

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(93) 107 final

Brussels, 17 March 1993

Amended proposal for a  
COUNCIL REGULATION (EEC)

**establishing a control system  
applicable to the common fisheries policy**

(presented by the Commission pursuant to Article 149(3)  
of the EEC-Treaty)

## EXPLANATORY MEMORANDUM

As part of the process of revising the common fisheries policy and in order to remedy the inadequacies of the current monitoring and control system, the Commission presented to the Council on 19 October 1992 a proposal for a Council Regulation (EEC) establishing a control system applicable to the common fisheries policy<sup>1</sup>.

On 15 December Parliament adopted a resolution giving its opinion on the proposal and introducing 30 amendments.

The resolution confirms the need to implement an overall, integrated control system which will have closer links between conservation measures and structural measures and apply to the entire fishing sector from production to marketing.

Moreover, it affirms the need to give the Commission the means to guarantee the fairness and transparency of Member States' control efforts by implementing a system of unannounced Community monitoring of national inspections. Lastly, Parliament reaffirmed the need to include in national legislation a system of graduated deterrent and equivalent penalties in order to avoid discrimination.

In view of the common desire to strengthen controls the Commission has agreed to amend its initial proposal in the following ways:

- provision of the Commission with the financial, legal and legislative means to enable it to carry out its task (5th recital);
- consolidation of the minimum obligations imposed on Community vessels outside Community waters (Article 1(3));
- inclusion of the control of distribution activities to enable verification of the implementation of the Regulation (Article 2(1));
- availability to the owners of the fishing vessels concerned of the information acquired during national inspections (first subparagraph of Article 19(3));
- strengthening of the calculation method applicable to the deductions made vis-à-vis a Member State which has overfished and caused a prejudice to another Member State (second subparagraph of Article 21(4));
- fixing by Council of the method for calculating the penalty coefficients applicable to the deductions made vis-à-vis a Member State which has overfished (Article 25(1) point (b), insert after second subparagraph (new));
- introduction of confidentiality with respect to information acquired during the market control process (Article 30(3)(a) (new));
- in the event of failure on the part of Member States to fulfil their obligation to cooperate with the Commission in its controls, the Commission may draw up a report which may be made public (Article 31(6)(a));

<sup>1</sup> COM(92) 392 final, 30 September 1992.

- inclusion of the principle of comparable penalties for comparable offences in the Member States (insert after first subparagraph of Article 32(3) (new));
- annual report by the Commission on the controls implemented by the Member States. The report will be made public and may contain proposals to improve the controls (Article 38).

In addition, the proposed Regulation needs to be amended to take into account the arguments underlying amendments which cannot be included as such without affecting the consistency of the text.

These amendments relate to:

- an extension of the number of species which have to be reported in logbooks - this will also allow a formal simplification of the text (Article 6(1) and (2));
- the assistance of the Management Committee in agreeing details of exemptions regarding satellite monitoring, the keeping of logbooks and landing declarations (Articles 3(5), 6(4) and 7(3)).

On the other hand, the Commission has not included some amendments for reasons of formal consistency, even though they are based on arguments to which the Commission is sympathetic. Nevertheless, it will take them into account as far as possible in further discussions on the proposal.

These are amendments relating to:

- strengthening of cooperation between Member States with regard to the monitoring of fishing activities and extension of the right of pursuit in territorial waters and international waters with the agreement of the Member State concerned (tenth recital);
- referral back to the Management Committee to establish exemptions to the single-net rule.

In the former case, it seems more important that Member States make better use of existing legal possibilities in respect of the right of pursuit than to extend those possibilities.

In the latter case, a very sensitive political issue with many divergent opinions among the Member States, and whatever the real problems linked to multi-purpose vessels are, only precise rules set out in a Council Regulation are feasible. But the necessary reasoned requests have not always been transmitted to the Commission. Technical measures linking authorized mesh sizes to catch composition cannot be monitored and put into practice without a simple rule governing the mesh size of the nets which a fishing vessel can use during a single fishing trip and therefore keep on board at a given time. The single-net rule provides all the necessary facilities in that regard. However, it restricts the opportunity to fish for more than one species during a single trip. This is why an exemption is needed, but it can only be accepted if complementary rules ensure that the Regulation's objective is not undermined. Since these conditions are satisfied by vessels carrying nets for use outside Community waters with mesh sizes greater than those required in Community waters, an exemption is provided for.

Lastly, the Commission has not taken into account the other Parliament amendments for the following reasons:

Either

- they deal with taxation questions which exceed the scope of the present proposal;
- they conflict with the sharing of control responsibilities between the Commission and the Member States;
- they would unnecessarily delay the implementation of satellite techniques;
  
- they would create operational difficulties or reduce the effectiveness of controls.

Adoption of Parliament's amendments by the Council will demonstrate the unanimous agreement of the political institutions on the need to design effective controls in order to guarantee the success of the common fisheries policy.

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The proposal is amended as follows.

Fifth recital

Whereas, whilst control is first and foremost the responsibility of the Member States, only the Commission can 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;

Tenth recital (new)

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

Article 1(4)

3. This 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 and jurisdiction of the Member States; it shall also apply to the activities of fishing vessels flying the flag of Member States which operate in third-country waters 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. Such agreements and Conventions may not, however, have the effect of imposing on Community vessels obligations which are less stringent than those laid down in this Regulation.

Article 2(1)

1. In order to ensure compliance with all the Regulations in force concerning conservation and control measures, each Member State shall, within its territory and within maritime waters subject to its sovereignty or jurisdiction, monitor fishing activity and related activities. It shall inspect fishing vessels and all activities whose inspection would enable verification of the implementation of this Regulation, including the activities of landing, selling and distributing, transporting and storing fish and recording landings and sales.

The previous Article 3(5) is deleted

Article 3(5) (new)

Acting in accordance with the procedure laid down in Article 39 of this Regulation, the Commission may exempt from the obligations laid down in paragraph 1, for a limited, renewable period, certain types of vessel flying the flag of, or registered in, a Member State which are making a trip not exceeding 24 hours, measured from the time of departure from port to the time of return to port.

The previous Article 6(1), (2), (3) and (5) are deleted

Article 6(1) (new)

1. Skippers of fishing vessels flying the flag of, or registered in, a Member State shall keep a logbook of their operations indicating the quantities of each species caught and held on board, the date and location of such catches and the type of gear used. The location of the catch shall be given as a grid reference rounded down to the nearest degree.

Article 6(2) (new)

2. The names of species which have to be recorded in the logbook in accordance with paragraph 1 shall be included in lists drawn up in accordance with the procedure laid down in Article 39 and which must contain any stock or group of stocks subject to a TAC (total admissible catch) or quota.

Article 6(4) becomes Article 6(3)

Article 6(4) (new)

Acting in accordance with the procedure laid down in Article 39 of this Regulation, the Commission may exempt from the obligations laid down in paragraph 1, for a limited, renewable period, certain types of vessel flying the flag of, or registered in, a Member State, particularly those whose length overall does not exceed 10 metres.

Article 6(6) becomes Article 6(5)

5. Skippers of fishing vessels must record the data referred to in paragraph 1 on paper or in computer-readable form.

The second subparagraph of Article 7(3) is deleted

Second subparagraph of Article 7(3) (new)

Acting in accordance with the procedure laid down in Article 39 of this Regulation, the Commission may exempt from this obligation, for a limited, renewable period, skippers of certain types of vessel, in particular those flying the flag of, or registered in, a Member State, and whose length overall does not exceed 10 metres.

First subparagraph of Article 19(3)

3. Information acquired pursuant to this Article may only be used for the the purpose for which it was requested and shall be available on request to the owners of the fishing vessels concerned.

Second subparagraph of Article 21(4)

If the prejudice suffered by the Member State for which fishing has been prohibited before its quota was fished has not been removed by action in accordance with the procedure laid down in Article 6(3) of Regulation (EEC) No .../..., 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 39. 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 made during the year in which the prejudice occurred or in the succeeding year or years and shall be calculated in absolute terms or as a percentage in accordance with the formula most advantageous to the Member State which has suffered the prejudice.

New subparagraph inserted after the second subparagraph in point (b) of Article 25(1)

The method used to calculate the penalty coefficients shall be laid down by the Council, on a proposal from the Commission, at the same time as the corresponding restrictions on fishing activities.

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Article 30(3a) (new)

- (3a) 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, by its nature, covered by professional secrecy.

Point (a) in Article 31(6)

- (a) Without prejudice to Article 169 of the EEC Treaty, in the event that officials authorized by the Commission discover possible infringements of the Community rules referred to in Article 1, or failures on the part of national departments to fulfil the obligations imposed on them under paragraph 4 of this Article, the Commission shall inform the Member State thereof without delay by means of a report. The Member State shall take all action called for by the report. The Commission may make the report public.

Article 32(3) first subparagraph (new)

Member States shall ensure that comparable penalties are imposed for comparable offences throughout the Community.

Article 38

Before 31 March each year Member States shall transmit to the Commission a report on the application of this Regulation over the previous twelve months, containing an assessment of the technical and human resources used and measures which may help to alleviate the shortcomings discovered. On the basis of the reports submitted by the Member States and its own observations, the Commission shall draw up an annual report and shall communicate to each Member State the information which concerns it. Having taken due note of the replies from the Member States, the Commission shall publish this report along with those replies and, where appropriate, proposals for measures to alleviate the shortcomings discovered.



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# DOCUMENTS

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