COUNCIL REGULATION (EEC) No 4027/86

of 18 December 1986

amending Regulation (EEC) No 2057/82 establishing certain control measures for fishing activities by vessels of the Member States

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 170/83 of 25 January 1983 establishing a Community system for the conservation and management of fishery resources (1), and in particular Article 11 thereof,

Having regard to the proposal from the Commission,

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

Whereas control measures to ensure compliance with Community provisions regarding conservation have already been established by Regulation (EEC) No 2057/82 (3), as last amended by Regulation (EEC) No 3723/85 (4);

Whereas it is necessary for the Member States' inspectorates' activities to cover all fishing vessels, including those of third countries, and all activities whose monitoring would enable verification of the implementation of Regulation (EEC) No 2057/82;

Whereas it is appropriate to clarify the extent of the duty of the Member States to record landings of stocks or groups of stocks subject to total allowable catches (TACs) or quotas, whether within Community waters or not, and to enable records of such landings to be verified;

Whereas, moreover, the Community is empowered internally under the Treaty to take any measures for the conservation of the biological resources of the sea; whereas in this context provision should be made for the possibility of putting a stop to fishing once the TAC, quota, allocation or share available to the Community is exhausted; whereas, however, reparation should be made for the loss sustained by a Member State which has not exhausted its quota, allocation or share of the stock or group of stocks concerned; whereas a compensation mechanism should be provided for that purpose, reconciling the requirements of conservation with the preservation of fishing possibilities per species and per zone as given by the annual setting of TACs and quotas; whereas to this end preference should be given when making these deductions and awards, either during the same year or during the following years, to the species and zones for which the annual quotas, allocations or shares have been set;

Whereas, when the Commission or its authorized officials encounter, in carrying out their duties, repeated and unjustified difficulties, the Commission may request of the Member State concerned, in addition to an explanation, the means of fulfilling its task; whereas the Member State concerned is required to ensure fulfilment of its obligations arising from Regulation (EEC) No 2057/82, as amended by this Regulation, by facilitating the achievement of the Commission's task,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 2057/82 is hereby amended as follows:

1. The title is replaced by the following:

   'Council Regulation (EEC) No 2057/82 of 29 June 1982 establishing certain control measures for fishing activities.'

2. Article 1 (1) and (2) is replaced by the following:

   '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

(1) OJ No L 24, 27. 1. 1983, p. 1.
(2) Opinion delivered on 12 December 1986 (not yet published in the Official Journal).
(3) OJ No L 220, 29. 7. 1982, p. 1.
(4) OJ No L 361, 31. 12. 1985, p. 42.

the implementation of this Regulation, including the activities of landing, selling and storing fish and recording landings and sales.

2. If the competent authorities of a Member State observe, as a result of monitoring or inspection carried out by them under paragraph 1, that the relevant rules concerning conservation and control measures are not being complied with, they shall take penal or administrative action against the master of such a vessel or any other person responsible.'

3. The first subparagraph of Article 2 (1) is replaced by the following:

'1. The inspection and monitoring referred to in Article 1 shall be carried out by each Member State on its own account by an inspectorate appointed by it.'

4. Article 7 (1) is replaced by the following:

'1. Without prejudice to Article 6, the master of a fishing vessel flying the flag of, or registered in, a Member State who:

— tranships to another vessel ('the receiving vessel') any quantities of catches of a stock or group of stocks subject to a TAC or quota irrespective of the place of landing, or

— directly lands such quantities outside Community territory,

shall, at the time of the transhipment or of the landing, inform the Member State whose flag his vessel is flying or in which his vessel is registered of the species and quantities involved and of the date of transfer or of landing and of the location of catches by reference to the smallest zone for which a TAC or quota has been fixed and administered. If the catches were made in waters under the sovereignty or jurisdiction of third countries, this information must be indicated separately by reference to the waters of each of the third countries concerned.'

5. The first subparagraph of Article 9 (1) is replaced by the following:

'1. Member States shall ensure that all landings by fishing vessels flying the flag of, or registered in, a Member State of stocks or groups of stocks subject to TACs or quotas are recorded. For this purpose, Member States may require that the first placing on the market be made by sale by public auction.'

6. The following paragraph is added to Article 9:

'4. Each Member State shall keep, or cause to be kept, records submitted to its competent authorities in accordance with Articles 3 and 6 and the particular detailed rules for the application of these Articles, in such a way as to be able to trace back such documents, which form the basis of the notification to the Commission referred to in paragraph 2, over a period of three years from the beginning of the year following the year in which the related landings were made.'

7. The first subparagraph of Article 10 (3) is replaced by the following:

'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 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.

When an assessment of the situation referred to in the preceding subparagraph is made, the Commission shall advise the Member States concerned of the prospects of fishing being halted as a result of a TAC's being exhausted.'

8. The following paragraph is added to Article 10:

'4. When the Commission has, by virtue of the first subparagraph of paragraph 3, halted fishing because of the exhaustion of the TAC, quota, allocation or share available to the Community and it appears to the Commission that a Member State has not exhausted its quota, allocation or share on 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 fished has not been removed by action in accordance with the procedure laid down in Article 5 (1) of Regulation (EEC) No 170/83 [1], the matter shall be referred to the Management Committee for Fishery Resources in accordance with Article 15 of that Regulation.

In accordance with the procedure referred to in Article 14 of that Regulation, measures shall be adopted with the aim of remedying in an appropriate manner the prejudice caused. These measures may involve making deductions from a quota, an allocation or a part 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 fished. These deductions and the consequent allocations are made taking into account as a matter of priority species and zones for which annual quotas, allocations or parts have been fixed. These deductions or allocations may be made

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

The detailed rules for implementing this paragraph, and in particular for determining the quantities concerned, shall be laid down in accordance with the procedure referred to in Article 14 of Regulation (EEC) No 170/83.

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(1) OJ No L 24, 27 1. 1983, p. 1.'

9. Article 12 (4) (a) is replaced by the following:

'4. (a) To that end, officials authorized by the Commission shall be entitled to be present, as deemed necessary by the Commission, at inspections and monitoring carried out by national departments. The Commission shall establish appropriate contacts with Member States with a view, wherever possible, to establishing a mutually acceptable programme of inspection and monitoring. Member States shall cooperate with the Commission in its fulfilment of this task. When the Commission or its authorized officials meet difficulties in the execution of their duties, the Member States concerned shall provide the Commission with the means to accomplish its task and shall enable the Commission's authorized officials to oversee requested actions of inspection or monitoring. However, where inspection at sea or from the air is concerned, in duly substantiated cases where the relevant national departments must carry out other priority tasks relating to, in particular, defence, security or customs inspection, the authorities of the Member State shall retain the right to defer or redirect inspection operations at which the Commission intends to be present; in such circumstances the Member State shall cooperate with the Commission in making alternative arrangements.'

Article 2

This Regulation shall enter into force on the first day of the month following the month 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 Brussels, 18 December 1986.

For the Council

The President

M. JOPLING