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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 2870/95
of 8 December 1995
amending Regulation (EEC) No 2847/93 establishing a control system applicable
to the common fisheries policy

THE COUNCIL OF THE EUROPEAN UNION,

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

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

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

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

Whereas Council Regulation (EC) No 2027/95 of 15 June 1995 establishing a system for the management of fishing effort relating to certain Community fishing areas and resources ⁽⁴⁾ fixes the maximum annual fishing effort levels in certain areas ;

Whereas, under Council Regulation (EEC) No 685/95 of 27 March 1995 on the management of the fishing effort relating to certain Community fishing areas and resources ⁽⁵⁾, provision should be made for control and monitoring measures so as to ensure that the system for the management of fishing effort is being complied with ;

Whereas Article 7 (3) of Regulation (EC) No 685/95 provides that Member States should take the necessary action to make it compulsory for vessels flying their flags to communicate details of entry into, and exit from, fishing parts located within those areas, in which fishing effort limitation or limitation on capacity applies, and of entries into, and exits from, the area lying south of latitude 56° 30' north, east of longitude 12° west and north of latitude 50° 30' north, hereinafter known as the 'Irish Box' ;

Whereas the Council shall decide no later than 30 June 1997 on the Commission's proposal of 12 June 1995 on the Community infrastructure for the management of data on catches in Community waters ;

Whereas it is appropriate to allow derogations for vessels operating under specific conditions ;

Whereas it should therefore be possible for Member States to adopt simplified communication methods for vessels undertaking fishing activities in the waters under the sovereignty or jurisdiction of their flag Member State or the Member State in which the vessels are registered ;

Whereas, for reasons of simplification, masters of Community vessels which spend less than 72 hours at sea should be allowed to communicate, before the departure of a vessel, a single effort report containing all the information required by this Regulation ;

Whereas the above measures shall in no case be less effective in monitoring fishing effort than the measures envisaged by this Regulation and consequently not disadvantage any Community vessel ;

Whereas it is necessary for the number of days spent in areas by fishing vessels flying Member States' flags to be monitored ; whereas, therefore, it is essential that the masters of fishing vessels record in their logs the number of days spent in each fishing area ; whereas it is necessary for the competent authorities in the Member States to be informed of this so as to ensure that their fishing activities are monitored ;

Whereas each Member State must take the necessary measures to check by sampling the fishing activities of fishing vessels exempt from the obligation to keep a logbook ;

Whereas access to fishing areas and to the Irish Box should be controlled both by the flag Member State and by the Member State responsible for monitoring in the waters under its jurisdiction or sovereignty and covered by a fishing area ; whereas, to that end, provision should be made for the flag Member State to communicate to the

⁽¹⁾ OJ No C 188, 22. 7. 1995, p. 8.

⁽²⁾ OJ No C 269, 16. 10. 1995.

⁽³⁾ Opinion delivered on 25 October 1995 (not yet published in the Official Journal).

⁽⁴⁾ OJ No L 199, 24. 8. 1995, p. 1.

⁽⁵⁾ OJ No L 71, 31. 3. 1995, p. 5.

Commission by computerized means the lists of named vessels authorized to exercise their activities in the fishing areas and in the Irish Box and for the Commission to ensure that the Member States responsible for control have access to such data ;

Whereas restrictions on fishing effort should be managed both at Member State and at Community level ; whereas Member States must record fishing efforts for each fishing area and must communicate aggregated fishing effort data to the Commission ;

Whereas provision should be made for vessels flying the flag of a given Member State to cease their activities in a given fishing area once the overall fishing effort for that Member State in that fishing area is exhausted ;

Whereas it is necessary to adopt provisions relating to the use of fishing gear so as to ensure that fishing vessels respect fishing effort restrictions ;

Whereas, therefore, Regulation (EEC) No 2847/93⁽¹⁾ should be amended,

HAS ADOPTED THIS REGULATION :

Article 1

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

(1) The following title shall be inserted after Article 19 :

TITLE IIA

Control of fishing effort

Article 19a

1. The provisions of this Title shall apply to Community fishing vessels which are authorized by Member States in accordance with Articles 2, 3 (5) and 9 of Council Regulation (EC) No 685/95 of 27 March 1995 on the management of the fishing effort relating to certain Community fishing areas and resources (*) to carry out fishing activities in the fishing areas defined in Annex I to that Regulation and to such vessels authorized by Member States to carry out fishing activities directed at demersal species, in the area situated south of latitude 56° 30' north, east of longitude 12° west and north of latitude 50° 30' north, hereinafter known as the "Irish Box".

2. For the purpose of this Title, vessels over 18 metres overall shall be considered equivalent to vessels over 15 metres between perpendiculars. Member States shall notify the Commission of the method of measurement chosen. Vessels over the relevant length which

are not authorized by Member States under Articles 2, 3 (5) and 9 of Regulation (EC) No 685/95 shall not carry out fishing activities in the areas referred to in paragraph 1.

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.

(*) OJ No L 71, 31. 3. 1995, p. 5.

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

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.

Article 19c

1. Masters of Community fishing vessels of their representatives shall communicate the information referred to in Article 19b by telex, 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.

(1) OJ No L 261, 20. 10. 1993, p. 1.

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 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.

Article 19d

No later than 30 June 1997, the Council shall decide on the provisions proposed by the Commission on catch reporting and on the integrated computerized system for controlling the data referred to in Article 19b.

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 (*) 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.

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.

(^(*)) OJ No L 19, 22. 1. 1994, p. 5.

Article 19g

Each Member State shall record the fishing efforts deployed by vessels flying its flag in each fishing area referred to in Article 19a and in the Irish Box for demersal fishing areas 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 between perpendiculars or 18 metres overall in accordance with the provisions of Article 19a (2), in the fishing areas referred to in Article 19a and in the Irish Box.

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:

- in the previous month for each fishing area referred to in Article 19a and in the Irish Box for demersal species, before the 15th of each month,
- 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.

(2) The following Article shall be inserted after Article 20:

Article 20a

1. Where fishing vessels to which Title IIa applies carry out fishing activities in the fishing areas referred to in Article 19a and in the Irish Box 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 authorized for use in the fishing area or areas referred to in Article 19a and in the Irish Box is stowed so that it may not be readily

used, in accordance with the second subparagraph of Article 20 (1).

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.'

(3) The following Articles shall be inserted after Article 21:

Article 21a

Without prejudice to Article 3 (2) (i) of Regulation (EC) No 685/95 and Article 4, second indent, of Council Regulation (EC) 2027/95 of 15 June 1995 relating to certain Community fishing areas and resources (^(*)), each Member State shall determine the date on which the vessels flying its flag or registered in its territory shall be deemed to have reached the maximum fishing in effort level in a fishing area as laid down in the latter Regulation. 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.

(^(*)) OJ No L 199, 24. 8. 1995, p. 1.

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.'

Article 2

This Regulation shall enter into force on 1 January 1996.

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

Done at Brussels, 8 December 1995.

For the Council

The President

J. A. GRIFÁN
