

Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing permits

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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 pursuant to Article 9 of Council Regulation (EC) No 3690/93 of 20 December 1993 establishing a Community system laying down rules for the minimum information to be contained in fishing licences (4), the Council must adopt the general provisions on special fishing permits applicable to Community fishing vessels and to vessels flying the flag of a third country and operating in Community fishing waters;

Whereas, in accordance with Articles 4 and 8 of Council Regulation (EEC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture (5), the Council may determine certain conditions for access by Community fishing vessels to waters and resources, which may include the need for special fishing permits;

Whereas it is for the Council to decide in each case on the most appropriate definition of a fishery and where appropriate specify in detail inter alia the stocks or groups of stocks, waters and/or fishing gear with a view of establishing a system of special fishing permits for that fishery;

Whereas, however, the need for such special fishing permits to be issued also for small vessels fishing exclusively in the territorial waters of the flag Member State has not at this stage been established, as it is possible, whenever necessary, to regulate the fishing effort of such vessels by other means;

Whereas, in the context of fisheries agreements concluded between the Community and third countries, the fishing activities of vessels flying the flag of a third country and operating in Community fishing waters should be made subject to a fishing licence, supplemented by a special fishing permit;

Whereas it is advisable to establish at Community level the procedures under which each Member State issues and manages the special fishing permits applicable to vessels flying its flag, and those under which the Commission issues and manages licences supplemented by special fishing permits applicable to vessels flying the flag of a third country and operating in Community fishing waters;

Whereas the Commission must be in a position to ensure compliance with Community law in respect of the management of special fishing permits by the flag Member State;

Whereas in order to ensure a consistent conservation and resource management policy, procedures should be established for the transmission of the information contained in national fishing permits;

Whereas the possibility of applying penalties as provided for in Article 31 (3) of Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy (6), including the possible suspension or withdrawal of a fishing licence, is likely to contribute to improving the regulation of exploitation; whereas, accordingly, it is important for the competent authorities of the flag Member State to be able to initiate a procedure for suspending or withdrawing a special fishing permit through an administrative

decision;

Whereas, to this end, detailed rules of application need to be laid down concerning information procedures at Member State level between the authorities responsible for supervising fishing activities and the authorities responsible for taking proceedings in respect of infringements by the flag Member State;

Whereas in order to ensure control of fishing activities subject to special fishing permits, general rules need to be established to cover cooperation between the authorities responsible for the issue and management of special fishing permits and the authorities responsible for supervising fishing activities;

Whereas the provisions on the confidentiality of data in Article 13 of Regulation (EEC) No 3760/92 and Article 37 of Regulation (EEC) No 2847/93 should be applied to information gathered under this Regulation; whereas Member States and the Commission must take appropriate measures for that purpose,

HAS ADOPTED THIS REGULATION:

Article 1

1. This Regulation lays down general provisions concerning:

- (a) special fishing permits applicable to the fishing activities of Community fishing vessels subject to Community measures in respect of the conditions of access to waters and resources adopted in accordance with Articles 4 and 8 of Regulation (EEC) No 3760/92. Each time the Council decides on the conditions of access it shall assess the need for special fishing permits;
- (b) fishing licences and special permits applicable to fishing vessels flying the flag of a third country and operating in Community fishing waters in the context of a fisheries agreement concluded between the Community and that country;
- (c) procedures for the transmission of the information contained in national fishing permits.

2. Vessels under 10 m in total length flying a Member State's flag and which fish exclusively in the territorial waters of the flag Member State shall be excluded from the obligation to have a special fishing permit.

Article 2

1. For the purposes of this Regulation:

- (a) 'special fishing permit' means a prior fishing authorization issued to a Community fishing vessel to supplement its fishing licence, thereby enabling it to carry out fishing activities during a specified period, in a given area, for a given fishery, in accordance with the measures adopted by the Council;
- (b) 'fishing licence and special fishing permit of a fishing vessel flying the flag of a third country' means an attestation from the Commission giving the minimum data concerning the identification, technical characteristics and fitting out of that vessel, supplemented by a prior authorization enabling it to carry out its activities in Community fishing waters in accordance with the relevant provisions of Community law and the fisheries agreement concluded with the country in question.

2. Member States may choose to call the permit by a different name provided that it is absolutely clear that it is a permit within the meaning of this Regulation.

Article 3

1. The special fishing permit issued in accordance with Article 7 must contain at least the information laid down in Annex I.

2. The fishing licence and special permit applicable to vessels flying the flag of a third country must contain at least the information laid down in Annex II.

Article 4

1. The flag Member State shall issue and manage the special fishing permits of vessels flying its flag in accordance with the relevant provisions of Community law, including the measures laid down in Article 11 of Regulation (EEC) No 3760/92.

2. The Commission shall issue and manage, on behalf of the Community, the fishing licences and special permits of vessels flying the flag of a third country, in accordance with the relevant provisions of Community law and the provisions contained in fisheries agreements concluded with the country concerned or adopted in the framework of those agreements.

Article 5

1. The flag Member State may not issue a special fishing permit if the vessel concerned does not have a fishing licence obtained in accordance with Regulation (EC) No 3690/93 or if its fishing licence has been suspended or withdrawn in accordance with Article 5 of that Regulation.

2. The special fishing permit shall become null and void where the fishing licence corresponding to the vessel has been withdrawn definitively; it shall be suspended where the licence has been withdrawn temporarily.

Article 6

1. Only the vessels referred to in Article 1 (a) and (b) which hold valid special fishing permits shall be authorized, in accordance with the conditions laid down in such permits, to fish, retain on board, trans-ship and land fish from the stock or group of stocks referred to in the permit, save where the Council has decided on derogating rules for by-catches in specific cases.

2. Each special fishing permit shall be valid for one fishing vessel only.

3. Fishing vessels shall be authorized to hold several different special fishing permits.

Community fishing vessels operating in Community fishing waters and in high seas

Article 7

1. The flag Member State shall identify the vessels likely to engage in a fishing activity subject to the conditions of access referred to in Article 1 (a). It shall ensure that these vessels meet the conditions laid down by the Council and forward the relevant information to the Commission.

2. The Commission shall examine the information provided by the flag Member State, check whether it complies with the relevant provisions of Community law and the decisions taken pursuant to Article 13, and inform the Member State of its finding within a period not exceeding 10 working days.

The Council, acting by a qualified majority on a proposal from the Commission, may, where appropriate, decide to adopt a different deadline for a specific application of the special fishing permit arrangements.

3. The flag Member State may issue the special fishing permit on receipt of the finding by the Commission, or on expiry of the period laid down in paragraph 2.

4. In order to ensure compliance with Community measures for the conservation and management of resources, adopted in accordance with Articles 4 and 8 of Regulation (EEC) No 3760/92, the flag Member State shall take the appropriate steps, including where necessary the modification or suspension, fully or in part, of any special fishing permit that it has issued, and shall inform the Commission accordingly.

Article 8

1. Where the flag Member State, pursuant to Article 9 of Regulation (EEC) No 3760/92, has adopted national provisions, in the form of a national fishing permit, for the distribution between individual vessels of the fishing possibilities allocated to in accordance with Article 8 of that Regulation, it shall send the Commission annually information on the vessels authorized to engage in a fishing activity in a given fishery, in accordance with these provisions.

2. Where the Member States, pursuant to Article 10 of Regulation (EEC) No 3760/92, have established a specific national permit scheme, they shall send the Commission annually a

summary of the information contained in the permit applications and related overall figures on fishing effort.

Vessels flying a third-country flag operating in Community fishing waters

Article 9

1. In accordance with the measures relating to conservation and management of resources adopted by the Council, applicable to vessels flying a third-country flag, the competent authorities of the third country in question shall transmit to the Commission applications for fishing licences and special fishing permits for vessels flying their flag which are likely to engage in fishing activities in Community waters within the framework of fishing possibilities granted by the Community to that country.
2. The Commission shall examine the applications referred to in paragraph 1 and shall issue fishing licences and special fishing permits in accordance with the measures adopted by the Council and the provisions contained in the agreement concluded with the country in question or adopted in the framework of that agreement.
3. The Commission shall inform the competent inspection authorities designated by the Member States of the fishing and special permits issued.

Article 10

1. Member States shall immediately notify the Commission of any recorded infringement concerning a vessel flying a third-country flag.
2. Following notification as referred to in paragraph 1, the Commission may suspend or withdraw the fishing licence and special fishing permits issued in accordance with Article 9 and may refuse to issue a new fishing licence and special fishing permit to the vessel concerned. The Commission's decision shall be notified to the third country.
3. The Commission shall immediately notify the inspection authorities of the Member States concerned of the measures taken pursuant to paragraph 2.

General provisions

Article 11

The flag Member State shall complete the record(s) referred to in Article 6 of Regulation (EC) No 3690/93 in order to compile an integral collection of all the data relating to special fishing permits issued pursuant to Article 7 of this Regulation to vessels flying its flag, in so far as the data have not been collected pursuant to Commission Regulation (EC) No 109/94 of 19 January 1994 concerning the fishing vessel register of the Community (7), with a view to making the cooperation provided for in Article 14 more effective.

Article 12

Member States shall appoint the competent authorities for issuing the special fishing permits provided for in Article 7 and shall adopt appropriate measures to ensure that the system is effective. They shall notify to the other Member States and the Commission the name and address of these authorities. They shall inform the Commission of the measures taken not later than six months after this Regulation has come into force and, if any changes occur, as soon as possible.

Article 13

1. Following notification pursuant to Article 33 (1) of Regulation (EEC) No 2847/93 or under the rules for implementing an international system of inspection, the competent authorities of the flag Member State shall apply, if appropriate, in accordance with national law, the procedures likely, depending on the gravity of the infringement, to result in:
 - fines,
 - seizure of the prohibited fishing gear and catches,
 - arrest of the vessel,

- temporary laying-up of the vessel,
- suspension of the special fishing permit,
- withdrawal of the special fishing permit,
taking into account any penalties imposed by the competent authorities which discovered the infringement.

2. Detailed rules for applying paragraph 1 shall be adopted by the Commission in accordance with the procedure laid down in Article 18 of Regulation (EEC) No 3760/92, in particular to enable flag Member States to apply that paragraph under fair and transparent conditions.

Article 14

1. Flag Member States and Member States responsible for inspection in the maritime waters falling within their sovereignty or under their jurisdiction shall cooperate in order to ensure compliance with the conditions in the special fishing permits.

2. To this end, the flag Member State shall notify the Member State responsible for inspection:

(a) of the data relating to the special fishing permits, as soon as they are issued, which it has granted for vessels likely to fish in the waters in question;

(b) during the fishing year, without delay and at the request of the Member State responsible for inspection, of the validity of a special fishing permit held by a vessel fishing in the waters in question, and on its own initiative, of the special fishing permits which have expired.

3. At the request of the Commission or of the Member State responsible for inspection, the flag Member State shall communicate the information referred to in paragraph 2 (b) without delay.

Article 15

Article 13 of Regulation (EEC) No 3760/92 and Article 37 of Regulation (EEC) No 2847/93 shall apply to the data obtained pursuant to this Regulation.

Article 16

The detailed rules for applying Articles 7, 8 and 10 shall be adopted in accordance with the procedure laid down in Article 18 of Regulation (EEC) No 3760/92.

Article 17

The Council shall take a decision by 31 December 1994 on the provisions proposed by the Commission concerning the application of the system of special fishing permits applicable to vessels flying the flag of a Member State and operating in the waters of third country under a fisheries agreement between the Community and that country, taking account of the legal implications of the application of that system for the legislation of the Member States.

Article 18

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

It shall apply from 1 January 1995.

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

Done at Luxembourg, 27 June 1994.

For the Council

The President

C. SIMITIS

ANNEX I missing

ANNEX II

MINIMUM INFORMATION TO BE CONTAINED IN FISHING LICENCES AND SPECIAL FISHING PERMITS ISSUED TO VESSELS FLYING A THIRD COUNTRY FLAG FISHING LICENCE

I. Identification

A. Vessel

1. Name:
2. Country of flag:
3. Port of registration:
4. Registration number:
5. External identification letters and numbers:
6. International call code and radio frequency:

B. Owner and/or charterer

1. Name of owner(s):

Address:

2. Name of charterer(s):

Address:

In the case of a legal person or association, name(s) of representative(s):

II. Technical characteristics and equipment

1. Type of vessel:
2. Principal gear types:
3. Engine power:
4. Length - overall, or
 - between perpendiculars, or
 - other standard measurement (1)
5. Tonnage - 'Oslo', or
 - 'London', or
 - other standard

SPECIAL FISHING PERMIT

III. Fishing conditions

1. Fishing method:
2. Fishing zone:
3. Species for which the vessel is authorized to fish:
4. Date of issue:
5. Period of validity of special fishing permit:
6. Other conditions:

(1) Only for vessels of overall length less than 10 m.