES division III b,c
- ICES division IV a
- ICES division IV b
- ICES division IV c
- ICES division VI a
- ICES division VI b
- ICES division VII a
- ICES division VII b,c
- ICES division VII d
- ICES division VII e
- ICES division VII f
- ICES division VII g,h
- ICES division VII j,k
- ICES division VIII
- ICES division XIV a
- ICES division XIV b
- ICNAF subarea 1
- ICNAF subarea 3

2. Catches in the fishing zone off the coast of Guyana shall be recorded as having taken place in that zone.