I

(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 2846/98

of 17 December 1998

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 practice in fisheries and in the transport and marketing of fishery products has evolved; whereas monitoring measures should therefore be adapted accordingly; whereas various shortcomings in Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy [4] should therefore be remedied;

Whereas one of the basic requirements on masters of fishing vessels for control purposes is to record the amounts of different species held on board; whereas this requirement should be simplified; whereas specific characteristics of fisheries operations in the Mediterranean have to be taken into account; whereas, therefore, Article 6 of Regulation (EEC) No 2847/93 should be amended and Article 5 of Council Regulation (EEC) No 2241/87 of 23 July 1987 establishing certain control measures for fishing activities [5], should be repealed;

Whereas it is appropriate that the existing exemptions of the provisions of Articles 6 and 8 of Regulation (EEC) No 2847/93 for fisheries operation in the Mediterranean Sea be extended for one year to coincide with the entry into force of the amended logbook requirements;

Whereas Member States may adopt stricter measures in accordance with this Regulation, including for controlling landings; whereas to that end Member States may designate ports for landings;

Whereas controls on fishery products after landing should be reinforced; whereas the information about fishery products referred to in Article 9 of Regulation (EEC) No 2847/93 should be available from the moment of landing until the final marketing stage; whereas sales notes and take-over declarations should contain this information for the purposes of control;

Whereas transhipment operations and, in general, operations involving joint action by several vessels in Community waters have caused considerable control problems in some fisheries; whereas such operations should be subject to prior authorisation by Member States and made conditional on compliance with control procedures laid down;

Whereas application of the new provisions on transhipments and other joint fishing operations involving several fishing vessels should be postponed until the entry into force of the detailed implementing rules;

Whereas it should be ensured that the Commission has remote access to information contained in the relevant computer files in the databases updated by the Member States so that it can efficiently carry out the control tasks entrusted to it pursuant to Regulation (EEC) No 2847/93;

Whereas, according to the principles of Community law, any decision taken in accordance with the procedure laid down in Article 36 of Regulation (EEC) No 2847/93 will have to respect existing Community law, and in particular

[1] OJ C 201, 27. 6. 1998, p. 14.
[2] OJ C 328, 26. 10. 1998.
[3] Opinion delivered on 9 September 1998 (not yet published in the Official Journal).
[4] OJ L 261, 20. 10. 1993, p. 1. Regulation as last amended by Regulation (EC) No 2635/97 (OJ L 356, 31. 12. 1997, p. 14).
[5] OJ L 207, 29. 7. 1987, p. 1. Regulation as last amended by Regulation (EEC) No 2847/93 (OJ L 261, 20. 10. 1993, p. 1).

rules on confidentiality, professional secrecy and data protection as laid down in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data [1];

Whereas the means for control of each Member State include interventions at sea, on landing as well as after landing, whilst taking into account the specificities of each Member State, the relative importance of the risk of different types of fraud, and, for control after landing, the control provisions prior to landing and on landing;

Whereas the monitoring, inspection and surveillance measures in Regulation (EEC) No 2847/93 applicable to fishing vessels flying the flag of a third country which carry out fishing activities in the Community fishery zone should be amplified; whereas, in particular such vessels exceeding a stipulated length operating in this zone should be subject to continuous satellite surveillance from the date on which the 'Vessel Monitoring System' (VMS) applies to all Community fishing vessels; whereas it is necessary to intensify the inspection and surveillance of landings by vessels flying the flag of a third country and particularly, following the steps taken by certain regional fisheries organisations to increase the effectiveness of measures for the conservation of fishery resources on the high seas, catches taken in the zones concerned;

Whereas, to enable the Commission to fulfil its role effectively, observation procedures should be introduced to allow inspectors acting for the Commission to verify the application of Regulation (EEC) No 2847/93; whereas to this end Community inspectors should have access to all relevant places and documentation in accordance with the rules of procedure of the national law and be accompanied by national inspectors;

Whereas, in order to strengthen and facilitate cooperation between all the authorities in the Community involved in the monitoring, inspection and surveillance of activities in the fisheries sector, a general framework should be set up under which all the authorities concerned can request mutual assistance and the exchange of relevant information, and specific monitoring programmes should be introduced; whereas it is appropriate to provide for the adoption of specific monitoring programmes in cases of serious and unforeseen upheaval;

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

[1] OJ L 281, 23. 11. 1995, p. 31.

HAS ADOPTED THIS REGULATION:

Article 1

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

1. the heading of Title I shall be replaced by the following:

   'TITLE I

   Monitoring, inspection and surveillance';

2. Article 2 shall be replaced by the following:

   'Article 2

   1. In order to ensure compliance with all the rules in force, each Member State within its territory and within maritime waters subject to its sovereignty or jurisdiction shall monitor, inspect and maintain surveillance of all activities in the fisheries sector, particularly fishing itself, transhipment, landing, marketing, transport and storage of fisheries products and the recording of landing and sales. The Member States shall take the necessary measures to ensure the best possible control within their territory and within maritime waters subject to their sovereignty or jurisdiction, taking into account their particular situation.

   2. Each Member State shall ensure that the activities of its vessels outside the Community fishery zone are subject to proper monitoring and, where such Community obligations exist, to inspections and surveillance, in order to ensure compliance with Community rules applicable in those waters.';

3. the last sentence of Article 3(2) shall be deleted;

4. Article 5 shall be replaced by the following:

   'Article 5

   Detailed rules for the application of this Title shall be adopted as necessary, without prejudice to the national competences, in accordance with the procedure laid down in Article 36, in particular as regards:

   (a) the identification of officially designated inspectors and inspection vessels, aircraft and such other means of inspection as may be used by a Member State;

   (b) the procedure for the inspection and surveillance of activities in the fisheries sector;

   (c) the marking and identification of fishing vessels and their gear;

   (d) the certification of the characteristics of fishing vessels which relate to fishing activities.';

5. Article 6(2) shall be replaced by the following:

'2. From 1 January 2000 any amount greater than 50 kg of live-weight equivalent of any species retained on board, must be recorded in the logbook in areas other than the Mediterranean. For the fisheries operations in the Mediterranean Sea any amount greater than 50 kg of live-weight equivalent retained on board of any species indicated on a list adopted under this Article must be recorded in the logbook.';

6. Article 6(8) shall be replaced by the following:

'8. Detailed rules for the implementation of this Article shall be adopted in accordance with the procedure laid down in Article 36, including:

— another geographical basis other than the ICES statistical rectangle, in certain specific cases, and

— recording of catches taken with small meshed gear and kept on board unsorted,

— the list referred to in paragraph 2.';

7. Article 7(1) shall be replaced by the following:

'1. The Master of a Community fishing vessel who wishes to utilise landing locations in a Member State other than the flag Member State shall comply with the requirements of any designated port scheme established by that Member State in accordance with Article 38, or if that Member State does not operate such a scheme, he must inform the competent authorities in that Member State at least four hours in advance of:

— the landing location(s) and estimated time of arrival there,

— the quantities of each species to be landed.';

8. in Article 9:

(a) paragraph 1 and 2 shall be replaced by the following:

'1. Auction centres or other bodies or persons authorised by Member States, which are responsible for the first marketing of fishery products landed in a Member State shall submit, upon the first sale, a sales note to the competent authorities of the Member State in whose territory the first marketing takes place. The submission of the sales notes listing all data required under this Article shall be the responsibility of the auction centres or other bodies or persons authorised by Member States.

2. Where the first marketing of fisheries products landed in a Member State is carried out in a manner different from that laid down in paragraph 1, the landed products shall not be collected until one of the following documents has been submitted to the competent authorities or other authorised bodies of the Member States:

— a sales note, when the products have been sold or are offered for sale at the place of landing,

— a copy of one of the documents provided for in Article 13, when the products are offered for sale at a location other than the place of landing; a sales note must be appended to such copies at the time of actual sale,

— a take-over declaration, when the products are not offered for sale or are intended for sale at a later date.

The submission of the sales note listing all data required under this Article shall be the responsibility of the buyer.

The submission of the take-over declaration listing all data required under this Article shall be the responsibility of the holder of this declaration.';

(b) in paragraph 3 the following indents shall be inserted as first, third and last indent:

'— the relevant name of each species and its geographical area of origin,

— where appropriate, the relevant minimum fish size,

— where possible, the reference number of the sales contract.';

(c) paragraph 4 shall be replaced by the following:

'4. Sales notes shall be submitted to the competent authorities responsible for monitoring the first marketing of fish in such a way that the following data shall be included:

— the external indentification and name of the fishing vessel which has landed the products concerned,

— the name of the vessel's owner or master,

— the port and date of landing,

— where applicable, reference to one of the documents provided for in Article 13(1) and (4)(b).';

(d) the following paragraphs shall be inserted:

'4a. Where a sales note does not correspond to the invoice or to a document replacing it, as referred to in Article 22(3) of the sixth Council Directive 77/388/EEC [1], the Member State shall adopt the necessary provisions to ensure that the information on the price excluding tax for deliveries of goods to the purchaser is identical to that indicated on the invoice.

4b. Take-over declarations as referred to in paragraph 2, drawn up by owners of landed fishery products or their agents, shall contain at least the following information:

— the relevant name of each species and its geographical area of origin,

— the weight of each species, broken down by type of product presentation,

— where appropriate, the relevant minimum fish size,

— identification of the fishing vessel that has landed the products,

— identification of the master of the vessel,

— the port and date of landing,

— the places where the products are stored,

— where applicable, reference to one of the documents provided for in Article 13(1) and (4)(b).

4c. Where the fisheries products landed are intended for sale at a later date, and where such products are to be placed on the market at a price provided for in a contract or at a fixed price set for a specified period, Member States shall carry out appropriate verifications to check the accuracy of the information in the take-over declarations and sales notes referred to in paragraph 2.

(1) Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — common system of value added tax: uniform basis of assessment (OJ L 145, 13.6.1977, p. 1).';

(e) paragraph 5 shall be replaced by the following:

'5. Sales notes, take-over declarations and a copy of the transport documents shall be submitted, within 48 hours following the first marketing or the landing, to the competent authority or other bodies authorised by the Member State, in accordance with the law of the Member State in whose territory the operations have been carried out. On request of a Member State, the Commission, in accordance with the procedure laid down in Article 36, may grant exceptions to this delay in specific situations.

In the event that the products are transported to a Member State other than the Member State of landing, the transporter shall transmit within 48 hours following the landing a copy of the transport document to the competent authorities of the Member State in whose territory the first marketing is declared to take place. The Member State of first marketing may require further information in this regard from the Member State of landing.';

(f) in paragraph 6, the following subparagraph shall be added:

'Where the first marketing of fisheries products does not take place in the Member State where the products have been landed, the Member State responsible for monitoring the first marketing shall ensure that a copy of the sales note is submitted to the authorities responsible for monitoring the landing of the products concerned as soon as possible.';

(g) in paragraph 7 the following sentence shall be added at the end of the first subparagraph of Article 9(7):

'or for quantities landed of fisheries products not exceeding 50 kg of live weight equivalent by species.';

9. Article 10 shall be deleted;

10. Article 11 shall be replaced by the following:

'Article 11

1. Transhipments and fishing operations involving joint action by two or more vessels taking place in maritime waters subject to the sovereignty or jurisdiction of a Member State, as well as transhipment taking place in a Member State's ports may be authorised by this Member State. The Masters of the vessels concerned shall comply with the procedures laid down in accordance with paragraph 2, particularly as regards:

— the definition of authorised places,

— inspection and surveillance procedures,

— the terms and conditions for recording and notifying the transhipment operation and the quantities transhipped.

This provision shall not apply to pair trawling activities by Community vessels.

2. Detailed rules for the application of this Article shall be adopted, taking account of the comments of the Member States concerned, in accordance with the procedure laid down in Article 36.';

11. Article 13 shall be amended as follows:

(a) paragraph 1 is replaced by the following:

'1. All fisheries products landed in or imported into the Community, either unprocessed or after having been processed on board, and for which neither a sales note nor a take-over declaration has been submitted in accordance with Article 9(1) and (2), and which are transported to a

place other than that of landing or import, shall be accompanied by a document drawn up by the transporter until the first sale has taken place. The submission of this transport document listing all data required under this Article shall be the responsibility of the transporter.';

(b) paragraph 2 shall be replaced by the following:

'2. This document shall:

(a) indicate in respect of the consignment the name of the vessel of provenance and its external identification. In case of import other than by vessel, this document shall indicate the location where the consignment was imported;

(b) include the place of destination of the consignment(s) and the identification of the transport vehicle;

(c) indicate the quantities of fish (in kilograms processed weight) for each species transported, the names of the consignee and the place and the date of loading, as well as the relevant name for each species, its geographical area of origin and, where appropriate, the relevant minimum fish size.';

(c) the following paragraph shall be inserted:

'5a. Where fishery products that have been declared as sold in accordance with Article 9 are transported to a location other than the place of landing or import, at all times transporters must be able to prove on the basis of a document that a sales transaction has taken place.';

(d) paragraph 6 shall be replaced by the following:

'6. Each Member State shall carry out control by means of sampling on its territory in order to verify that the obligations established by this Article are being respected. The intensity of such controls may take account of the intensity of the controls in previous stages.';

(e) the following paragraph shall be added:

'7a. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 36.';

12. in Article 18 the following paragraph shall be added:

'4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 36.';

13. Article 19 shall be amended as follows:

(a) paragraph 3 shall be replaced by the following:

'3. Each Member State shall adopt the necessary measures to ensure that the information referred to in paragraph 1 is entered in the database as soon as possible.

The information on regulated resources within the meaning of Article 8 of Regulation (EEC) No 3760/92 ([1]) as recorded in the logbook, the landing declaration, the sales note and the take-over certificate shall be entered in the database referred to in paragraph 2 within 15 working days of the date on which this information is received by the competent authorities. If more than 85 % of a quota has been fished, this period shall not exceed five working days.

([1]) OJ L 389, 31.12.1992, p. 1.';

(b) paragraph 4 shall be deleted;

(c) paragraph 5 shall be replaced by the following:

'5. Member States shall adopt the necessary measures to facilitate the collection, validation and cross-referencing of data. The Commission shall have remote access to duplicated computer files containing the relevant information on the basis of a specific request.';

14. Article 21 shall be amended as follows:

(a) in paragraph 3 the following sentence shall be added to the first subparagraph:

'The Commission shall notify the Member States of this date without delay.';

(b) in paragraph 3 the last subparagraph shall be replaced by the following:

'As from the date referred to in the first sub-paragraph, the flag Member State shall provisionally prohibit fishing for that stock or group of stocks by vessels flying its flag as well as the retention on board, transhipment and landing of fish taken after that date and shall decide on a date up to which transhipments and landings or final declarations of catches are permitted. The Commission shall be notified forthwith of this measure and shall then inform the other Member States.';

15. in Article 28 the following paragraph shall be inserted:

'2a. Where a minimum size has been fixed for a given species pursuant to Article 4 of Regulation (EEC) No 3760/92, operators responsible for the selling, stocking or transporting of batches of fisheries products of that species smaller than the minimum size must be able to prove the geographical area of origin or the provenance from aquaculture of the products at all times. The Member States shall carry out the necessary controls in order to prevent the problems that might exist in their territory because of the transport or the marketing of undersized fish.';

16. the following Title shall be inserted:

'TITLE VIa

Monitoring the fishing activities of third-country vessels

Article 28a

For the purposes of this Title "third-country fishing vessels" means:

— a vessel, whatever its dimensions, used primarily or secondarily to take fisheries products,

— a vessel that, even if not used to make catches by its own means, takes the fisheries products by transhipment from other vessels,

— a vessel aboard which fisheries products are subject to one or more of the following operations prior to packaging: filleting or slicing, skinning, mincing, freezing and/or processing

and flying the flag of, and registered in, a third country.

Article 28b

1. Third-country fishing vessels shall be authorised to catch, retain on board or process fishery products in the Community fishing zone only provided they have been issued with a fishing licence and a special fishing permit in accordance with Article 9 of Regulation (EC) No 1627/94 ([1]).

2. In addition, third-country fishing vessels may only tranship or process if they have prior authorisation from the Member State in whose waters the opeation will take place. Third-country fishing vessels shall be permitted to carry out transhipments or fishing operations involving joint action by two or more vessels only if they have obtained a prior authorisation to tranship or to process from the Member State concerned and they fulfil the conditions set out in Article 11 of this Regulation.

3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 36.

Article 28c

Al third-country fishing vessels operating in the Community fishing zone shall be subject to the following obligations:

— to record, in a logbook, the information referred to in Article 6,

— from 1 January 2000 at the latest, for vessels exceeding 20 metres between perpendiculars or 24 metres overall length, to be equipped with a VMS position monitoring system approved by the Commission,

— until the VMS system is introduced, to comply with a system for reporting movements,

— to comply with a system for reporting catches retained on board,

— to comply with the instructions of the authorities responsible for monitoring, particularly as regards the inspections prior to leaving the Community fishing zone,

— to comply with the rules on the marking and identification of fishing vessels and their gear.

Article 28d

The Commission shall determine the date from which catches of a stock or group of stocks subject to quota taken by third-country fishing vessels shall be deemed to have exhausted the quota. The Commission shall notify the third country and the Member States concerned of this date without delay.

As from this date, fishing for that stock or group of stocks by such vessels as well as the retention on board, the transhipment and the landing of fish taken after that date shall be provisionally prohibited. The Commission shall also determine the date up to which transhipments and landings or final catch declarations are permitted.

Article 28e

1. Masters of third-country fishing vessels or their representatives must notify the competent authorities of the Member State whose ports or landing facilties they wish to use, at least 72 hours before the estimated time of arrival at the port, of the following:

— their time of arrival at the port of landing,

— the catches retained on board,

— the zone or zones where the catch was made, whether in the Community fishing zone, in zones under the jurisdiction or sovereignty of a third country or on the high seas.

Landing operations may not commence until authorised by the competent authorities of that Member State.

2. Except in cases of *force majeure* or where a vessel is in distress, third-country fishing vessels may put in only at the ports designated by the Member State whose ports or landing facilities they wish to use.

3. The Commission, in accordance with the procedure laid down in Article 36, may grant an exemption for certain categories of third-country fishing vessels from the obligation stipulated in paragraph 1 for a limited and renewable period, or make provision for another notification period taking into account, *inter alia,* the distance between the fishing grounds, landing places and ports where the vessels in question are registered or listed.

4. Paragraphs 1 and 2 shall apply without prejudice to special provisions in fisheries agreements concluded between the Community and various third countries.

Article 28f

Masters of third-country fishing vessels or their representatives shall submit as soon as possible, but not later than within 48 hours after landing, to the authorities of the Member State whose ports or landing facilities they use a declaration indicating the quantity of fishery products by species landed and the date and place of each catch. Masters shall be re sponsible for the accuracy of such declarations.

Each Member State shall forward to the Commission, at its request, information on landings by third-country fishing vessels.

Article 28g

Where the master or his representative of a third-country fishing vessel declares that catches have been taken on the high seas, the competent authorities shall authorise landing only if it has been proved to their satisfaction by the master or his representative that:

— the species retained on board have been caught outside the regulatory areas of any competent international organisations of which the Community is a member, or

— the species retained on board have been caught in compliance with the conservation and management measures adopted by the competent regional organisation of which the Community is a member.

Article 28h

Detailed rules for the application of this Title, including the lists of designated ports, shall be adopted in accordance with the procedure laid down in Article 36 in concert with the Member States concerned.

(1) Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing permits (OJ L 171, 6.7.1994, p. 7).';

17. in Article 29 the following paragraph shall be inserted:

'3a. Community inspectors may, in the context of verification without prior notice, conduct observations on the implementation of this Regulation.

During their observation visits, Community inspectors, accompanied by national inspectors and without prejudice to applicable Community law and complying with the rules of procedure provided for in the laws of the Member State concerned, shall have access to the relevant files and documents and to the public premises and places, vessels and private premises, land and means of transport where the activities covered by this Regulation take place, in order to collect data (not containing named references) necessary for the accomplishment of their task.

Following such verifications without prior notice, the Commission shall forward a report on the observations made to the Member State concerned without delay.';

18. in Article 30 the second subparagraph shall be replaced by the following:

'The Member States concerned shall inform the Commission of the results of the inquiry and forward a copy of the report drawn up not more than three months after the Commission's request. This period may be extended by the Commission, on a duly motivated request from a Member State, for a reasonable delay.';

19. in Article 31 the following paragraph shall be inserted:

'2a. The Council, acting on the basis of Article 43 of the Treaty, may draw up a list of types of behaviour which seriously infringe the Community rules referred to in Article 1 and to which the Member States undertake to apply proportionate, dissuasive and effective sanctions.';

20. the following Title and heading shall be inserted after Article 33:

'TITLE VIIIa

Cooperation among the authorities responsible for monitoring in the Member States and with the Commission';

21. Article 34 shall be replaced by the following Articles:

'Article 34

The terms and conditions on which the competent authorities responsible for monitoring the application of this Regulation in the Member States shall collaborate among themselves and with the Commission in order to ensure compliance with the rules of the common fisheries policy shall be as set out below.

Article 34a

1. The Member States shall provide each other with the mutual assistance needed to carry out the checks provided for in this Title.

2. Where an inspection or surveillance operation by the competent authorities of a Member State reveal that Community fishing vessels or vessels flying the flag of a third country and registered in a third country have carried out the fishing activities referred to in Article 2 in a way likely to infringe the Community rules, the Member State in question shall immediately notify all relevant information to the flag Member State of the vessel or vessels concerned, the other Member States concerned and the Commission. The other Member States concerned are the Member States in whose territory or waters the activities in question are being or are likely to be carried out.

The Member State in question may request the other Member States concerned to carry out special checks, giving specific reasons for their request.

The Member States shall keep each other informed, and shall inform the Commission, of the action they take in response to such requests, including, where applicable, the results of the checks and any proceedings relating to infringements.

3. The Member States shall inform each other of the national measures taken to that end, particularly those taken pursuant to Article 9(2) of Regulation (EEC) No 3760/92.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 36.

Article 34b

1. In the case of verifications with prior notice in a Member State, the Commission may arrange for its inspectors visiting a Member State to be accompanied by one or more fisheries inspectors from another Member State as observers, with the approval of the Member State to be visited. Upon request from the Commission the sending Member State can nominate at short notice the national fisheries inspectors selected as observers.

Member States may also draw up a list of national fisheries inspectors whom the Commission might invite to be present at such verifications. The Commission can invite national inspectors included in that list or those notified to the Commission upon request.

The Commission shall, where appropriate, place the list at the disposal of all the Member States.

2. Member States may also carry out, among themselves and on their initiative, monitoring, inspecting and surveillance programmes concerning the fisheries activities.

Article 34c

1. The Commission, in accordance with the procedure laid down in Article 36 and in concert with the Member States concerned, shall determine which fisheries involving two or more Member States shall be subject to specific monitoring programmes which may not last longer than two years, and the conditions governing such programmes. These programmes shall state their objectives and the expected results of the measures specified and the strategy required to ensure that the inspections are as effective and economical as possible.

2. The Member States concerned shall adopt the necessary measures to facilitate implementation of the specific monitoring programmes, particularly as regards the human and material resources required and the periods and zones where these are to be deployed.

3. The Commission shall evaluate the performance of each specific monitoring programme and communicate to the Council and the European Parliament the result of such evaluation.';

22. Article 35 shall be replaced by the following:

'Article 35

1. Not later than 30 April each year, the Member States shall transmit to the Commission a report on the application of this Regulation during the previous calendar year.

2. On the basis of the reports submitted by the Member States and its own observations, the Commission shall draw up a factual report every year and an assessment report every three years to be submitted to the Council and the European Parliament. It shall publish this assessment report along with the Member States' replies and, where appropriate, measures and proposals to mitigate the shortcomings discovered.

3. Detailed rules for the provision of information to meet the requirements of this Article shall be adopted in accordance with the procedure laid down in Article 36, particularly the information concerning:

— the technical and human resources for fisheries monitoring, and the time effectively devoted thereto,

— the laws, regulations and administrative provisions that the Member States adopt to prevent and prosecute irregularities,

— the results of inspections or checks carried out pursuant to this Regulation, including the number and type of infringements discovered and the action taken, and in particular with respect to the types of behaviour referred to in Article 31(2a),

— the application measures and actions pursuant to Article 19, particularly with regard to the assessment of the reliability of the data.';

23. Article 40 shall be replaced by the following:

'Article 40

Member States shall be exempted until 1 January 2000 from the obligation to apply the provisions of Articles 6 and 8, in so far as they concern fisheries operations in the Mediterranean Sea.'

Article 2

Article 5 of Council Regulation (EEC) No 2241/87 shall be repealed, as from 1 January 2000.

Article 3

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

It shall apply from 1 July 1999. However, Article 11 and Article 28b(2) of Regulation (EEC) No 2847/93, as amended by this Regulation, shall apply from the date of entry into force of the detailed implementing rules referred to in Article 11(2) of Regulation (EEC) No 2847/93, as amended by this Regulation. Article 40 of Regulation (EEC) No 2847/93, as amended by this Regulation, shall apply from 1 January 1999 and Article 6 of Regulation (EEC) No 2847/93, as amended by this Regulation, shall apply from 1 January 2000.

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

Done at Brussels, 17 December 1998.

For the Council

The President

W. MOLTERER