

Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999

## CHAPTER II

### INSPECTIONS OF THIRD COUNTRY FISHING VESSELS IN MEMBER STATES PORTS

#### SECTION 2

#### **Port inspections**

##### *Article 11*

#### **Procedure in the event of infringements**

1 If the information collected during the inspection provides evidence to the official to believe that a fishing vessel has engaged in IUU fishing in accordance with the criteria set out in Article 3, the official shall:

- a record the suspected infringement in the inspection report;
- b take all necessary action to ensure safekeeping of the evidence pertaining to such suspected infringement;
- c immediately forward the inspection report to the competent authority.

2 If the results of the inspection provide evidence that a third country fishing vessel has engaged in IUU fishing in accordance with the criteria set out in Article 3, the competent authority of the port Member State shall not authorise such vessels to land or tranship their catch.

3 The inspecting Member State shall immediately notify its decision not to authorise landing or transhipment operations taken in accordance with paragraph 2, accompanied by a copy of the inspection report, to the Commission or to a body designated by it, which shall immediately transmit it to the competent authority of the flag State of the inspected fishing vessel with a copy to the flag State or States of donor vessels where the inspected fishing vessel has engaged in transhipment operations. Where appropriate, a copy of the notification shall also be communicated to the Executive Secretary of the regional fisheries management organisation in whose area of competence the catch was made.

4 Where the suspected breach has taken place in the high seas, the port Member State shall cooperate with the flag State in carrying out an investigation into it and, where appropriate, shall apply the sanctions provided for by the legislation of that port Member State, under the condition that, in accordance with international law, that flag State has expressly agreed to transfer its jurisdiction. In addition, where the suspected breach has taken place in the maritime waters of a third country, the port Member State shall also cooperate with the coastal State in carrying out an investigation into it and, where appropriate, shall apply the sanctions provided for by the legislation of that port Member State, under the condition that, in accordance with international law, that coastal State has expressly agreed to transfer its jurisdiction.