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*(Acts whose publication is obligatory)*

**COUNCIL REGULATION (EC) No 686/97**  
**of 14 April 1997**  
**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 <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Whereas fishstocks have been overexploited in recent years and therefore significant efforts on surveillance and control of fishing activities are required to remedy this situation;

Whereas there is a need to use cost-effective measures and to improve availability and accuracy of effort data, such as by introducing satellite based vessel monitoring systems;

Whereas, pursuant to Article 3 of Regulation (EEC) No 2847/93 <sup>(3)</sup>, the Council can decide for a continuous position monitoring system to be established for Community fishing vessels;

Whereas experience gained in the application of pilot projects carried out by the Member States in accordance with Commission Regulation (EC) No 897/94 of 22 April 1994 laying down detailed rules for the application of Council Regulation (EEC) No 2847/93 as regards pilot projects relating to continuous position monitoring of Community fishing vessels <sup>(4)</sup>, has demonstrated that several satellite-based vessel monitoring systems can be used to determine the position of fishing vessels;

Whereas satellite-based continuous monitoring of certain categories of Community fishing vessels will improve effort management, surveillance of sensitive areas, cross-checking of logbooks, and monitoring of landings;

Whereas the satellite-based vessel monitoring system shall apply to Community fishing vessels operating in third country waters only in the case where the third country or countries in question have accepted the obligation to apply a satellite-based vessel monitoring system to their vessels operating in the waters of the Community;

Whereas it is appropriate to except from the obligation to apply a satellite-based vessel monitoring system certain Community vessels operating exclusively in coastal and short-trip fisheries;

Whereas the satellite-based vessel monitoring system shall ensure that communications from Community vessels are received by the flag State and the coastal Member State simultaneously;

Whereas it is appropriate to provide for the possibility of alternative systems to the satellite-based vessel monitoring system; whereas a Member State requesting this possibility must prove that the alternative system is as effective as the satellite-based vessel monitoring system,

HAS ADOPTED THIS REGULATION:

*Article 1*

Article 3 of Regulation (EEC) No 2847/93 shall be replaced by the following:

*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:

<sup>(1)</sup> OJ No C 209, 20. 7. 1996, p. 7.

<sup>(2)</sup> OJ No C 20, 20. 1. 1997.

<sup>(3)</sup> OJ No L 261, 20. 10. 1993, p. 1. Regulation as last amended by Regulation (EC) No 2489/96 (OJ No L 338, 28. 12. 1996, p. 12).

<sup>(4)</sup> OJ No L 104, 23. 4. 1994, p. 18. Regulation as amended by Regulation (EC) No 376/96 (OJ No L 51, 1. 3. 1996, p. 31).

- 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. However, only in the situation where a third country or countries have accepted the obligation to apply a VMS to their vessels operating in the waters of the Community, shall Community fishing vessels operating in the waters of such third country or countries be subject to the application of a VMS.

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 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.'

*Article 2*

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

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

Done at Luxembourg, 14 April 1997.

*For the Council*

*The President*

J. VAN AARTSEN

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