

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 9*

#### **General principles**

- 1 Member States shall carry out inspections in their designated ports of at least 5 % of landing and transshipment operations by third country fishing vessels each year, in accordance with the benchmarks determined by the procedure referred to in Article 54(2) on the basis of risk management, without prejudice to the higher thresholds adopted by regional fisheries management organisations.
- 2 The following fishing vessels shall be inspected in all cases:
  - a fishing vessels sighted in accordance with Article 48;
  - b fishing vessels reported in the framework of a notification made under the Community alert system in accordance with Chapter IV;
  - c fishing vessels identified by the Commission as presumed to have engaged in IUU fishing in accordance with Article 25;
  - d fishing vessels appearing in a IUU vessel list adopted by a regional fisheries management organisation notified to Member States in accordance with Article 30.

##### *Article 10*

#### **Inspection procedure**

- 1 Officials in charge of inspections (officials) shall be able to examine all relevant areas, decks and rooms of the fishing vessel, catches processed or not, nets or other gear, equipment and any relevant documents which officials deem it necessary to verify in compliance with applicable laws, regulations or international management and conservation measures. Officials may also question persons deemed to have information on the matter subject to inspection.
- 2 Inspections shall involve the monitoring of the entire landing or transshipment operations and include a cross-check between the quantities by species recorded in the prior notice of landing and the quantities by species landed or transhipped.

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*Status: This is the original version as it was originally adopted in the EU. This legislation may since have been updated - see the latest available (revised) version*

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3 Officials shall sign their inspection report in the presence of the master of the fishing vessel, who shall have the right to add or cause to be added any information that he considers relevant. Officials shall indicate in the logbook that an inspection has been made.

4 A copy of the inspection report shall be handed over to the master of the fishing vessel, who may forward it to the owner.

5 The master shall cooperate with and assist in the inspections of the fishing vessel and shall not obstruct, intimidate or interfere with the officials in the performance of their duties.

### *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.