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COUNCIL REGULATION (EEC) No 2847/93

of 12 October 1993

establishing a control system applicable to the common fisheries policy

(OJ L 261, 20.10.1993, p. 1)

Amended by:

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► <u>M1</u>	Council Regulation (EC) No 2870/95 of 8 December 1995	L 301	1	14.12.1995
► <u>M2</u>	Council Decision 95/528/EC of 5 December 1995	L 301	35	14.12.1995
► <u>M3</u>	Council Regulation (EC) No 2489/96 of 20 December 1996	L 338	12	28.12.1996
► <u>M4</u>	Council Regulation (EC) No 686/97 of 14 April 1997	L 102	1	19.4.1997
► <u>M5</u>	Council Regulation (EC) No 2205/97 of 30 October 1997	L 304	1	7.11.1997
► <u>M6</u>	Council Regulation (EC) No 2635/97 of 18 December 1997	L 356	14	31.12.1997
► <u>M7</u>	Council Regulation (EC) No 2846/98 of 17 December 1998	L 358	5	31.12.1998
► <u>M8</u>	Council Regulation (EC) No 806/2003 of 14 April 2003	L 122	1	16.5.2003
► <u>M9</u>	Council Regulation (EC) No 1954/2003 of 4 November 2003	L 289	1	7.11.2003
► <u>M10</u>	Council Regulation (EC) No 768/2005 of 26 April 2005	L 128	1	21.5.2005
► <u>M11</u>	Council Regulation (EC) No 1967/2006 of 21 December 2006	L 409	11	30.12.2006
► <u>M12</u>	Council Regulation (EC) No 1098/2007 of 18 September 2007	L 248	1	22.9.2007
► <u>M13</u>	Council Regulation (EC) No 1006/2008 of 29 September 2008	L 286	33	29.10.2008

Corrected by:

- **C1** Corrigendum, OJ L 302, 15.12.1995, p. 45 (528/95)
- **C2** Corrigendum, OJ L 105, 22.4.1999, p. 32 (2846/98)
- **C3** Corrigendum, OJ L 36, 8.2.2007, p. 6 (1967/2006)

**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 COMMUNITIES,

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

Having regard to the proposal from the Commission ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas, pursuant to Article 12 of Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture ⁽⁴⁾, the Council is to introduce a Community control system;

Whereas the success of the common fisheries policy involves implementing an effective system of control covering all aspects of the policy;

Whereas, to achieve this aim, it is necessary to include rules for the monitoring of conservation and resource management measures, structural measures and measures on the common organization of the market, and certain provisions to deal with failure to carry out these measures, which must apply to the entire fisheries sector from the producer to the consumer;

Whereas this system can only achieve the desired result if the industry recognizes that it is justified;

Whereas control is first and foremost the responsibility of the Member States; whereas the Commission should also seek to ensure that the Member States monitor and prevent infringements in an equitable manner; whereas, therefore, the Commission should be provided with the financial, legal and legislative means to carry out this task as effectively as possible;

Whereas experience gained in the application of Council Regulation (EEC) No 2241/87 of 23 July 1987 establishing certain control measures for fishing activities ⁽⁵⁾ has shown that there is a need to strengthen control of the application of the rules governing conservation of fishery resources;

Whereas compliance with measures for the conservation and management of fishery resources requires an increased sense of responsibility on the part of all operators in the fishing industry;

Whereas policy on the management of fishery resources, which is based in particular on total allowable catches (TACs) and quotas and technical measures, is to be supplemented by management of the fishing effort, which involves monitoring fishing activities and capacities;

Whereas, to ensure that all catches and landings are kept under surveillance, Member States must monitor in all maritime waters the activities of Community vessels and all related activities allowing verification of the implementation of the rules concerning the common fisheries policy;

⁽¹⁾ OJ No C 280, 29.10.1992, p. 5.

⁽²⁾ OJ No C 21, 25.1.1993, p. 55.

⁽³⁾ OJ No C 108, 19.4.1993, p. 36.

⁽⁴⁾ OJ No L 389, 31.12.1992, p. 1.

⁽⁵⁾ OJ No L 207, 29.7.1987, p. 1. Regulation as last amended by Regulation (EEC) No 3483/88 (OJ No L 306, 11.11.1988, p. 2).

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Whereas it is vital that Member States cooperate at the operational level during inspections at sea of fishing activities, in order to permit effective and financially justifiable inspections, particularly of operations carried out in waters outside the jurisdiction or sovereignty of a Member State;

Whereas implementation of the common fisheries policy necessitates measures to monitor vessels flying the flag of a third country present in Community waters, and in particular a system for communicating their movements and the species held on board, without prejudice to the right of innocent passage in the territorial sea and freedom of navigation in the 200-mile fishing zone;

Whereas the implementation of pilot projects applicable to certain categories of vessels by the Member States in cooperation with the Commission will make it possible for the Council to decide, before 1 January 1996, whether a satellite surveillance system or an alternative system should be implemented;

Whereas the management of fisheries by the fixing of TACs requires detailed knowledge of the composition of catches, such knowledge being equally necessary for the other procedures provided for in Regulation (EEC) No 3760/92; whereas this requires the keeping of a logbook by each master of a fishing vessel;

Whereas it is necessary for the Member State of landing to be able to monitor landings on its territory, and to this end it is appropriate for fishing vessels registered in other Member States to notify the Member State of landing of their intention to land on its territory;

Whereas it is essential to clarify and confirm at the time of landing the information contained in the logbooks; whereas, to this end, it is necessary that those involved in the landing and marketing of catches should declare the quantities landed, transshipped, offered for sale of purchased;

Whereas, in order to provide exemptions from the obligation to keep a logbook or complete a landing declaration by small fishing vessels for which such an obligation would constitute a disproportionate burden in relation to their fishing capacity, it is necessary for each Member State to monitor the activities of such vessels by the implementation of a sampling plan;

Whereas, in order to ensure the respect of Community conservation and trade measures, all fishery products landed in or imported into the Community should be accompanied, up to the point of first sale, by a transport document identifying their origin;

Whereas limitations on catches must be managed at both Member State and Community level; whereas Member States should register landings and notify them to the Commission by computer transmission; whereas therefore it is necessary to provide for exceptions from this obligation for small quantities landed, the computer transmission of which would constitute a disproportionate administrative and financial burden for the authorities of the Member States;

Whereas, in order to ensure the conservation and management of all the resources used, the provisions relating to the logbook, the landing and sales declarations and the information concerning transshipments and registration of catches may be extended to stocks which are not subject to a TAC or quota;

Whereas the Member States must be informed of the results of the activities of their vessels in waters under the jurisdiction of third countries or in international waters; whereas the masters of these vessels should accordingly be subject to the obligations relating to the logbook and the landing and transshipment declarations; whereas the information gathered by the Member States should be sent to the Commission;

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Whereas the management of the collection and treatment of data requires the creation of computerised data bases enabling, in particular, cross checking of data; whereas therefore the Commission and its agents must have access to these data bases by computer transmission to carry out verification of the data;

Whereas compliance with the provisions relating to the use of fishing gear cannot be adequately ensured where nets of different mesh sizes are carried on board, unless they are subject to additional control measures; whereas for specific fisheries it may be appropriate to establish specific rules such as the one-net rule;

Whereas it is necessary that, when the quota of a Member State is exhausted or when the TAC itself is exhausted, fishing should be prohibited by a Commission decision;

Whereas it is necessary to repair the prejudice suffered by a Member State which has not exhausted its quota, its allocation of part of a stock or group of stocks when the fishery has been closed following the exhaustion of a TAC; whereas to this end a system of compensation should be provided for;

Whereas, in cases where this Regulation has not been respected by those responsible for fishing vessels should be made subject to additional control measures for conservation purposes;

Whereas it is necessary, in order to guarantee efficient management of the measures adopted, to provide for declaration mechanisms in conformity with the management objectives and strategies as laid down in Article 8 of Regulation (EEC) No 3760/92, applicable to a Member State which has overfished its quota;

Whereas one of the main aims of the common fisheries policy is to adjust fishing capacities to available resources; whereas Article 11 of Regulation (EEC) No 3760/92 stipulates that it is the task of the Council to set the objectives and strategies for the restructuring of fishing effort; whereas it is also necessary that compliance with the measures on the common organization of the market be assured, in particular by persons to whom these measures apply; whereas, therefore, it is vital that each Member State carry out, in addition to the financial checks already provided for in Community rules, technical checks to ensure that the provisions set by the Council are complied with;

Whereas it is necessary to establish general rules to allow Community inspectors appointed by the Commission to ensure the uniform application of Community rules and to verify the control carried out by the competent authorities of Member States;

Whereas, in order to safeguard the objectivity of verifications, it is important that Community inspectors may, in certain conditions, effect missions without prior notice and in an independent way, so as to verify the control operations carried out by the competent authorities of Member States; whereas such missions will in no circumstances imply control of private persons;

Whereas the action taken following infringements may differ from one Member State to another; causing fishermen to feel unfairly treated; whereas the absence of dissuasive sanctions in certain Member States reduced the effectiveness of controls and whereas, in the light of these observations, Member States should take all the necessary non-discriminatory measures to guard against and prosecute irregularities, particularly by establishing a roster of sanctions which effectively deprive the wrong-doers of the commercial gain resulting from their infringements;

Whereas the possibility for the flag Member State to ensure that the rules of the conservation and management of fishery resources are observed is reduced in cases where the Member State of landing does not effectively prosecute irregularities; whereas provision must therefore

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be made to count catches made illegally against the quota of the Member State of landing if that State has not brought effective proceedings;

Whereas Member States should report regularly to the Commission on their inspections activities and on the measures taken following infringements of Community measures;

Whereas for certain measures laid down by this Regulation it is appropriate to provide for detailed rules of implementation;

Whereas the confidentiality of the data collected in the framework of this Regulation should be guaranteed;

Whereas this Regulation should not affect the national provisions on monitoring, which, while coming within its scope, go beyond its minimum provisions, provided however that such national provisions are in conformity with Community law;

Whereas Regulation (EEC) No 2241/87 should be repealed, exception being made, however, for Article 5 which should remain in force, pending the adoption of the lists referred to in Article 6 (2) of this Regulation;

Whereas it is necessary to provide a transitional period for the implementation of specific provisions contained in certain Articles in order to allow the competent authorities of the Member States to establish and adapt their procedures to the requirements of the new Regulation;

Whereas the provisions of certain Articles, insofar as they concern fisheries operations in the Mediterranean Sea, where the common fisheries policy has not yet been integrally applied, should enter into force on 1 January 1989,

HAS ADOPTED THIS REGULATION:

Article 1

1. In order to ensure compliance with the rules of the common fisheries policy, a Community system is hereby established including in particular provisions for the technical monitoring of:

- conservation and resource management measures,
- structural measures,
- measure concerning the common organization of the market,

as well as certain provisions relating to the effectiveness of sanctions to be applied in cases where the above-mentioned measures are not observed.

2. To this end, each Member State shall adopt, in accordance with Community rules, appropriate measures to ensure the effectiveness of the system. It shall place sufficient means at the disposal of its competent authorities to enable them to perform their tasks of inspection and control as laid down in this Regulation.

3. The system shall apply to all fishing activities and to all associated activities carried out within the territory and within the maritime waters subject to the sovereignty or jurisdiction of the Member States including those exercised by vessels flying the flag of, or registered in, a third country, without prejudice of the right of innocent passage in the territorial sea and the freedom of navigation in the 200-mile fishing zone; it shall also apply to the activities of Community fishing vessels which operate in the waters of non-member countries and on the high seas, without prejudice to the special provisions contained in fisheries agreements concluded between the Community and third countries or in International Conventions to which the Community is a party.

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TITLE I

Monitoring, inspection and surveillance*Article 2*

1. In order to ensure compliance with all the rules in force, each Member State within its territory and within maritime waters subject to its sovereignty or jurisdiction shall monitor, inspect and maintain surveillance of all activities in the fisheries sector, particularly fishing itself, transshipment, landing, marketing, transport and storage of fisheries products and the recording of landing and sales. The Member States shall take the necessary measures to ensure the best possible control within their territory and within maritime waters subject to their sovereignty or jurisdiction, taking into account their particular situation.

2. Each Member State shall ensure that the activities of its vessels outside the Community fishery zone are subject to proper monitoring and, where such Community obligations exist, to inspections and surveillance, in order to ensure compliance with Community rules applicable in those waters.

▼ M4*Article 3*

1. Each Member State shall establish a satellite-based vessel monitoring system, hereinafter referred to as 'VMS', to monitor the position of Community fishing vessels.

The VMS shall apply no later than 30 June 1998 to all Community fishing vessels exceeding 20 metres between perpendiculars or 24 metres overall length belonging to any one of the following categories:

- vessels operating on the high seas, except in the Mediterranean Sea,
- vessels operating in the waters of third countries, provided that provisions have been made in Agreements with the relevant third country or countries for the application of a VMS to the vessels of such country or countries operating in the waters of the Community,
- vessels catching fish for reduction to meal and oil.

2. The VMS shall apply no later than 1 January 2000 to all Community fishing vessels exceeding 20 metres between perpendiculars or 24 metres overall length wherever they operate.

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3. Notwithstanding the provisions of paragraphs 1 and 2 above, the VMS shall not apply to vessels:

- (a) operating exclusively within 12 nautical miles of the baseline of the flag Member State; or
- (b) which never spend more than 24 hours at sea taken from the time of departure to the return to port.

4. When a Member State imposes VMS on vessels flying its flag and not falling within the scope of paragraphs 1 to 3, those vessels will be eligible for the same financial support as is applicable for vessels applying VMS under paragraphs 1 and 2.

5. Member States shall ensure that satellite-tracking devices be installed and be fully operational on Community fishing vessels flying their flag to which VMS shall apply. The satellite-tracking device shall enable a fishing vessel to communicate by satellite to the flag State and the coastal Member State concerned simultaneously, its geographical position and where applicable the effort reports referred to in Article 19b. In the case of *force majeure* relevant information shall be communicated by radio via a radio station approved under

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Community rules for the reception of such information or by the means specified in Article 19c.

6. The masters of the Community fishing vessels to which VMS applies shall ensure that the satellite-tracking devices are at any time fully operational and that the information referred to in paragraph 5 is transmitted. Transmission shall be carried out at the required daily frequency to ensure that the flag Member State and/or the coastal Member State can effectively monitor the vessels.

7. Member States shall establish and operate fisheries monitoring centres, hereinafter referred to as 'FMC', which shall monitor fishing activities and fishing effort. The FMC shall be operational no later than 30 June 1998.

The FMC of a particular Member State shall monitor the fishing vessels flying its flag, regardless of the waters in which they are operating or the port they are in, as well as Community fishing vessels flying the flag of other Member States and fishing vessels of third countries to which a VMS applies operating in the waters under the sovereignty or the jurisdiction of that particular Member State.

8. Each flag Member State shall appoint the competent authorities responsible for the FMC and shall take the appropriate measures to ensure that its FMC has the proper staffing resources and is equipped with computer hardware and software enabling automatic data processing and electronic data transmission. Member States shall provide for back-up and recovery procedures in case of system failure.

Member States may operate a joint FMC.

9. The flag Member State shall take the necessary measures to ensure that the data received from its fishing vessels to which a VMS applies are recorded in computer-readable form for a period of three years.

The coastal Member State shall take the necessary measures to ensure that the data received from fishing vessels flying the flag of another Member State or of a third country to which a VMS applies are recorded in computer-readable form for a period of three years.

The Commission shall have access to these computer files on the basis of a specific request. The provisions of Article 37 shall apply.

10. Detailed rules for the implementation of this Article shall be decided in accordance with the procedure laid down in Article 36.

In particular, on the basis of an application by a Member State and in accordance with the provisions of Article 36, the Commission may decide that an alternative system to VMS may be applied, taking into account the type of monitoring system proposed, the type of fishing vessel or vessels, the area or areas fished, the targeted species and the duration of the fishing trips. The alternative system must be as effective as a VMS and apply on a non-discriminatory basis.

▼B*Article 4*

1. The inspection and monitoring specified in Article 2 shall be carried out by each Member State on its own account by means of a system of inspection decided by the Member State.

In carrying out the tasks entrusted to them, Member States shall ensure that the provisions and measures referred to in Article 2 are complied with. Moreover, they shall act 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.

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

▼M7*Article 5*

Detailed rules for the application of this Title shall be adopted as necessary, without prejudice to the national competences, in accordance with the procedure laid down in Article 36, in particular as regards:

- (a) the identification of officially designated inspectors and inspection vessels, aircraft and such other means of inspection as may be used by a Member State;
- (b) the procedure for the inspection and surveillance of activities in the fisheries sector;
- (c) the marking and identification of fishing vessels and their gear;
- (d) the certification of the characteristics of fishing vessels which relate to fishing activities.

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TITLE II

Monitoring of catches*Article 6*

1. The masters of Community fishing vessels fishing for a stock or group of stocks shall keep a logbook of their operations, indicating particularly the quantities of each species caught and kept on board, the date and location (ICES statistical rectangle) of such catches and the type of gear used.

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2. From 1 January 2000 any amount greater than 50 kg of live-weight equivalent of any species retained on board, must be recorded in the logbook in areas other than the Mediterranean. ►**M11** ►**C3** For the fisheries operations in the Mediterranean Sea any amount greater than 15 kg of live-weight equivalent retained on board of any species indicated on a list adopted in conformity with paragraph 8 must be recorded in the logbook. ◀ ◀

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However, for highly migratory species and small pelagic species any amount greater than 50 kg of live-weight equivalent must be recorded in the logbook.

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3. The masters of Community fishing vessels shall enter in their logbook the quantities caught at sea, the date and location of these catches and the species referred to in paragraph 2. The quantities discarded at sea may be recorded for evaluation purposes.

4. Masters of Community fishing vessels shall be exempt from the requirements of paragraphs 1 and 3 if the overall length of the vessels is less than 10 metres.

5. The Council may decide by a qualified majority, on a proposal from the Commission, exemptions other than the one mentioned in paragraph 4.

6. Each Member State shall carry out, on the basis of sampling, monitoring of the activities of fishing vessels which are exempt from the requirements specified by paragraphs 4 and 5 in order to ensure respect by these vessels of the Community rules in force.

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To this end, each Member State shall establish a sampling plan and transmit it to the Commission. The results of monitoring executed shall be communicated regularly to the Commission.

7. The masters of Community fishing vessels shall register the information required by paragraphs 1 and 3 either in computer-readable form or on paper.

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8. Detailed rules for the implementation of this Article shall be adopted in accordance with the procedure laid down in Article 36, including:

- another geographical basis other than the ICES statistical rectangle, in certain specific cases, and
- recording of catches taken with small meshed gear and kept on board unsorted,
- the list referred to in paragraph 2.

▼B*Article 7***▼M7**

1. The Master of a Community fishing vessel who wishes to utilise landing locations in a Member State other than the flag Member State shall comply with the requirements of any designated port scheme established by that Member State in accordance with Article 38, or if that Member State does not operate such a scheme, he must inform the competent authorities in that Member State at least four hours in advance of:

- the landing location(s) and estimated time of arrival there,
- the quantities of each species to be landed.

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2. The master referred to in paragraph 1 who fails to make these notifications may be subjected to appropriate sanctions by the competent authorities.

3. The Commission, in accordance with the procedure laid down in Article 36, may grant an exemption for certain categories of Community fishing vessels from the obligation stipulated in paragraph 1 for a limited and renewable period, or make provision for another notification period taking into account *inter alia*, the distance between the fishing grounds, the landing locations and the ports where the vessels in question are registered or listed.

Article 8

1. The master of each Community fishing vessel having an overall length equal to, or more than, 10 metres, or his representative, shall after each trip and within 48 hours of landing submit a declaration to the competent authorities of the Member State where the landing takes place. The master shall be responsible for the accuracy of the declaration, which shall indicate, as a minimum, the quantities landed of each species stipulated in Article 6 (2) and the area where they were caught.

2. The Council may decide, acting by a qualified majority on a proposal from the Commission, to extend the obligation set out in paragraph 1 to vessels having an overall length of less than 10 metres. The Council may also decide, acting by a qualified majority on a proposal from the Commission, exemptions from the obligation set out in paragraph 1 for certain categories of vessels having an overall length equal to, or more than, 10 metres and pursuing specific fishing activities.

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3. Each Member State shall carry out, on the basis of sampling, monitoring of the activities of fishing vessels which are exempt from the requirements specified by paragraph 1 in order to ensure respect by these vessels of the Community rules in force.

To this end, each Member State shall establish a sampling plan and transmit it to the Commission. The results of monitoring executed shall be communicated regularly to the Commission.

4. Detailed rules for implementation of this Article shall be adopted in accordance with the procedure laid down in Article 36.

*Article 9***▼M7**

1. Auction centres or other bodies or persons authorised by Member States, which are responsible for the first marketing of fishery products landed in a Member State shall submit, upon the first sale, a sales note to the competent authorities of the Member State in whose territory the first marketing takes place. The submission of the sales notes listing all data required under this Article shall be the responsibility of the auction centres or other bodies or persons authorised by Member States.

2. Where the first marketing of fisheries products landed in a Member State is carried out in a manner different from that laid down in paragraph 1, the landed products shall not be collected until one of the following documents has been submitted to the competent authorities or other authorised bodies of the Member States:

- a sales note, when the products have been sold or are offered for sale at the place of landing,
- a copy of one of the documents provided for in Article 13, when the products are offered for sale at a location other than the place of landing; a sales note must be appended to such copies at the time of actual sale,
- a take-over declaration, when the products are not offered for sale or are intended for sale at a later date.

The submission of the sales note listing all data required under this Article shall be the responsibility of the buyer.

The submission of the take-over declaration listing all data required under this Article shall be the responsibility of the holder of this declaration.

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3. The sales notes referred to in paragraphs 1 and 2 shall contain as a minimum the following information:

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- the relevant name of each species and its geographical area of origin,

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- for all species, where appropriate, the individual size or weight, grade, presentation and freshness,

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- where appropriate, the relevant minimum fish size,

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- the price and quantity at first sale for each species, and, where appropriate, on a individual size or weight, grade, presentation and freshness basis,
- where appropriate, the destination of products withdrawn from the market (by products, human consumption, carry-over),
- the name of both the seller and the buyer,

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— the place and the date of the sale,

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— where possible, the reference number of the sales contract.

4. Sales notes shall be submitted to the competent authorities responsible for monitoring the first marketing of fish in such a way that the following data shall be included:

- the external identification and name of the fishing vessel which has landed the products concerned,
- the name of the vessel's owner or master,
- the port and date of landing,
- where applicable, reference to one of the documents provided for in Article 13(1) and (4)(b).

4a. Where a sales note does not correspond to the invoice or to a document replacing it, as referred to in Article 22(3) of the sixth Council Directive 77/388/EEC ⁽¹⁾, the Member State shall adopt the necessary provisions to ensure that the information on the price excluding tax for deliveries of goods to the purchaser is identical to that indicated on the invoice.

4b. Take-over declarations as referred to in paragraph 2, drawn up by owners of landed fishery products or their agents, shall contain at least the following information:

- the relevant name of each species and its geographical area of origin,
- the weight of each species, broken down by type of product presentation,
- where appropriate, the relevant minimum fish size,
- identification of the fishing vessel that has landed the products,
- identification of the master of the vessel,
- the port and date of landing,
- the places where the products are stored,
- where applicable, reference to one of the documents provided for in Article 13(1) and (4)(b).

4c. Where the fisheries products landed are intended for sale at a later date, and where such products are to be placed on the market at a price provided for in a contract or at a fixed price set for a specified period, Member States shall carry out appropriate verifications to check the accuracy of the information in the take-over declarations and sales notes referred to in paragraph 2.

5. Sales notes, take-over declarations and a copy of the transport documents shall be submitted, within 48 hours following the first marketing or the landing, to the competent authority or other bodies authorised by the Member State, in accordance with the law of the Member State in whose territory the operations have been carried out. On request of a Member State, the Commission, in accordance with the procedure laid down in Article 36, may grant exceptions to this delay in specific situations.

In the event that the products are transported to a Member State other than the Member State of landing, the transporter shall transmit within 48 hours following the landing a copy of the transport document to the competent authorities of the Member State in whose territory the first

⁽¹⁾ Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — common system of value added tax: uniform basis of assessment (OJ L 145, 13.6.1977, p. 1).

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marketing is declared to take place. The Member State of first marketing may require further information in this regard from the Member State of landing.

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6. The competent authorities shall keep a copy of each sales note for a period of one year starting from the year following that in which the information submitted to the competent authorities is recorded.

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Where the first marketing of fisheries products does not take place in the Member State where the products have been landed, the Member State responsible for monitoring the first marketing shall ensure that a copy of the sales note is submitted to the authorities responsible for monitoring the landing of the products concerned as soon as possible.

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7. The Commission, in accordance with the procedure laid down in Article 36, may grant an exemption from the obligation to submit the sales note to the competent authorities or other authorized bodies of the Member State for fisheries products landed from certain categories of Community fishing vessels having an overall length of less than 10 metres ►M7 or for quantities landed of fisheries products not exceeding 50 kg of live weight equivalent by species ◄.

Such exemptions may be granted only in cases where the Member State in question has installed an acceptable monitoring system.

8. A buyer acquiring products which are not thereafter placed on the market but used only for private consumption shall be exempt from the requirements of paragraph 2.

9. Detailed rules governing the implementation of this Article shall be adopted in accordance with the procedure laid down in Article 36.

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Article 11

1. Transshipments and fishing operations involving joint action by two or more vessels taking place in maritime waters subject to the sovereignty or jurisdiction of a Member State, as well as transshipment taking place in a Member State's ports may be authorised by this Member State. The Masters of the vessels concerned shall comply with the procedures laid down in accordance with paragraph 2, particularly as regards:

- the definition of authorised places,
- inspection and surveillance procedures,
- the terms and conditions for recording and notifying the transshipment operation and the quantities transhipped.

This provision shall not apply to pair trawling activities by Community vessels.

2. Detailed rules for the application of this Article shall be adopted, taking account of the comments of the Member States concerned, in accordance with the procedure laid down in Article 36.

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Article 12

Where transshipment or landing is to take place more than 15 days after the catch, the information required in Articles 8 and 11 shall be submitted to the competent authorities of the Member State whose flag the vessels are flying or in which the vessels are registered not later than 15 days after the catch.

▼B*Article 13***▼M7**

1. All fisheries products landed in or imported into the Community, either unprocessed or after having been processed on board, and for which neither a sales note nor a take-over declaration has been submitted in accordance with Article 9(1) and (2), and which are transported to a place other than that of landing or import, shall be accompanied by a document drawn up by the transporter until the first sale has taken place. The submission of this transport document listing all data required under this Article shall be the responsibility of the transporter.

2. This document shall:

- (a) indicate in respect of the consignment the name of the vessel of provenance and its external identification. In case of import other than by vessel, this document shall indicate the location where the consignment was imported;
- (b) include the place of destination of the consignment(s) and the identification of the transport vehicle;
- (c) indicate the quantities of fish (in kilograms processed weight) for each species transported, the names of the consignee and the place and the date of loading, as well as the relevant name for each species, its geographical area of origin and, where appropriate, the relevant minimum fish size.

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3. Each transporter must ensure that the document cited in paragraph 1 contains as a minimum all the information requested in paragraph 2.

4. The transporter shall be exempt from the obligation fixed in paragraph 1 if one of the following conditions is satisfied:

- (a) the document mentioned in paragraph 1 is replaced by a copy of one of the declarations provided for in Articles 8 or 10 pertaining to the quantities transported;
- (b) the document mentioned in paragraph 1 is replaced by a copy of document T 2 M indicating the origin of the quantities transported.

5. The competent authorities of a Member State may grant exemptions from the obligation fixed in paragraph 1 if the quantities of fish are transported within the compound of a port area or not more than 20 kilometres from the point of landing.

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5a. Where fishery products that have been declared as sold in accordance with Article 9 are transported to a location other than the place of landing or import, at all times transporters must be able to prove on the basis of a document that a sales transaction has taken place.

6. Each Member State shall carry out control by means of sampling on its territory in order to verify that the obligations established by this Article are being respected. The intensity of such controls may take account of the intensity of the controls in previous stages.

▼B

7. Member States shall coordinate their control activities in order to ensure that inspection is as effective and economical as possible. To this end, Member States shall particularly exercise surveillance over the movement of merchandise which may have been drawn to their attention as possibly being the subject of operations contrary to Community Regulations.

▼M7

7a. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 36.



Article 14

1. Member States shall ensure that all landings in a Member State as mentioned in Articles 8, 9 and 10 shall be recorded. For this purpose, Member States may require that the first marketing be by sale at an auction centre.
2. Where landings of catches are not placed on the market for the first time by sale at auction, as provided for in Article 9 (2), Member States shall ensure that the quantities involved are notified to the auction centres or other bodies authorised by Member States.
3. The information on landings by certain categories of vessels subject to the derogations mentioned in Articles 7 and 8 or on landings in ports which do not have a sufficiently developed administrative structure to register landings may, at the request of a Member State to the Commission, within 12 months of the entry into force of this Regulation, be exempted from the requirement for such information to be processed. Exemption may be agreed if the registration of the requested data would create disproportionate difficulties for the national authorities in relation to the total landings, and if the respective species landed are sold locally. A list of ports and vessels qualifying for such exemption shall be established by each Member State and notified to the Commission.
4. A Member State benefiting from the derogation mentioned in paragraph 3 shall establish a sampling plan in order to evaluate the extent of respective landings in the qualifying ports. This plan must be approved by the Commission before any derogation is applied. The Member State shall regularly transmit to the Commission the results of evaluations.

Article 15

1. Before the 15th of each month, each Member State shall notify the Commission by computer transmission 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 11 and 12.

Notifications to the Commission shall indicate the location of the catches as laid down in Articles 6 and 8 and the nationality of the fishing vessels concerned.

Each Member State shall inform the Commission of a quota consumption forecast with anticipated date of exhaustion in respect of the species for which the catches made by fishing vessels flying its flag or registered there are deemed to have exhausted 70% of the quota, allocation or share available to that Member State.

Member States shall, where catches of stocks or groups of stocks subject to TACs or quotas may reach TAC or quota levels, provide the Commission, at its request, with more detailed or more frequent information than this paragraph requires.

2. The Commission shall keep available to Member States on computer the notifications received pursuant to this Article.
3. Where the Commission finds that a Member State has not complied with the deadline for transmitting the data on monthly catches as provided for in paragraph 1, it may set the date on which, for a stock or group of stocks, the catches subject to a quota or other form of quantity restriction and taken by fishing vessels flying the flag of, or registered in, that Member State shall be deemed to have exhausted 70% of the quota, allocation or share available to that Member State and may set the estimated date on which the quota, allocation or available share shall be deemed to be exhausted.
4. Each Member State shall notify the Commission by computer transmission, before the end of the first month of each calendar

▼B

quarter of the quantities of stocks other than those mentioned in paragraph 1 landed during the preceding quarter.

Article 16

1. Without prejudice to Article 15, Member States shall provide, at the request of the interested Member State, data on landings, offers for sale or transshipments of fishery products carried out in their ports of waters under their jurisdiction by fishing vessels flying the flag of, or registered in that Member State and based on a stock or group of stocks subject to a quota allocated to that Member State.

This information shall consist of the name and the external identification mark of the vessel in question, the quantities of fish by stock or groups of stocks landed, offered for sale or transshipped by that vessel as well as the date and place of landing, offer for first sale or transshipment. This information shall be transmitted within four working days following the date of the request of the interested Member State or within a further period of time which may be determined by that Member State or the Member State of landing.

2. The Member State where the landing, offer for first sale or the transshipment has taken place, shall transmit to the Commission at its request this information at the same time as it is being communicated to the Member State where the vessel is registered.

Article 17

1. Member States shall take the necessary measures to ensure monitoring of the catches of species made by their vessels operating in waters subject to the sovereignty or jurisdiction of third countries and on the high seas, and to ensure verification and recording of transshipments and landings of such catches.

2. The control and verification measures shall ensure compliance with the following obligations on the part of the vessel owners and/or masters:

- a logbook shall be kept on board the fishing vessels in which the masters shall record their catches,
- a landing declaration shall be submitted to the authorities of the Member State of landing during landings carried out in Community ports,
- the flag Member State shall be informed of the details of each transshipment of fish on to third-country fishing vessels and of landings carried out directly in third countries.

3. The provisions of paragraphs 1 and 2 shall apply without prejudice to the provisions of the fisheries agreements concluded between the Community and third countries and International Conventions to which the Community is a party.

▼M13**▼B***Article 19*

1. In order to ensure respect of the obligations laid down in Articles 3, 6, 8, 9, 10, 14 and 17, each Member State shall establish a validation system comprising in particular cross-checks and verification of data resulting from these obligations.

2. In order to facilitate these verifications, each Member State shall create a computerized data base where the data referred to in paragraph 1 are registered.

▼ B

Member States may create decentralised data bases on condition that these and the procedures relating to the collection and registration of data are standardized so as to ensure compatibility between them throughout the territory of the Member State.

▼ M7

3. Each Member State shall adopt the necessary measures to ensure that the information referred to in paragraph 1 is entered in the database as soon as possible.

The information on regulated resources within the meaning of Article 8 of Regulation (EEC) No 3760/92 ⁽¹⁾ as recorded in the logbook, the landing declaration, the sales note and the take-over certificate shall be entered in the database referred to in paragraph 2 within 15 working days of the date on which this information is received by the competent authorities. If more than 85 % of a quota has been fished, this period shall not exceed five working days.

5. Member States shall adopt the necessary measures to facilitate the collection, validation and cross-referencing of data. The Commission shall have remote access to duplicated computer files containing the relevant information on the basis of a specific request.

▼ B

6. Detailed rules for implementation of this Article shall be adopted in accordance with the procedure laid down in Article 36.

▼ M1

TITLE IIA

Control of fishing effort*Article 19a***▼ M9**

1. For the purpose of this Title 'fishing areas concerned' means the ICES areas or CECAF divisions to which fishing effort limitation schemes apply pursuant to Community regulations.

▼ M12**▼ M9**

2. Community fishing vessels are prohibited to carry out fishing activities in the fishing areas concerned if the vessel has not been duly authorised to that end by the flag Member State.

▼ M1

3. Notwithstanding the provisions of paragraph 1, Articles 19b and 19c shall apply solely to Community fishing vessels authorized to carry out fishing activities directed at demersal species.

Article 19b

1. Masters of Community fishing vessels shall communicate the following information in the form of an 'effort report':

- the name, external identification mark, radio call sign and name of the master of the vessel,
- the geographical location of the vessel to which the communication refers,
- the date and time of:

⁽¹⁾ OJ L 389, 31.12.1992, p. 1.

▼ M1

- each entry into, and exit from, a part located inside the area,
- each entry into an area,
- each exit from an area.

▼ M5

- the catch retained on board by species in kilograms live weight.

▼ M1

2. Notwithstanding paragraph 1, vessels conducting trans-zonal fisheries which cross the line separating areas more than once during a period of 24 hours, provided they remain within a delimited zone of five miles either side of the line between areas, shall communicate their first entry and last exit within that 24-hour period.

3. Member States shall take the necessary measures to ensure that the masters, or the representatives of the masters, of fishing vessels flying their flag comply with the reporting obligation.

▼ M5

4. Detailed rules for implementation of this Article shall be adopted, in accordance with the procedure laid down in Article 36.

▼ M1*Article 19c*

1. Masters of Community fishing vessels or their representatives shall communicate the information referred to in Article 19b by telex, ► M5 by VMS, ◀ by fax, by telephone message duly recorded by the recipient or by radio via a radio station approved under Community rules for the reception of such reports, or by any other method recognized in accordance with the procedure laid down in Article 36, simultaneously to the competent authorities of:

- the flag Member State, and,
- the Member State or Member States responsible for monitoring, where the vessel will carry out, or has carried out, its fishing activities in waters under the sovereignty or jurisdiction of that Member State or those Member States.

Such information shall be communicated immediately before each entry and exit. If it is impossible for reasons of *force majeure* for the message to be transmitted by the vessel, it may be transmitted on its behalf by another vessel.

2. Notwithstanding paragraph 1, where masters of Community fishing vessels:

- conduct trans-zonal fisheries, as defined in Article 19b, the masters or their representatives shall make an Effort Report for their first entry and last exit for each 24-hour period,
- undertake fishing activity in the waters under the sovereignty or jurisdiction of their flag Member State or the Member State in which the vessels are registered, the masters or their representatives shall communicate the information required under Article 19b to the competent authorities of the flag Member State in accordance with arrangements adopted by that State. Such arrangements shall in no case be less effective in monitoring fishing effort than the measures envisaged in paragraph 1. The flag Member State shall inform the Commission in due time of the arrangements envisaged,
- spend less than 72 hours at sea, but during that time undertake fishing activities in the waters under the sovereignty or jurisdiction of another Member State or Member States, the masters or their representatives shall communicate, before the departure of a vessel, the information required under Article 19b to the competent authorities of the Member State or Member States concerned, and of the flag Member State, by the methods set out

▼ M1

in paragraph 1. The said competent authorities shall register this information in computer form. Should changes occur in the information provided, they shall be notified immediately to the said competent authorities by the master or his representative.

3. Real-time automatic systems recognized under Community legislation shall, however, constitute a recognized method of communication for the purpose of paragraph 1.

▼ M5*Article 19d*

Member States shall take the necessary measures to ensure that the effort reports received pursuant to Articles 19b and 19c are recorded in computer-readable form.

▼ M1*Article 19e*

1. Masters of Community fishing vessels shall record and account for in their logs the time spent in an area as follows:

with regard to towed gear:

- the date and time of entry of the vessel into an area or of exit from a port located in that area,
- the date and time of the vessel from that area or of entry into a port located in that area;

with regard to static gear:

- the date and time of entry of the vessel using the static gear into an area, or of exit from a port located in that area,
- the date and time of setting or re-setting of static gear in the area concerned,
- the date and time of the completion of fishing operations using the static gear,
- the date and time of exit of the vessel from that area or of entry into a port located in that area.

2. Notwithstanding paragraph 1, masters of Community fishing vessels conducting trans-zonal fisheries as defined in Article 19b shall record the date and time of their first entry and of their last exit.

3. Masters of Community vessels exercising fishing activities directed at demersal species shall record the information required under Article 19b in their logs.

4. For vessels exempt from the obligation to keep a logbook the flag Member State shall carry out checks by sampling to assess the overall effort deployed in a fishery.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 36.

Article 19f

1. The flag Member State shall complete the register(s) which it has created in accordance with Commission Regulation (EC) No 109/94 of 19 January 1994 concerning the fishing vessel register of the Community ⁽¹⁾ so as to incorporate into it/them the data contained in the lists of named vessels as referred to in Article 2 of Regulation (EC) No 685/95 ► **M6** and Article 2 of Regulation (EC) No 779/97 ◄.

⁽¹⁾ OJ No L 19, 22.1.1994, p. 5.

▼ M1

2. The flag Member State shall transmit the data referred to in paragraph 1 in computer form, preferably by electronic mail, in accordance with the procedure laid down in Regulation (EC) No 109/94.

3. Under the procedures provided for in Regulation (EC) No 109/94, the Commission shall ensure that the Member States responsible for control have available the data concerning the identification of vessels having access to their waters.

▼ M9*Article 19g*

Each Member State shall record the fishing efforts deployed by vessels flying its flag in each fishing area concerned on the basis of available information contained in vessels' logbooks and information collected in accordance with Article 19e(4).

Article 19h

Each Member State shall assess in overall terms the fishing efforts deployed by vessels flying its flag, which have a length of less than 15 metres in length overall, in each fishing area concerned and by vessels, which have a length of less than 10 metres in length overall, in the area referred to in Article 6 of Council Regulation (EC) No 1954/2003 of 4 November 2003 on the management of the fishing effort relating to certain Community fishing areas and resources ⁽¹⁾.

▼ M1*Article 19i*

Each Member State shall inform the Commission, by computerized means in accordance with the procedures laid down in Regulation (EC) No 109/94, of the aggregate data for the fishing effort deployed:

▼ M9

— in the previous month for each fishing area concerned for demersal species, before the 15th of each month,

▼ M6

— in the previous quarter for each fishing area referred to in Article 19a (1a), for demersal species, for salmon, sea trout and freshwater fish, before the end of the first month of each calendar quarter as well as, before 15 February of each calendar year, the fishing effort deployed by month during the previous year,

▼ M1

— in the previous quarter for each fishing area referred to in Article 19a for pelagic species, before the end of the first month of each calendar quarter.

▼ M9*Article 19j*

Each Member State shall notify, without delay, to the other Member States, the identification details of the vessels flying its flag for which the authorisation to carry out fishing activities in one or more of the fisheries referred to in Articles 3 and 6 of Regulation (EC) No 1954/2003 is suspended or withdrawn.

▼ M5*Article 19 ► M9 k ◀*

In order to ensure respect of the obligations laid down in Articles 19b, 19c and 19e, each Member State shall cross-check and verify the data resulting from these obligations.

⁽¹⁾ OJ L 289, 7.11.2003, p. 1.

▼ B

TITLE III

Monitoring of the use of fishing gear*Article 20*

1. All catches which have been retained on board any Community fishing vessel shall comply with the species composition laid down in Council Regulation (EEC) No 3094/86 of 7 October 1986 laying down certain technical measures for the conservation of fishery resources ⁽¹⁾ for the net carried on board that vessel.

Nets on board vessels which are not used 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 and ropes,
- (b) nets which are on or above deck shall be securely lashed to some part of the superstructure.

2. If catches which have been retained on board any Community fishing vessel have been taken with nets with different minimum mesh sizes during the same voyage, the species composition shall be calculated for each part of the catch which has been taken under different conditions.

To that end, all changes from the mesh size previously used as well as the catch composition on board at the moment of any such change shall be entered into the logbook and the landing declaration. In specific cases, detailed rules on the keeping on board of a stowage plan, by species, of products processed, indicating where they are located in the hold, shall be adopted in accordance with the procedure laid down in Article 36.

3. Notwithstanding paragraphs 1 and 2 the Council may, on the basis of a report drawn up by the Commission, decide by qualified majority on a proposal from the Commission, that:

- (a) no Community fishing vessel participating in particular fisheries may carry nets of different minimum mesh sizes during a single fishing trip;
- (b) specific rules shall apply to the use of nets of different mesh size for specific fisheries.

▼ M1*Article 20a***▼ M9**

1. Where fishing vessels to which Title IIA applies carry out fishing activities in the fishing areas concerned they may carry with them and use only the corresponding fishing gear or gears.

2. However, fishing vessels also fishing in fishing areas other than those referred to in paragraph 1 during the same trip may carry gear corresponding to their activities in the areas concerned, provided that gear kept on board and not authorised for use in the fishing areas referred to in paragraph 1 is stowed so that it may not be readily used, in accordance with the second subparagraph of Article 20(1).

▼ M1

3. Provisions relating to the identification of static fishing gear shall be adopted no later than 31 December 1996 in accordance with the procedure laid down in Article 36.

⁽¹⁾ OJ No L 288, 11.10.1986, p. 1. Regulation as last amended by Regulation (EEC) No 3034/92 (OJ No L 307, 23.10.1992, p. 1).

▼B

TITLE IV

Regulation and suspension of fishing activities*Article 21*

1. All catches of a stock or group of stocks subject to quota made by Community fishing vessels shall be charged against the quota applicable to the flag Member 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 fishing for that stock or group of stocks by such vessels as well as the retention on board, the transshipment and the landing of fish taken after that date and shall decide on a date up to which transshipments and landings or final declarations of catches are permitted. The Commission shall be notified forthwith 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 a 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. ►**M7** The Commission shall notify the Member States of this date without delay. ◀

When an assessment of this situation as 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 TAC being exhausted.

▼M7

As from the date referred to in the first sub-paragraph, the flag Member State shall provisionally prohibit fishing for that stock or group of stocks by vessels flying its flag as well as the retention on board, transshipment and landing of fish taken after that date and shall decide on a date up to which transshipments and landings or final declarations of catches are permitted. The Commission shall be notified forthwith of this measure and shall then inform the other Member States.

▼B

4. When the Commission has, by virtue of the first subparagraph of paragraph 3, halted fishing because of the alleged exhaustion of the TAC, quota, allocation or share available to the Community and it transpires that a Member State has not in fact 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 exhausted has not been removed by action in accordance with Article 9 (2) of Regulation (EEC) No 3760/92, measures shall be adopted with the aim of remedying in an appropriate manner the prejudice caused, in accordance with the procedure laid down in Article 36. These measures may involve making deductions from the 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 exhausted. These deductions and the consequent allocations shall be made taking into account as a matter of priority the species and zones for which the annual quotas, allocations or shares were fixed. These deductions or allocations may be

▼ B

made during the year in which the prejudice occurred or in the succeeding year or years.

Detailed rules for the application of this paragraph, and in particular for determining the quantities concerned, shall be adopted in accordance with the procedure laid down in Article 36.

▼ M9*Article 21a*

Each Member State shall determine the date on which the vessels flying its flag or registered in the Community shall be deemed to have reached the maximum fishing effort level in a fishing area as laid down in the Regulation referred to in Article 11(2) or (3) of Regulation (EC) No 1954/2003. As from that date, it shall provisionally prohibit the fishing activities of the said vessels in that area. The Commission shall be notified forthwith of this measure and shall then inform the other Member States.

▼ M1*Article 21b*

Where vessels flying the flag of a Member State are deemed to have exhausted 70% of the maximum fishing effort in a fishing area as fixed in Regulation (EC) No 2027/95, the Member State concerned shall notify the Commission of the measures adopted pursuant to the second subparagraph of Article 7 (1) of Regulation (EC) No 685/95.

Article 21c

1. On the basis of the information referred to in Article 19i, the Commission shall ensure that the maximum fishing effort levels as fixed in Regulation (EC) No 2027/95 are complied with.
2. Following notification under Article 21a or on its own initiative, the Commission shall fix, on the basis of available information, the date on which the maximum fishing effort level of a Member State for a fishing area is deemed to have been reached. From that date on, vessels flying the flag of that Member State shall not undertake fishing activities in the fisheries concerned.

▼ B*Article 22*

Should the competent authorities of a Member State establish that the activities of a Community fishing vessel have seriously or repeatedly failed to comply with this Regulation, the flag Member State may subject the vessel in question to additional control measures.

The flag Member State shall inform the Commission and the other Member States of the name and external identifying marks and numbers of the vessel on which the said additional control measures have been imposed.

Article 23

1. When it has been established by the Commission that a Member State has overfished its quota, allocation or share of a stock or a group of stocks available to it, the Commission shall operate deductions from the annual quota, allocation or share of the Member State which has overfished. These deductions shall be decided in accordance with the procedure laid down in Article 36.
2. The Council shall adopt rules by qualified majority, on a proposal from the Commission, for deduction in accordance with the objectives and management strategies set out in Article 8 of Regulation (EEC)

▼B

No 3760/92 and take into account, as a matter of priority, the following parameters:

- the degree of overfishing,
- any cases of overfishing of the same stock in the previous year,
- the biological status of the resources concerned.

TITLE V

Inspection and control of certain measures to improve and adjust structures in the fisheries sector, including aquaculture*Article 24*

In order to ensure compliance with the objectives and strategies set by the Council in accordance with Article 11 of Regulation (EEC) No 3760/92, in particular the quantitative objectives concerning the fishing capacity of the Community fleets and the adjustment of their activities, each Member State shall organize regular checks, in its territory and within the maritime waters under its sovereignty or jurisdiction, of all persons concerned by the implementation of the above-mentioned objectives.

Article 25

1. Each Member State shall adopt provisions to verify compliance with the objectives referred to in Article 24. To that end, it shall carry out technical controls, particularly in the following areas:

- (a) restructuring, renewal and modernization of the fishing fleet;
- (b) adaptation of fishing capacity by means of temporary or definitive cessation;
- (c) restriction of the activity of certain fishing vessels;
- (d) restriction of the design and number of fishing gear and of the method by which it is used;
- (e) development of the aquaculture industry and coastal areas.

2. If the Commission has established that a Member State has not complied with the provisions of paragraph 1, it may, without prejudice to Article 169 of the Treaty, make proposals to the Council for the adoption of appropriate general measures. The Council shall decide by qualified majority.

Article 26

1. Detailed rules for the application of Article 25 may be adopted in accordance with the procedure laid down in Article 36, particularly regarding;

- (a) verification of the engine power of fishing vessels;
- (b) verification of the registered tonnage of fishing vessels;
- (c) verification of the period during which a fishing vessel is immobilized;
- (d) verification of the specifications of fishing gear and their number per fishing vessel.

2. Member States shall communicate to the Commission without delay information on the control methods used, together with the names and addresses of the bodies responsible for carrying out the verification.

▼B*Article 27*

1. In order to facilitate the monitoring specified in Article 25, each Member State shall establish a system of validation which shall include in particular verification by crosschecking information on fleet fishing capacity and activity contained; *inter alia*:

- in the logbook as specified by Article 6,
- in the landing declaration as specified by Article 8,
- in the register of Community fishing vessels as specified in Commission Regulation (EEC) No 163/89 ⁽¹⁾.

2. For that purpose, Member States shall establish or complete existing computerised databases containing the relevant information about fleet fishing capacity and activities.

3. The measures referred to in Article 19 (3), (4) and (5) shall apply.

4. Detailed rules for implementation of this Article shall be adopted in accordance with the procedure laid down in Article 36.

TITLE VI

Inspection and control of certain measures concerning the common organization of the market in fishery products*Article 28*

1. In order to ensure compliance with the technical aspects of the rules regarding the measures defined in Council Regulation (EEC) No 3759/92 of 17 December 1992 on the common organization of the market in fishery and aquaculture products ⁽²⁾, each Member State shall organize on its own territory regular checks of all persons involved in the application of the measures.

2. The checks shall concern the technical aspects of applying:

- (a) the marketing standards, and in particular minimum sizes;
- (b) the price arrangements, in particular;
 - withdrawal of products from the market for purposes other than human consumption,
 - storage and/or processing of products withdrawn from the market.

Member States shall carry out comparisons between the documents relating to the first placing on the market of the quantities referred to in Article 9 and the quantities landed referred to by the documents, particularly as regards their weight.

▼M7

2a. Where a minimum size has been fixed for a given species pursuant to Article 4 of Regulation (EEC) No 3760/92, operators responsible for the selling, stocking or transporting of batches of fisheries products of that species smaller than the minimum size must be able to prove the geographical area of origin or the provenance from aquaculture of the products at all times. The Member States shall carry out the necessary controls in order to prevent the problems that might exist in their territory because of the transport or the marketing of undersized fish.

⁽¹⁾ OJ No L 20, 25.1.1989, p. 5.

⁽²⁾ OJ No L 388, 31.12.1992, p. 1. Regulation as last amended by Regulation (EEC) 1891/93 (OJ N. L 172, 15.7.1993, p. 1).

▼B

3. Member States shall notify the Commission of information relating to the Control measures adopted, the competent control authorities, the type of infringements discovered and the action taken.

The Commission, the competent authorities in the Member States and officials and other agents are obliged not to divulge information acquired pursuant to this Article which is covered by professional secrecy.

4. This Article shall not prejudice national provisions concerning the secrecy of legal proceedings.

▼M7

TITLE VIA

Monitoring the fishing activities of third-country vessels*Article 28a*

For the purposes of this Title ‘third-country fishing vessels’ means:

- a vessel, whatever its dimensions, used primarily or secondarily to take fisheries products,
- a vessel that, even if not used to make catches by its own means, takes the fisheries products by transshipment from other vessels,
- a vessel aboard which fisheries products are subject to one or more of the following operations prior to packaging: filleting or slicing, skinning, mincing, freezing and/or processing

and flying the flag of, and registered in, a third country.

▼M13**▼M7***Article 28e*

1. Masters of third-country fishing vessels or their representatives must notify the competent authorities of the Member State whose ports or landing facilities they wish to use, at least 72 hours before the estimated time of arrival at the port, of the following:

- their time of arrival at the port of landing,
- the catches retained on board,
- the zone or zones where the catch was made, whether in the Community fishing zone, in zones under the jurisdiction or sovereignty of a third country or on the high seas.

Landing operations may not commence until authorised by the competent authorities of that Member State.

2. Except in cases of *force majeure* or where a vessel is in distress, third-country fishing vessels may put in only at the ports designated by the Member State whose ports or landing facilities they wish to use.

3. The Commission, in accordance with the procedure laid down in Article 36, may grant an exemption for certain categories of third-country fishing vessels from the obligation stipulated in paragraph 1 for a limited and renewable period, or make provision for another notification period taking into account, *inter alia*, the distance between the fishing grounds, landing places and ports where the vessels in question are registered or listed.

4. Paragraphs 1 and 2 shall apply without prejudice to special provisions in fisheries agreements concluded between the Community and various third countries.

▼ M7*Article 28f*

Masters of third-country fishing vessels or their representatives shall submit as soon as possible, but not later than within 48 hours after landing, to the authorities of the Member State whose ports or landing facilities they use a declaration indicating the quantity of fishery products by species landed and the date and place of each catch. Masters shall be responsible for the accuracy of such declarations.

Each Member State shall forward to the Commission, at its request, information on landings by third-country fishing vessels.

Article 28g

Where the master or his representative of a third-country fishing vessel declares that catches have been taken on the high seas, the competent authorities shall authorise landing only if it has been proved to their satisfaction by the master or his representative that:

- the species retained on board have been caught outside the regulatory areas of any competent international organisations of which the Community is a member, or
- the species retained on board have been caught in compliance with the conservation and management measures adopted by the competent regional organisation of which the Community is a member.

Article 28h

Detailed rules for the application of this Title, including the lists of designated ports, shall be adopted in accordance with the procedure laid down in Article 36 in concert with the Member States concerned.

▼ B

TITLE VII

Application and verification of monitoring*Article 29*

1. The Commission shall verify the application of this Regulation by the Member States by means of the examination of documents and by conducting on-the-spot visits. The Commission may decide if it considers it necessary to carry out verification without prior notice.

In order to carry out on-the-spot visits, the Commission shall issue written instructions to its inspectors indicating their authority and the objectives of their missions.

2. Wherever it is deemed necessary by the Commission, its inspectors can be present at control and inspection activities carried out by national control services. In the framework of these missions, the Commission shall establish appropriate contacts with Member States with a view, wherever possible, to establishing a mutually acceptable inspection programme.

- (a) Member States shall cooperate with the Commission in order to facilitate it in the accomplishment of its tasks. Member States shall, in particular, take all necessary steps to ensure that the inspection missions are not subject to publicity injurious to the inspection and control operations.

Wherever the Commission or its authorized officials encounter difficulties in the execution of their duties, the Member States concerned shall provide the Commission with the means to accomplish its task and give the inspectors the opportunity to evaluate the specific control operations.

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- (b) If circumstances found on the spot do not allow the inspection and control operations envisaged in the framework of the initial inspection programme the Commission inspectors, in liaison and agreement with the competent national control service, shall modify the initial inspection and control operation.
- (c) In the framework of sea or air inspection where the competent national services must carry out other priority tasks relating to, in particular, defence and safety at sea, the authorities of the Member State shall reserve the right to defer or redirect the inspection operations the Commission intended to observe. In such circumstances, the Member State shall cooperate with the Commission in making alternative arrangements.

In the case of sea or air inspections, 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 apply this Regulation. The inspectors authorized by the Commission and participating in these operations shall abide by the rules and procedures laid down by the commander.

3. Where it appears necessary, particularly following missions carried out by Community inspectors in accordance with paragraph 2 showing that irregularities could occur in the application of this Regulation, the Commission may request Member States to notify it of the detailed inspection and control programme planned or fixed by the national competent authorities for a specified period and or stated fisheries and regions. On receipt of this notification, the inspectors authorized by the Commission shall, wherever the Commission deems it necessary, carry out independent inspections in order to verify the implementation of that programme by the competent authorities of a Member State.

When the Community inspectors verify the implementation of that programme, the agents of the Member State shall at all times be responsible for the carrying out of said programme. The Community inspectors may not on their own initiative use the powers of inspection conferred on national agents. The said inspectors shall not have access to vessels or premises unless accompanying agents of a Member State.

Following that verification the Commission shall transmit to the Member State concerned an evaluation report on the programme and, if appropriate, recommend control measures in order to improve the application of control by that Member State.

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3a. Community inspectors may, in the context of verification without prior notice, conduct observations on the implementation of this Regulation.

During their observation visits, Community inspectors, accompanied by national inspectors and without prejudice to applicable Community law and complying with the rules of procedure provided for in the laws of the Member State concerned, shall have access to the relevant files and documents and to the public premises and places, vessels and private premises, land and means of transport where the activities covered by this Regulation take place, in order to collect data (not containing named references) necessary for the accomplishment of their task.

Following such verifications without prior notice, the Commission shall forward a report on the observations made to the Member State concerned without delay.

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4. In the context of inspection missions conducted by aircraft at sea or ashore, the authorized inspectors may not carry out controls with respect to natural persons.

5. In the framework of their visits mentioned in paragraphs 2 and 3, inspectors authorised authorized the Commission may have on-the-spot access, in the presence of the services responsible, to information in

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specified data bases either in aggregate or individual form and may also examine all documents pertinent to the application of this Regulation.

If national provisions provide for the confidentiality of investigations, communication of this information shall be subject to the authorization of the competent court.

Article 30

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 information, the Commission shall specify a reasonable 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 or that the existing monitoring provisions and methods are not effective it shall inform the Member State or States concerned, which shall then conduct an administrative inquiry in which Commission officials may participate.

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The Member States concerned shall inform the Commission of the results of the inquiry and forward a copy of the report drawn up not more than three months after the Commission's request. This period may be extended by the Commission, on a duly motivated request from a Member State, for a reasonable delay.

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In order to participate in the inspections referred to in this paragraph, Commission officials shall produce written instructions stating their identity and their functions.

3. Where Commission officials participate in an inquiry, that inquiry shall at all times be conducted by the officials of the Member State; Commission officials may not, on their own initiative, use the powers of inspection conferred on national officials; on the other hand, they shall have access to the same premises and to the same documents as those officials.

In so far as national provision on criminal proceedings reserve certain acts to officials specifically designated by national law, Commission officials shall not take part in such actions. In particular, they shall not participate in searches of premises or in the formal questioning of persons under national criminal law. They shall, however, have access to the information thus obtained.

4. This Article shall not prejudice national provisions concerning the secrecy of legal proceedings.

TITLE VIII

Measures to be taken in the case of non-compliance with the rules in force*Article 31*

1. Member States shall ensure that the appropriate measures be taken, including of administrative action or criminal proceedings in conformity with their national law, against the natural or legal persons responsible where common fisheries policy have not been respected, in particular following a monitoring or inspection carried out pursuant to this Regulation.

2. The proceedings initiated pursuant to paragraph 1 shall be capable, in accordance with the relevant provisions of national law, of effectively depriving those responsible of the economic benefit of the infringements or of producing results proportionate to the seriousness of such infringements, effectively discouraging further offences of the same kind.

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2a. The Council, acting on the basis of Article 43 of the Treaty, may draw up a list of types of behaviour which seriously infringe the Community rules referred to in Article 1 and to which the Member States undertake to apply proportionate, dissuasive and effective sanctions.

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3. The sanctions arising from the proceedings mentioned in paragraph 2 may include depending on the gravity of the offence:

- fines,
- seizure of prohibited fishing gear and catches,
- sequestration of the vessel,
- temporary immobilization of the vessel,
- suspension of the licence,
- withdrawal of the licence.

4. The provisions of this Article shall not prevent the Member State of landing or transshipment from transferring prosecution of an infringement to the competent authorities of the Member State of registration with the agreement of the latter and on condition that the transfer is more likely to achieve the result referred to in paragraph 2. The Commission shall be notified of any such transfer by the Member State of landing or transshipment.

Article 32

1. Where an infringement of the provisions of this Regulation is discovered by the competent authorities of the Member State of landing or transshipment, those competent authorities shall take appropriate action in accordance with Article 31 against the master of the vessel involved or against any other person responsible for the infringement.

2. If the Member State of landing or transshipment is not the flag Member State and its competent authorities do not undertake, in conformity with their national law, appropriate measures including the initiation of administrative action or criminal proceedings against the natural or legal persons responsible, or do not transfer prosecution in accordance with Article 31 (4), the quantities illegally landed or transshipped may be set against the quota allocated to that former Member State.

The quantities of fish to be set against that Member State's quota shall be fixed in accordance with the procedure laid down in Article 36 after the Commission has consulted the two Member States concerned.

If the Member State of landing or transshipment no longer has a corresponding quota at its disposal, Article 21 (4) shall apply *mutatis mutandis*, the quantities of fish illegally landed or transshipped being deemed to be equivalent to the amount of the prejudice suffered, as mentioned in that Article, by the Member State of registration.

Article 33

1. The competent authorities of Member States shall without delay and in compliance with their procedures under national law notify the flag Member State or the Member State of registration, of any infringement of the Community rules referred to in Article 1, indicating the name and the identification marks of the vessel involved, the names of the master and the owner, the circumstances of the infringement, any criminal or administrative proceedings or other measures taken and any definitive ruling relating to such infringement. Upon request, Member States shall notify the Commission of this information in specific cases.

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2. Following a transfer of prosecution pursuant to Article 31 (4), the flag Member State or the Member State of registration shall take all appropriate measures as set out in Article 31.

3. The flag Member State or the Member State of registration shall notify the Commission without delay of any measures taken in accordance with paragraph 2 along with the name and the external identification of the vessel concerned.

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TITLE VIII

Cooperation among the authorities responsible for monitoring in the Member States and with the Commission*Article 34*

The terms and conditions on which the competent authorities responsible for monitoring the application of this Regulation in the Member States shall collaborate among themselves and with the Commission in order to ensure compliance with the rules of the common fisheries policy shall be as set out below.

Article 34a

1. The Member States shall provide each other with the mutual assistance needed to carry out the checks provided for in this Title.

2. Where an inspection or surveillance operation by the competent authorities of a Member State reveal that Community fishing vessels or vessels flying the flag of a third country and registered in a third country have carried out the fishing activities referred to in Article 2 in a way likely to infringe the Community rules, the Member State in question shall immediately notify all relevant information to the flag Member State of the vessel or vessels concerned, the other Member States concerned and the Commission. The other Member States concerned are the Member States in whose territory or waters the activities in question are being or are likely to be carried out.

The Member State in question may request the other Member States concerned to carry out special checks, giving specific reasons for their request.

The Member States shall keep each other informed, and shall inform the Commission, of the action they take in response to such requests, including, where applicable, the results of the checks and any proceedings relating to infringements.

3. The Member States shall inform each other of the national measures taken to that end, particularly those taken pursuant to Article 9(2) of Regulation (EEC) No 3760/92.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 36.

Article 34b

1. In the case of verifications with prior notice in a Member State, the Commission may arrange for its inspectors visiting a Member State to be accompanied by one or more fisheries inspectors from another Member State as observers, with the approval of the Member State to be visited. Upon request from the Commission the sending Member State can nominate at short notice the national fisheries inspectors selected as observers.

Member States may also draw up a list of national fisheries inspectors whom the Commission might invite to be present at such verifications. The Commission can invite national inspectors included in that list or those notified to the Commission upon request.

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The Commission shall, where appropriate, place the list at the disposal of all the Member States.

2. Member States may also carry out, among themselves and on their initiative, monitoring, inspecting and surveillance programmes concerning the fisheries activities.

▼M10*Article 34c*

1. The Commission, in accordance with the procedure laid down in Article 36 and in concert with the Member States concerned, shall determine which fisheries involving two or more Member States shall be subject to specific control and inspection programmes and the conditions governing such programmes.

The specific control and inspection programme shall determine the fisheries involving two or more Member States subject to the programme and the conditions governing such fisheries.

Each specific control and inspection programme shall state its objectives, common priorities and procedures as well as benchmarks for control and inspection activities, the expected results of the measures specified and the strategy required to ensure that control and inspection activities are as uniform, effective and economical as possible. Each programme shall identify the Member States concerned.

Specific control and inspection programmes may not last longer than three years or any period laid down for this purpose in a recovery plan adopted pursuant to Article 5 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the common fisheries policy ⁽¹⁾ or a management plan adopted pursuant to Article 6 of that Regulation.

Specific control and inspection programmes shall be implemented by the Member States concerned on the basis of joint deployment plans established under Council Regulation (EC) No 768/2005 of 26 April 2005 establishing a Community Fisheries Control Agency and amending Regulation (EC) No 2847/93 establishing a control system applicable to the common fisheries policy ⁽²⁾.

2. The Commission shall control and evaluate the performance of each specific control and inspection programme and shall report to the European Parliament and the Council in accordance with Article 27(4) of Regulation (EC) No 2371/2002.

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TITLE IX

General provisions**▼M7***Article 35*

1. Not later than 30 April each year, the Member States shall transmit to the Commission a report on the application of this Regulation during the previous calendar year.

2. On the basis of the reports submitted by the Member States and its own observations, the Commission shall draw up a factual report every year and an assessment report every three years to be submitted to the Council and the European Parliament. It shall publish this assessment report along with the Member States' replies and, where appropriate, measures and proposals to mitigate the shortcomings discovered.

3. Detailed rules for the provision of information to meet the requirements of this Article shall be adopted in accordance with the

⁽¹⁾ OJ L 358, 21.12.2002, p. 59.

⁽²⁾ OJ L 128, 21.5.2005, p. 1.

▼M7

procedure laid down in Article 36, particularly the information concerning:

- the technical and human resources for fisheries monitoring, and the time effectively devoted thereto,
- the laws, regulations and administrative provisions that the Member States adopt to prevent and prosecute irregularities,
- the results of inspections or checks carried out pursuant to this Regulation, including the number and type of infringements discovered and the action taken, and in particular with respect to the types of behaviour referred to in Article 31(2a),
- the application measures and actions pursuant to Article 19, particularly with regard to the assessment of the reliability of the data.

▼M8*Article 36*

1. The Commission shall be assisted by the Management Committee for Fisheries and Aquaculture, set up pursuant to Article 17 of Regulation (EEC) No 3760/92.
2. Where reference is made to this Article, Article 4 and 7 of Decision 1999/468/EC ⁽¹⁾ shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

3. The Committee shall adopt its Rules of Procedure.

▼B*Article 37*

1. Member States and the Commission shall take all necessary steps to ensure that the data received in the framework of this Regulation shall be treated in a confidential manner.
2. The names of natural or legal persons shall not be communicated to the Commission or to another Member State except in the case where such communication is expressly provided for in this Regulation or if it is necessary for the purposes of preventing or pursuing infringements or the verification of apparent infringements.

The data referred to in paragraph 1 shall not be transmitted unless they are aggregated with other data in a form, which does not permit the direct or indirect identification of natural or legal persons.

3. The data exchanged between Member States and the Commission shall not be transmitted to persons other than those in Member States or Community institutions whose functions require them to have such access unless the Member States transmitting the data give their express consent.
4. The data communicated or acquired in whatever form by virtue of this Regulation is covered by professional secrecy and shall benefit from the same protection accorded to similar data by the national legislation of Member State receiving them and by the corresponding provisions applicable to Community institutions.
5. The data referred to in paragraph 1 shall not be used for any purpose other than that provided for in this Regulation unless the authorities providing the data give their express consent and on condition that the provisions in force in the Member State of the authority receiving the data do not prohibit such use or communication.
6. Paragraphs 1 to 5 shall not be construed as obstacles to the use of the data, obtained by virtue of this Regulation, in the framework of legal

⁽¹⁾ OJ L 184, 17.7.1999, p. 23.

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actions or proceedings subsequently undertaken for the failure to respect Community fisheries legislation. The competent authorities of the Member State transmitting the data shall be informed of all instances where the said data are utilised for these purposes.

This Article shall not prejudice the obligations pursuant to international conventions concerning mutual assistance in criminal matters.

7. Whenever a Member State notifies the Commission that it has been established after the completion of an inquiry that a natural or legal person whose name has been communicated to it by virtue of the provisions of this Regulation has not been implicated in an infringement, the Commission shall, without delay, inform any party or parties to whom it has communicated the name of the said person, of the outcome of the said inquiry or proceedings. This person shall no longer be treated as being a person implicated in the irregularities in question on the basis of the first notification. The data stored in a form allowing identification of the person concerned shall be deleted without delay.

8. The provisions of paragraphs 1 to 5 shall not be construed as prohibiting the publication of any general data or any studies which do not contain individual references to natural or legal persons.

9. The data referred to in this Regulation shall be stored in a form allowing the identification of the persons concerned only as long as necessary for the fulfilment of the purposes in question.

10. The data received in the framework of this Regulation shall be available upon request to the natural or legal persons concerned.

Article 38

This Regulation shall apply without prejudice to any national control measures which go beyond 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 39

1. Regulation (EEC) No 2241/87 shall be repealed on 1 January 1994, with the exception of Article 5, which shall continue to apply until the Regulations establishing the lists mentioned in Article 6 (2) of the present Regulation have entered into force.

2. References to the Regulation repealed by virtue of paragraph 1 shall be construed as references to this Regulation.

▼M7**▼C2***Article 40*

This Regulation shall enter into force on 1 January 1994.

Member States shall be exempted until 1 January 2000 from the obligation to apply the provisions of Articles 6 and 8, insofar as they concern fisheries operations in the Mediterranean Sea.

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

⁽¹⁾ OJ No L 20, 28.1.1976, p. 19.