

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 [<sup>F1</sup>UNITED KINGDOM] PORTS

#### SECTION 2

#### Port inspections

#### Article 9

#### General principles

1 [<sup>F1</sup>A fisheries administration must] carry out inspections in [<sup>F2</sup>its] designated ports of at least 5 % of landing and transshipment operations by third country fishing vessels each year [<sup>F3</sup>. A fisheries administration may, by regulations, specify benchmarks for such inspections determined on the basis of risk management. Benchmarks specified in regulations made under this paragraph are] without prejudice to the higher thresholds adopted by regional fisheries management organisations.

2 The following fishing vessels shall be inspected in all cases:

- <sup>F4</sup>a .....
- <sup>F5</sup>b .....
- c fishing vessels identified <sup>F6</sup>... 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 [<sup>F7</sup>the United Kingdom].

#### Textual Amendments

- F1** Words in Art. 9(1) substituted (31.12.2020) by [The Common Fisheries Policy and Aquaculture \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/753\)](#), regs. 1, **28(4)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F2** Word in Art. 9(1) substituted (31.12.2020) by [The Common Fisheries Policy and Aquaculture \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/753\)](#), regs. 1, **28(4)(b)**; 2020 c. 1, Sch. 5 para. 1(1)
- F3** Words in Art. 9(1) substituted (31.12.2020) by [The Common Fisheries Policy and Aquaculture \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/753\)](#), regs. 1, **28(4)(c)**; 2020 c. 1, Sch. 5 para. 1(1)
- F4** Art. 9(2)(a) omitted (31.12.2020) by virtue of [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/739\)](#), regs. 1, **9(11)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F5** Art. 9(2)(b) omitted (31.12.2020) by virtue of [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/739\)](#), regs. 1, **9(11)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

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**Changes to legislation:** There are currently no known outstanding effects for the Council Regulation (EC) No 1005/2008, SECTION 2. (See end of Document for details)

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| <p><b>F6</b> Words in Art. 9(2)(c) omitted (31.12.2020) by virtue of <a href="#">The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/739)</a>, regs. 1, <b>9(11)(b)</b>; 2020 c. 1, Sch. 5 para. 1(1)</p> <p><b>F7</b> Words in Art. 9(2)(d) substituted (31.12.2020) by <a href="#">The Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 (S.I. 2019/739)</a>, regs. 1, <b>9(11)(c)</b>; 2020 c. 1, Sch. 5 para. 1(1)</p> |
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## 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.

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, [<sup>F8</sup>a fisheries administration] shall not authorise such vessels to land or tranship their catch.

3 The [<sup>F9</sup>fisheries administration must] immediately notify its decision not to authorise landing or transshipment operations taken in accordance with paragraph 2, accompanied by a copy of the inspection report, to <sup>F10</sup>... the competent authority of the flag [<sup>F11</sup>state] of the inspected fishing vessel with a copy to the flag [<sup>F11</sup>state] or [<sup>F11</sup>states] of donor vessels where the inspected fishing vessel has engaged in transshipment 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.

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[<sup>F124</sup> Where the suspected breach has taken place in the high seas, and the United Kingdom is the port state, a fisheries administration must co-operate with the flag state in carrying out an investigation into it and, where appropriate, must apply the sanctions provided for under the law applying in the relevant part of the United Kingdom, 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, a fisheries administration must also co-operate with the coastal state in carrying out an investigation into it and, where appropriate, must apply the sanctions provided for under the law applying in the relevant part of the United Kingdom, under the condition that, in accordance with international law, that coastal state has expressly agreed to transfer its jurisdiction.]

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#### Textual Amendments

- F8** Words in Art. 11(2) substituted (31.12.2020) by [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/739\)](#), regs. 1, **9(12)(a)**; 2020 c. 1, Sch. 5 para. 1(1)
- F9** Words in Art. 11(3) substituted (31.12.2020) by [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/739\)](#), regs. 1, **9(12)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)
- F10** Words in Art. 11(3) omitted (31.12.2020) by virtue of [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/739\)](#), regs. 1, **9(12)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F11** Word in Art. 9(3) substituted (31.12.2020) by [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/739\)](#), regs. 1, **9(12)(b)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)
- F12** Art. 11(4) substituted (31.12.2020) by [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/739\)](#), regs. 1, **9(12)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

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#### Modifications etc. (not altering text)

- C1** Ch. 2 applied (with modifications) (31.12.2020) by [The Common Fisheries Policy \(Amendment etc.\) \(EU Exit\) \(No. 2\) Regulations 2020 \(S.I. 2020/1599\)](#), regs. 1(3), **5**

**Changes to legislation:**

There are currently no known outstanding effects for the Council Regulation (EC) No 1005/2008, SECTION 2.