OÉ Gaillimh
NUI Galway

EU REGULATION OF FISHING VESSEL MONITORING SYSTEMS

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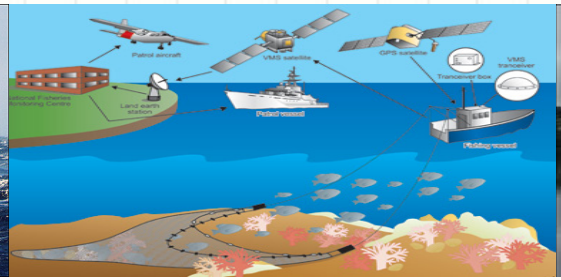



Overview

1. VMS, history, & architecture
2. Regulatory features
3. Enforcement & compliance
4. Conclusions

Photo source: Irishpelagic.com

Definitions

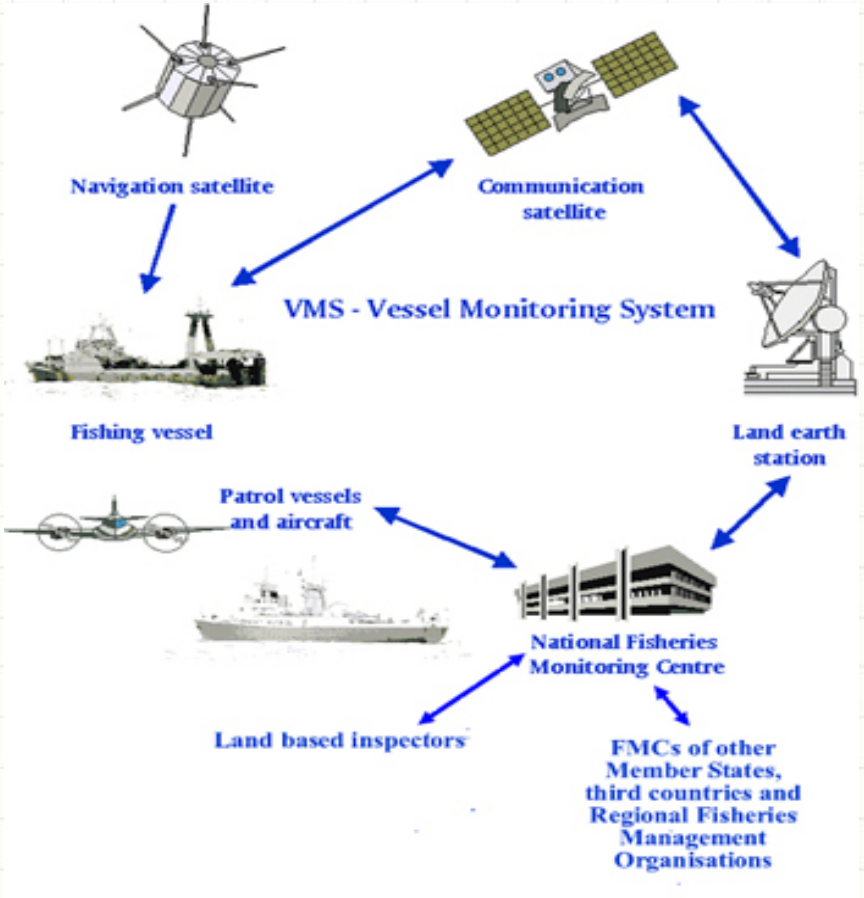
1. "vessel monitoring system" (VMS) ….means a satellite- based fishing vessel monitoring system providing to the fisheries authorities data at regular intervals on the location, course and speed of vessels

2. "automatic identification system" (AIS) …. means an autonomous and continuous vessel identification and monitoring system which provides means for ships to electronically exchange with other nearby ships and authorities ashore ship data including identification, position, course and speed (anti-collision system)

1. **Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy, OJ L 343, 22.12.2009, p. 1.**

2. **COMMISSION IMPLEMENTING REGULATION (EU) No 404/2011, OJ L 112/1, 30.4.2011**

VMS Architecture



Regulatory Features

1

- Applies to all EU fishing vessel & all third country vessels in EU waters (over 12 m in length)

2

- Exemption: vessels operating exclusively within the territorial seas of the flag Member State; or never spend more than 24 hours at sea

3

•Fisheries Monitoring Centre … electronic data processing and transmission:

•(1) vessels of flag Member State in all waters
•(2)EU and third country vessels operating in sea areas under national sovereignty and jurisdiction

Automatic Identification System

- Ship carries a transponder that automatically communicates to all neighbouring ships by VHF radio, radar, and to coastal AIS station and network
- Applies to all EU fishing vessels >15m from 2014
- Can be used for cross-checking with other available data including VMS data

Directive 2009/17/ EU (VTMIS) requires fishing vessels above 15 m length being fitted with Automatic Identification System (AIS) by 31 May 2014.

Chapter V, Regulation 19, section 2.4.5 of the 1974 SOLAS Convention.

Choose Map

Irish Sea

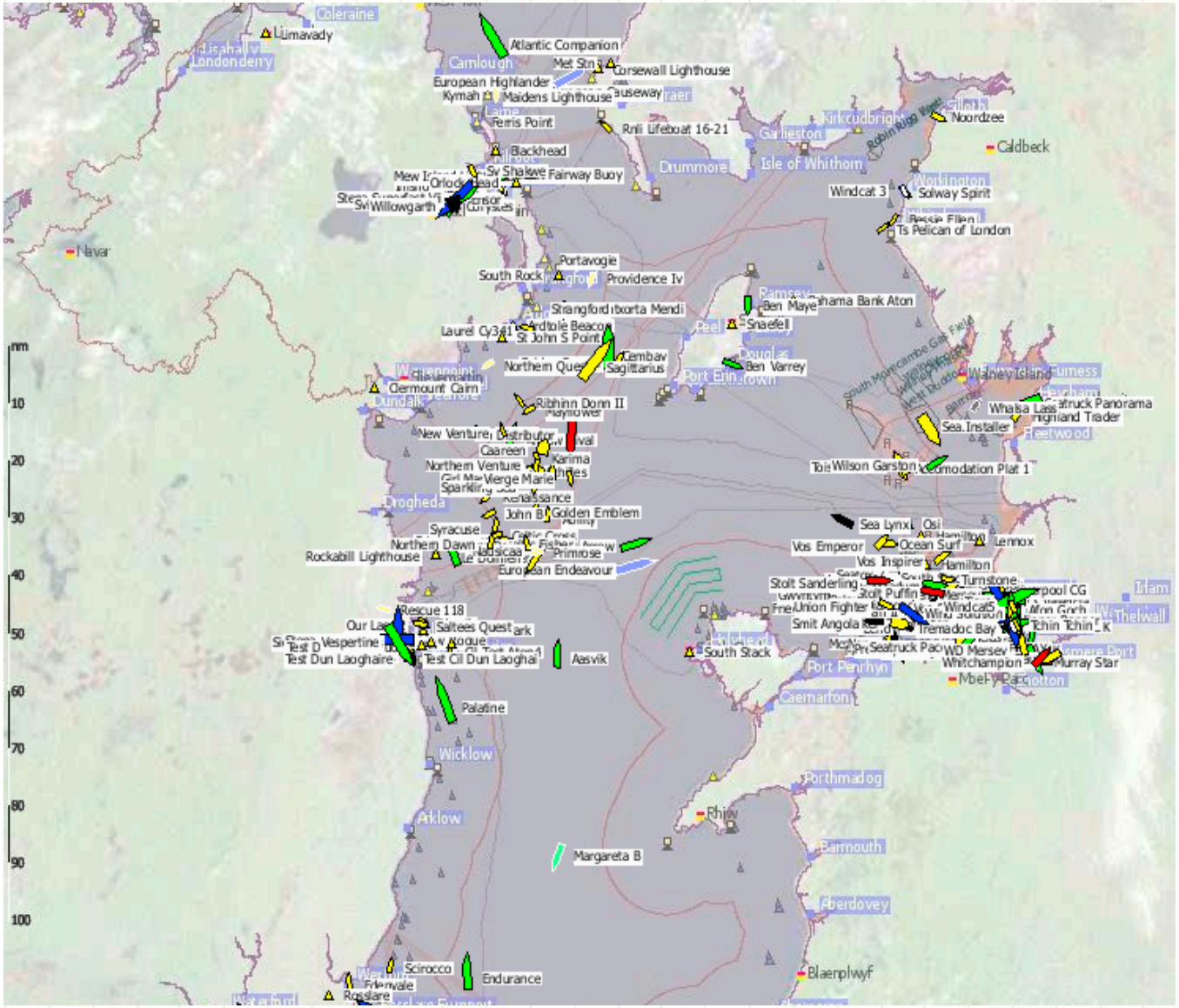
Irish Sea Go

No refresh Go

Latest AIS

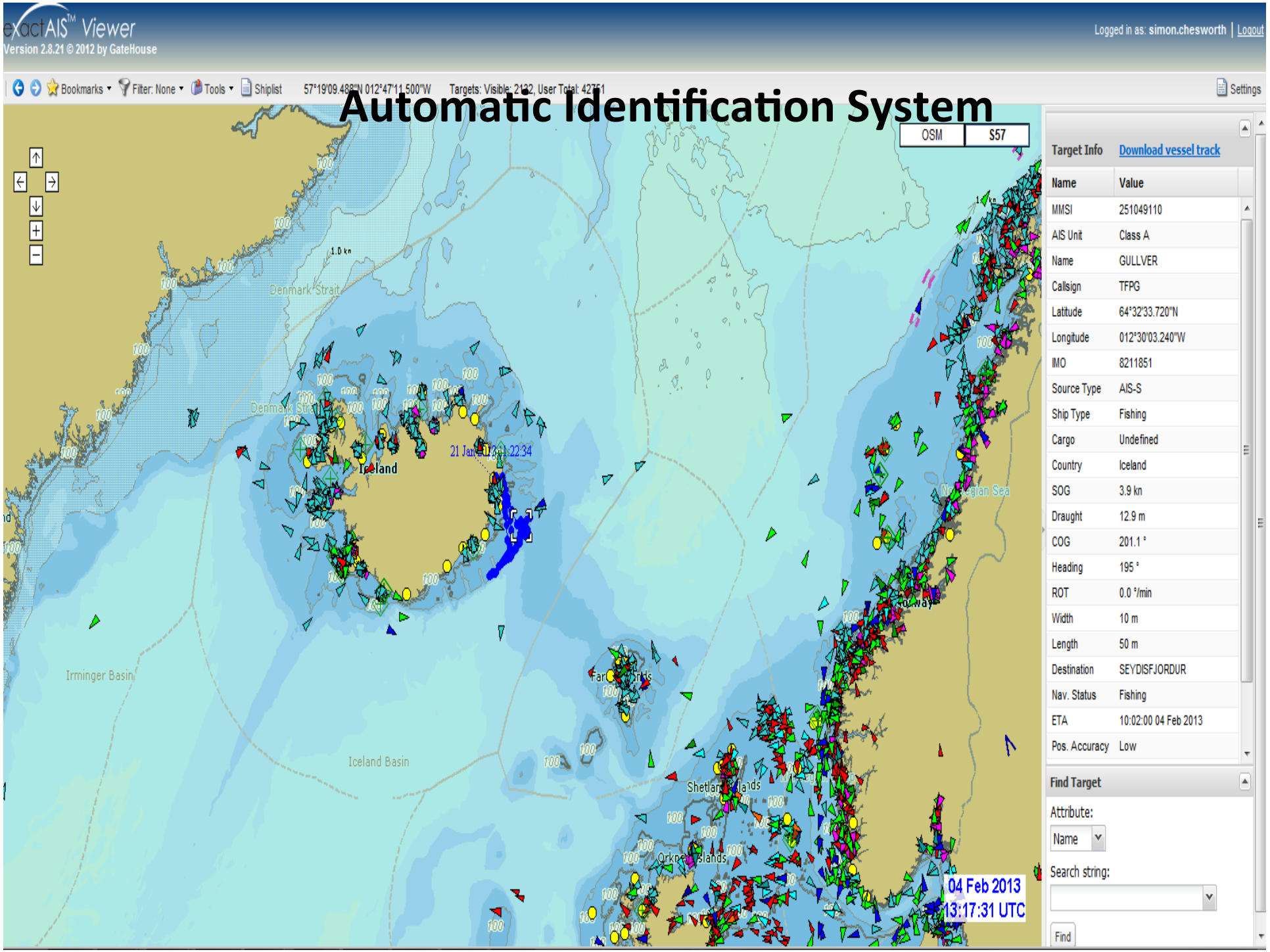
Map | Hist | ? | Photo | ⊞

Name:	Galway Fisher
MMSI:	234552000 [UK]
IMO:	9118161
Callsign:	MWBK9
Speed/Dir:	0 kts / 357° N
Status:	Underway
Dest:	*Galway*
ETA:	Jun09 16:45
Type:	Tanker (80)
Details:	Oil Products Tanker
Size:	91m x 16m x 5.8m
Tonnage:	3368gt, 4968dwt
Built:	Jul 1997
Received:	17:54:12 20 Jun 13 BST



Source: www.ship**ais**.com

Automatic Identification System



Pilot Projects

1. SafeSeaNet/VMS Project: cross-checking VMS position reports with AIS data

   a. A substantially improved vessel position monitoring capability (every 6 minutes, instead of 2 hours);
   b. An increased level of confidence thanks to the ability to correlate two different types of information;
   c. No requirement for technical or organisational intervention by FMCs

2. Maritime surveillance pilot project (AIS, VMS, Sat-AIS, LRIT, SAR-Images, inspection and surveillance information)

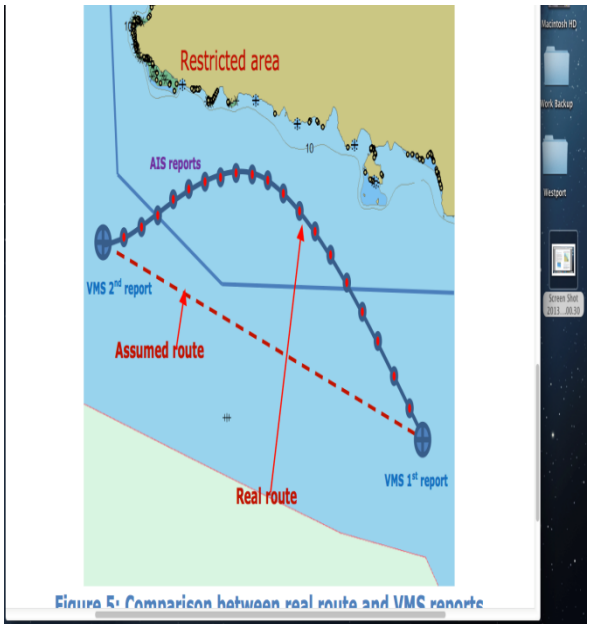


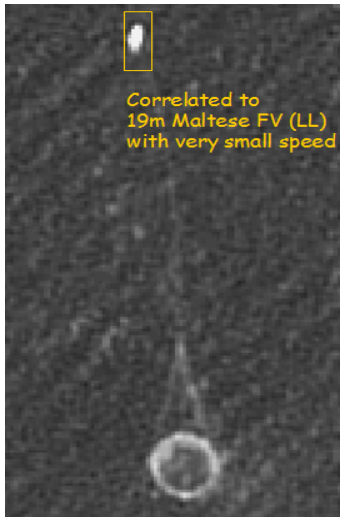
Figure 5: Comparison between real route and VMS reports

Art. 10 of Council Regulation 1224/2009/EU allows the use of AIS to cross-check data from other sources

Vessel Detection System

- Where Member States have clear evidence of a cost benefit in relation to the traditional control means in the detection of fishing vessels,

- …they shall use a vessel detection system allowing them to **match** the positions derived by **remotely sensed images** sent to earth by satellites or other equivalent systems with the data received by VMS or AIS, in order to assess the presence of fishing vessels in the area.

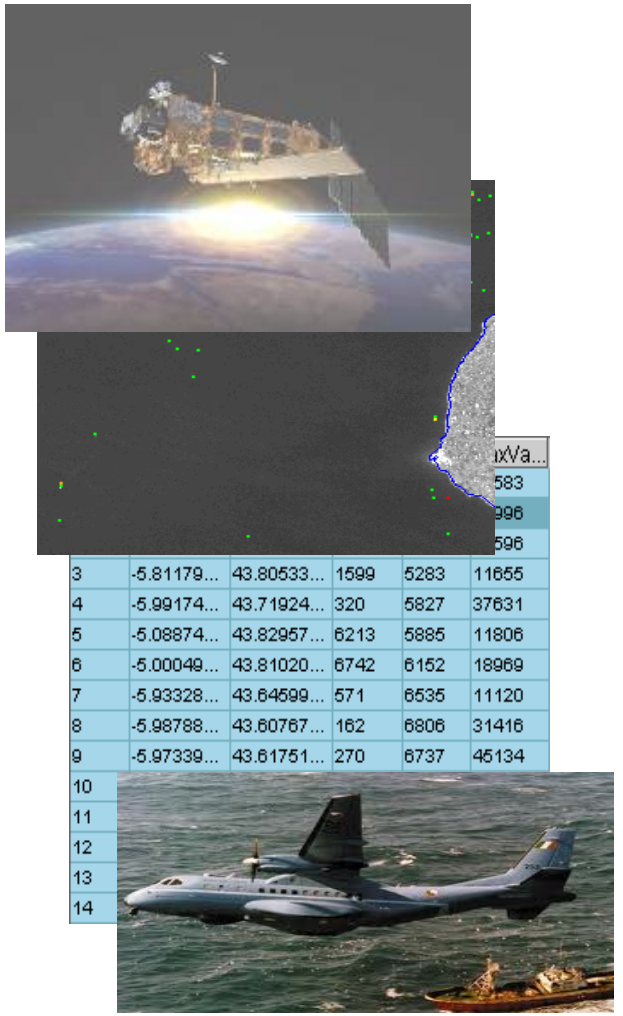


Optical satellite images
Source European Commission – Joint Research Centre

Article 11 of **Council Regulation (EC) No 1224/2009** .

Transmission of data for surveillance operations

Data from the VMS, the AIS and the vessel detection system collected in the framework of this Regulation may be transmitted to Community agencies and competent authorities of the Member States engaged in surveillance operations for the purpose of maritime safety and security, border control, **protection of the marine environment** and general law enforcement.

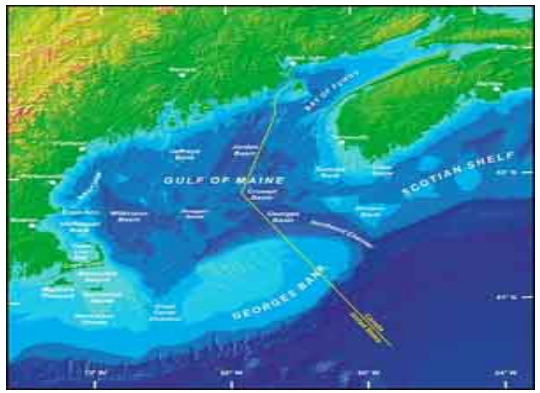


Article 12 of **Council Regulation (EC) No 1224/2009** .

Evidence

- VMS technology applied in evidence for the first time in the United States with the successful prosecution of **F.V. Independence (1998)**
- **Vessel** detected inside closed area located near the outer boundary of the US EEZ
- Held: VMS system is a reliable system - reporting positioning data accurately 95 percent of the time within 300 meters of the actual position
- $250,000 penalty and revoked the vessel and operator permits
- Administrative proceeding
  - Standard of proof "preponderance of the evidence", in contrast to "beyond reasonable doubt" in criminal trial

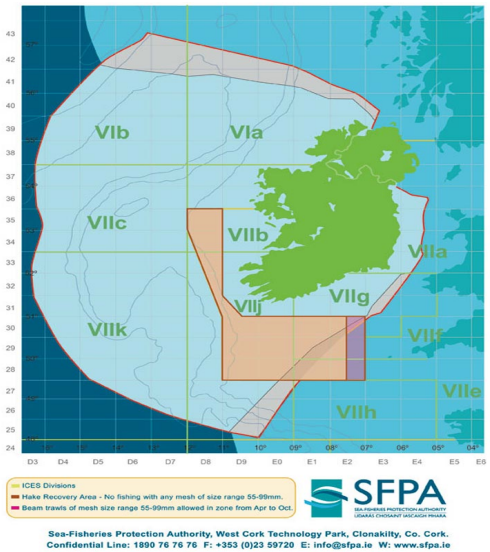
Freshly caught scallops on the deck of a fishing boat.



Administrative Procedure Act, 5 USC 501, et seq.

Enforcement in EU Member States

- Criminal / administrative / judicial review / civil actions.
- No EU rules on the use of VMS as direct evidence
- Member States rules on evidence **vary**
- In criminal proceedings questions may be raised regarding admissibility, authenticity, reliability and collaboration
- Experience in the EU has shown that in certain proceedings in some Member States, the courts of one jurisdiction have accepted VMS data provided by the FMC of another Member State.
- Types of fishery cases in which VMS data has been used, include:
  - Unlawful entry into a restricted area
  - Failure to maintain properly the logbook
  - Illegal Fishing
  - Tampering with VMS equipment
  - Provision of false information



B. O'Shea, S. Thompson, he Innovative Application of Vessel Monitoring Systems for the Effective Fisheries Monitoring Control and Surveillance [ICES, 2006)

Compliance

- Court of Auditors Special Report No 7/2007
  a. No systematic cross-checks on the consistency of VMS data in Denmark, France, Italy, the Netherlands and the UK

  b. These issues formed part of on-going infringement proceedings against Member States under Treaty.

- Case C-22/04, *Commission V Greece* (Judgment of 14 April 2005, unpublished)
  - Greece failed to ensure compliance with VMS Reg. by specified deadlines

- Court of Auditors recommended use of IT tools to systematically verify the consistency of all other data against VMS data

Court of Auditors, SPECIAL REPORT No 7/2007

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Conclusions

1. EU has regulated the use of modern satellite-based technologies for monitoring, control and surveillance of fishing vessels since 1998.

2. Purpose: improve efficiency and cost effectiveness of law enforcement.

3. VMS legislative framework addresses functionality and technical issues such as transponder specifications, responsibilities of flag /coastal / port States, system architecture.

4. VMS data is used in evidence for law enforcement proceedings in several Member States including Ireland, United Kingdom, Spain and France.

5. Fines for fishery offences [IRE -mandatory catch & gear][UK £1.6 million fine two Spanish vessels fishing in Ireland and Scotland –Truro Crown Court, July 2012].

6. France fined €20 million Euro for non-compliance with CJEU judgment on CFP [Case C-304/02].

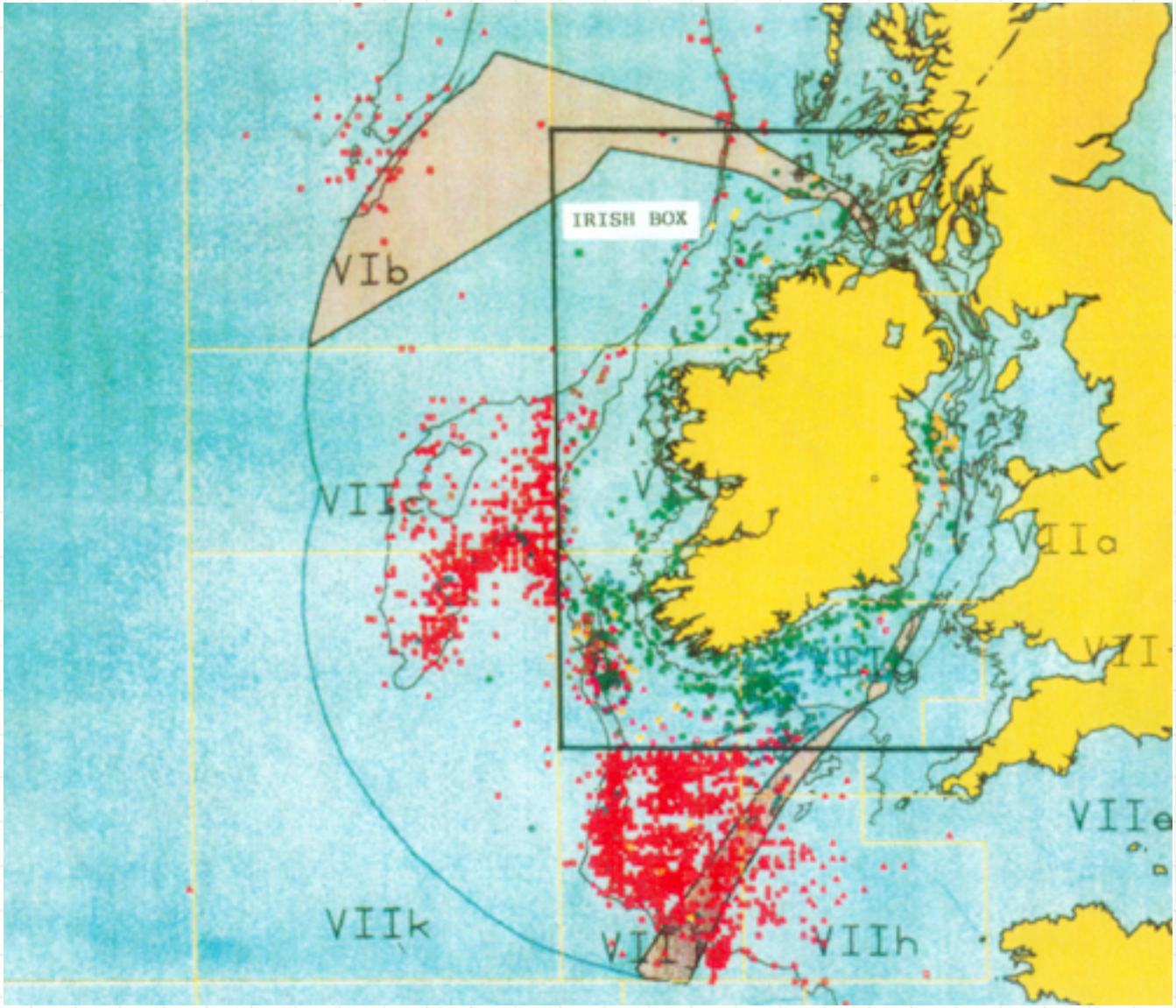
7. Member States and European Agencies testing the integration of new technologies [SafeSeaNet/VMS and Maritime Surveillance Pilot Project].

8. VMS is now a standard feature in the fisheries law of over 60 countries and 15 international organisations.

Publications

- S. Monteiro, J. Vazquez, R. Long (Article), “Improving fishery law enforcement” , AEGEAN REVIEW OF THE LAW OF THE SEA AND MARITIME LAW Vol.1, June 2009, No.1, pp. 95-109.

- R. Long, P. Curran, ENFORCING THE COMMON FISHERIES POLICY, (Oxford, Blackwell Science, 2000), (Malden MA, Blackwell Science Inc, 2000), (Carleton, Australia, 2000), ISBN 978-0852382615), pp.379.



Source: FMC, Naval Service, Ireland