

COUNCIL REGULATION (EEC) No 3483/88
of 7 November 1988
amending Regulation (EEC) No 2241/87 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⁾, as amended by the Act of Accession of Spain and Portugal, and in particular Article 11 thereof,

Having regard to the proposal from the Commission,

Whereas experience has shown the need to strengthen the application of the fisheries conservation rules by improving co-operation between the Member States in preventing overfishing;

Whereas it is necessary to provide for Member States to obtain, at their request, more rapid and more detailed information on the landings of their vessels in another Member States;

Whereas Article 5 (2) of Regulation (EEC) No 170/83 provides that Member States shall determine the detailed rules for the utilization of the quotas allocated to them; whereas Article 15 of Regulation (EEC) No 2241/87⁽²⁾ recognizes that Member States may take national control measures which go beyond the minimum requirements of the Regulation;

Whereas the aforementioned detailed rules and national measures may include the subjecting of fishing on a given stock to the possession of a licence and may also include, in cases where there has been failure to respect a conservation measure, a requirement that, when landing outside the Member State of registration, the vessel concerned has on board a document issued by that Member States and certifying that the Member State has recently inspected the vessel;

Whereas, subject to certain conditions, an unlicensed vessel or a vessel which is not in possession of the required certificate should be prohibited from landing fish;

Whereas infringements against such prohibitions should be effectively pursued by the Member State of landing; whereas, however, the transfer of effective pursuit of infringements from the Member State of landing or transshipment to the Member State of registration should not, in certain circumstances, be prevented;

Whereas the failure by a Member State effectively to pursue such infringements will weaken the ability of the

Member State of registration to ensure compliance with the regime of conservation and management of fishery resources; whereas it is therefore necessary to provide for catches to count against the quota of the Member State of landing should the latter fail to take effective action; whereas such a provision should also apply in cases where a Member State has failed to take effective action against the infringement of landing fish under a quota on which fishing has been prohibited by the Commission;

Whereas it is therefore appropriate to amend Regulation (EEC) No 2241/87,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2241/87 is hereby amended as follows:

1. The following Article shall be added:

Article 9a

1. Without prejudice to Article 9, Member States shall, at the request of the Member State concerned, provide information on landings or transshipments in their ports or within their maritime waters by fishing vessels flying the flag of, or registered in, the requesting Member State of a particular stock or group of stocks subject to a quota allocated to that Member State.

The information shall include the name and external identification letters and numbers of the vessel in question, the quantity of the particular stock or group of stocks landed or transhipped by the vessel and the date and place of the landing or transshipment.

The information shall be provided within four working days of the landing or transshipment or within such longer period as may be specified by the requesting Member State.

2. The Member State of registration shall inform the Commission of any requests made pursuant to paragraph 1. The Member State of landing or transshipment shall provide a copy of such information to the Commission at the same time as it provides the information to the Member State of registration.

2. The following Articles shall be added:

Article 11a

1. The provisions of this Article shall apply to fishing activities by vessels flying the flag of, or registered in, a Member State under a quota allocated

⁽¹⁾ OJ No L 24, 27. 1. 1983, p. 1.

⁽²⁾ OJ No L 207, 27. 7. 1987, p. 1.

to that Member State, if the Member State, pursuant to Article 5 (2) of Regulation (EEC) No 170/83, makes such fishing activities subject to a licensing system and

- (i) informs the Commission and the other Member States of the quota concerned,
- (ii) immediately upon issuing a licence informs the Commission and the other Member States of the name and external identification letters and numbers of the licensed vessel, and
- (iii) immediately informs the Commission and the other Member States of the withdrawal or suspension of such a licence.

2. The catching, retention on board, transshipment or landing of fish under the quota concerned shall be prohibited unless the vessel is licensed to fish under that quota and the licence has not been withdrawn or suspended.

Article 11b

1. Where the competent authority of a Member State has recorded that a fishing vessel flying the flag of, or registered in, that Member State has failed to comply with rules concerning conservation or control measures adopted by the Community or by the Member State under Article 5 (2) of Regulation (EEC) No 170/83 or Article 15 of this Regulation, the Member State may adopt with respect to the vessel concerned an additional control measure providing that, for a maximum of one year from the recording of the infringement, catches from a stock or group of stocks subject to a quota allocated to that Member State may be landed or transhipped in a port or within the maritime waters of another Member State or of a third country only if the vessel has on board a document certified by the Member State of registration and stating that the latter has inspected the vessel within the last two months.

The Member State of registration shall inform the Commission and the other Member States of the name and external identification letters and numbers of the vessel on which the said additional control measure has been imposed and of the quota concerned.

2. A vessel subject to an additional control measure as referred to in paragraph 1 shall be prohibited from landing or transhipping in a port or within the maritime waters of a Member State other than the Member State of registration or of a third country catches subject to the quota concerned unless the certified document referred to in the first subparagraph of paragraph 1 is on board the vessel.

Article 11c

1. Where the competent authorities of the Member State of landing or transshipment observe that there has

been a violation of the third subparagraph of Article 11 (3), of Article 11a or of Article 11b they shall, in accordance with Article 1 (2), take against the master of the vessel concerned, or against any other person responsible, penal or administrative action such as is likely, in accordance with the relevant provisions of national law, effectively to deprive those responsible of the economic benefit of the violation or to produce any other result in proportion to the seriousness of the violation, effectively discouraging further violations of the same kind.

The provisions of the previous subparagraph shall not prevent the Member State of landing or transshipment from transferring the pursuit of a violation referred to in that subparagraph to the competent authorities of the Member State of registration with the agreement of the latter and provided that such transfer is more likely to secure the intended result. Any such transfer shall be notified to the Commission by the Member State of landing or transshipment.

2. If the Member State of landing or transshipment is not the Member State of registration and its competent authorities do not take penal or administrative action or transfer pursuit as provided for in paragraph 1, the landing or transshipment may be counted against the quota of the former Member State.

The quantities of fish to be counted against the quota of that Member State shall be fixed in accordance with the procedure laid down in Article 14 of Regulation (EEC) No 170/83, after the Commission has consulted the two Member States in question and, in the event of violations of Article 11a or 11b, at the request of the Member State of registration.

If the Member State of landing or transshipment has no relevant quota remaining, Article 11 (4) shall apply *mutatis mutandis* as if the quantities of fish unlawfully landed or transhipped were the amount of the loss suffered by the Member State of registration.

Article 11d

Detailed rules for the implementation of Articles 9a, 11a, 11b and 11c shall be adopted if necessary in accordance with the procedure laid down in Article 14 of Regulation (EEC) No 170/83.

Article 2

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

It shall apply from 1 January 1989.

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

Done at Brussels, 7 November 1988.

For the Council

The President

P. ROUMELIOTIS
