

COMMISSION OF THE EUROPEAN COMMUNITIES

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94/0173 (CNS)

Proposal for a
COUNCIL REGULATION (EC)
amending Council Regulation (EEC) No 2847/93 of 12 October 1993
establishing a control system applicable
to the common fisheries policy

(presented by the Commission)

EXPLANATORY MEMORANDUM

On 30 May 1994 the Council adopted Regulation (EEC) No 1274/94 on adjustments to the arrangements in the fisheries chapters of the Act of Accession of Spain and Portugal⁽¹⁾, which provides for the adoption of rules on access to certain fishing areas and resources in the Community.

In accordance with the Council's wishes, the Commission has proposed a list of the fisheries involved and levels of permitted fishing effort, as well as the terms of access to each fishery for each Member State.

The restrictions on fishing effort will allow a more balanced, integrated and rational management of fishing activities by regulating exploitation rates for specified fisheries. Given this new approach, which is both ambitious and more flexible, it will be necessary to provide for instruments of monitoring and control to accompany the introduction of this resource management regime.

In order to secure the sought-for restriction of fishing effort, it will be necessary to supplement the existing control arrangements by rules on monitoring and controlling the fishing activities which are subject to restrictions on fishing effort.

The Commission is therefore proposing a set of amendments to Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy. The following provisions are to be added to that Regulation:

**I. Monitoring of movements and/or catches held on board
(Article 3a)**

The rules in this Article will come into play once the Council has decided to make Community vessels subject to

⁽¹⁾ OJ No L 140, 3.6.1994, p.1.

controls on their movements and/or the catches they hold on board, as part of the terms of access to fishing areas and resources. Under these rules, should the Council consider it desirable, it will be possible to monitor fishing by Community vessels in real time.

II. Monitoring of fishing effort by fishermen and the Member States

The proposal adds a new Title IIa on monitoring fishing effort to supplement Title II, which deals with monitoring catches for the management of TACs and quotas. Provision is made in Title IIa to:

- define a day's fishing in an area (Article 19a)
- count the number of days spent fishing in an area using logbook entries (Article 19c)
- count by sampling the fishing effort expended by vessels not required to keep a logbook (Article 19c)
- require masters of fishing vessels which are subject to fishing permits to inform their relevant authorities of the date when they will probably exhaust their permitted number of days in an area (Article 19d).

These provisions together will make it possible to monitor fishing effort.

In addition, flag Member States will have to:

- keep records of the number of days spent fishing by vessels flying their flag (Article 19e)
- convert these days to "standard-vessel days" (SVDs) (Article 19e)
- enforce compliance with the level of fishing effort permitted to that Member State
- notify the Commission every month of the draw-down in this allotted fishing effort (Article 19f).

III. Monitoring of the use of fishing gear, particularly passive gear

If restrictions on fishing effort are to be complied with, fishing gear must be used in the way laid down for the authorized fishery. Compliance is particularly difficult to ensure where vessels may carry on board several types of banned or restricted gear in a given area; it is therefore necessary to subject such gear to additional controls (Article 20a).

IV. Regulation and close-down of fishing activities

Each Member State, acting on the basis of the information received from its fishermen, will be required to stop fishing activities provisionally when the permitted level of fishing effort in a fishery is reached. The Commission, on the basis of the information it receives, will ensure that all Member States comply with the permitted levels of fishing effort by closing the fisheries concerned when necessary (Article 21a).

Adoption of the above provisions will help to complete the Community's general framework for applying restrictions on fishing effort in a transparent manner. In particular, they will reinforce Council Regulation (EC) No 3690/93 establishing a Community system laying down rules for the minimum information to be contained in fishing licences and Regulation (EC) No .../94 laying down general provisions concerning special fishing permits. This will put in place, at Community level, the horizontal provisions which are essential to implement restrictions on fishing effort under Council Regulation (EEC) No 3670/92 establishing a Community system for fisheries and aquaculture.

The Commission therefore proposes that the Council adopt the attached draft Regulation at the latest at the same time as it adopts the draft Regulation establishing rules for access to certain Community fishing areas and resources.

Proposal for a
COUNCIL REGULATION (EC)
amending Council Regulation (EEC) No 2847/93 of 12 October 1993
establishing a control system applicable
to the common fisheries policy

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee⁽²⁾,

Whereas Council Regulation (EC) No/94 of 1994 [establishing the rules on access to certain fishing areas and resources in the Community⁽³⁾] establishes the rules for restricting fishing effort in certain fishing areas;

Whereas monitoring and control measures relating to fishing activities subject to restrictions on fishing effort should be laid down; whereas this involves monitoring the days spent in the relevant area by vessels flying the flags of Member States;

Whereas to that end vessels subject to special fishing permits under Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing permits⁽⁴⁾ should cease their activities in the fishery concerned if they have used up their permitted number of days in a zone in this fishery; whereas it is, therefore, essential that the masters of fishing vessels holding special fishing permits should effectively monitor their fishing effort and that the Member States should be duly informed so that they can monitor their fishing activities;

Whereas each Member State should adopt the requisite provisions for spot checks on the fishing activities of fishing vessels which are exempt from the obligation to keep a logbook;

Whereas the restrictions on fishing effort should be managed both by the Member States and at Community level; whereas the Member States should record, by reference to the basis of days spent fishing in an area, the number of standard-vessel days (SVDs) used and should communicate this to the Commission;

(1)

(2)

(3)

(4) OJ No L 171, 6.7.1994, p. 7.

Whereas provisions should be laid down concerning the use of fishing gear in order to ensure that fishing vessels comply with the restrictions on fishing effort;

Whereas it should be laid down that, where the total fishing effort of a Member State for a given fishery is exhausted, vessels flying the flag of that Member State are to stop fishing in that fishery;

Whereas Council Regulation (EEC) No 2847/93⁽⁵⁾ should be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2847/93 is hereby amended as follows:

- 1. The following Article 3a is inserted in Title I:**

"Article 3a

Where, in laying down conditions of access to areas and resources applicable to the activities of Community fishing vessels in certain fisheries adopted pursuant to Article 4 of Regulation (EEC) No 3760/92, the Council decides to subject such vessels to rules as to the communication of movements and/or catches, the following provisions shall apply:

- all masters of vessels authorized to fish shall communicate to the monitoring authorities of the Member State whose flag they fly (hereinafter called "the flag Member State") each entry into and departure from the area covered by the fishery;
- all masters of vessels authorized to fish shall communicate the quantities of each species caught to be found on board, and also the quantities of each species trans-shipped to other vessels;
- the flag Member State shall take appropriate measures to ensure that the information transmitted by vessels when operating in the fisheries concerned is duly recorded.

Where such vessels operate in fisheries in waters under the sovereignty or jurisdiction of another Member State, the flag Member State shall guarantee the immediate communication of such information to the competent authorities of the Member State concerned.

- 2. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 36."**

⁽⁵⁾ OJ No L 261, 20.10.1993, p. 1.

2. The following Title IIa is inserted:

**"Title IIa
Control of fishing effort**

Article 19a

To ensure compliance with Community measures governing conditions of access to waters and resources adopted in accordance with Article 4 of Regulation (EEC) No 3760/92, fishing vessels which perform activities covered by those measures shall be subject to the provisions laid down in this Title.

Article 19b

The master of a vessel subject to one or more restrictions on days spent fishing in an area shall count as a day in a fishery zone for the purposes of Article 4 of Regulation (EC) No .../94 [rules of access]:

- the day of entry of the vessel into the zone concerned, regardless of the time of such entry;
- the day of departure of the vessel from the zone, regardless of the time of such departure;
- 24 hours spent by the vessel in the zone, recorded using universal time (GMT).

In respect of passive fishing gear, the master shall count as a day spent in the area by the passive gear:

- the day of entry into the zone concerned by the vessel carrying the gear, regardless of the time of such entry;
- the day of departure from the zone by the vessel carrying the gear, regardless of the time of such departure;
- 24 hours spent by the gear in the zone, recorded using universal time.

Article 19c

1. The master of a fishing vessel shall record and count up in his logbook the days spent in a fishery, from entry into the zone to departure from the zone.
2. In the case of vessels exempted from the obligation to keep a logbook, each flag Member State shall undertake sampling checks to evaluate the total number of days spent in a fishery zone.
3. A master shall submit the original or originals of the logbook within 48 hours from completion of unloading operations to the competent authorities of the Member State whose flag the vessel flies.

4. If the unloading operations have to be effected more than fifteen days after entry into the fishery which is subject to restrictions on fishing effort, the information required in paragraph 3 shall be transmitted to the competent authorities of the flag Member State for the first time not later than fifteen days after entry into the fishery concerned and every fifteen days thereafter.
5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 36.

Article 19d

1. Masters of fishing vessels subject to special fishing permits shall notify the competent authorities of the Member State whose flag they fly of the date on which their number of days in the zone is expected to be used up for each fishery, fifteen days in advance.
2. Masters shall notify the competent authorities of the date on which their number of days in the zone for the fishery concerned will be used up, one day in advance.
3. Following the notification referred to in paragraph 2, the special fishing permits applicable to vessels for the fisheries concerned shall lapse with effect from the date referred to in paragraph 2.

Article 19e

1. The Member States shall ensure that all days spent in the zone by vessels flying their flag are recorded on the basis of the information contained in the logbook and of that gathered in pursuance of Article 19c(2).
2. All days spent in the zone by vessels flying the flag of a Member State shall be deducted from the total number of days in terms of standard-vessel days (hereinafter called "SVDs"), as defined in Article 2 of Regulation (EC) No/94, which are allocated to the Member State concerned for the relevant fishery in Annex I to that Regulation.
3. Each Member State shall take appropriate measures to ensure:
 - that vessels subject to special fishing permits observe the authorized number of days in the zones of the fisheries concerned;
 - that groups of vessels which are not subject to fishing permits observe the total number of days in the zone.
4. On the basis of the record of days in the zone referred to in paragraph 1 and the available information, each Member State shall calculate the number of SVDs per fishery used up by vessels flying its flag.
5. Each Member State shall deduct the number of SVDs spent by vessels flying its flag from the fishing effort authorized per fishery.

Article 19f

Each Member state shall notify the Commission by computer transmission before the 15th of each month of the total number of SVDs per fishery used by vessels flying its flag during the preceding month."

3. The following Article is added to Title III:

"Article 20a

1. Where access to a fishery is conditional on the use of specified fishing gear, Community fishing vessels subject to a special fishing permit, or permits, for the same zone under Article 7 of Council Regulation (EC) No 1627/94* shall carry with them and use only such fishing gear as is authorized in their special fishing permit or permits.
2. Where, in accordance with Annex I to Regulation (EC) No .../94 [rules of access], the flag Member State gives authorization to certain fishing vessels flying its flag which are not subject to special fishing permits, it shall stipulate the fishing gear which such vessels may use in the fisheries concerned.
3. Only Community fishing vessels as referred to in paragraph 1 which fish in zones other than those covered by paragraph 1 during the same fishing voyage may carry the gear appropriate to their activity in the zones concerned, provided that any unauthorized gear on board is stowed so that it may not readily be used, in accordance with Article 20(1).
4. All passive fishing gear the use of which is authorized by a special fishing permit must be identified by a buoy or similar device fitted with a yellow radar reflector floating on the surface, clearly and permanently marked with the letters and numbers of the vessel to which it belongs.

* OJ No L 171, 6.7.1994, p. 7."

4. The following Article is inserted in Title IV:

"Article 21a

1. Each Member State shall determine the date from which the total number of SVDs spent by vessels flying its flag in a fishery subject to restrictions on fishing effort is considered to have used up its allotted fishing effort. It shall provisionally prohibit fishing in that fishery by the said vessels from that date. Such measures shall be notified forthwith to the Commission, which shall inform the other Member States.

2. Following a notification under paragraph 1 or on its own initiative, the Commission shall fix, on the basis of the available information, the date on which the overall fishing effort of that Member State for a given fishery is considered to have been exhausted.

From that date, no fishing vessel flying the flag of that Member State shall be authorized to fish in that fishery."

Article 2

This Regulation shall enter into force on 1 January 1995.

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

Done at Brussels,

For the Council
The President

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