

Council Regulation (EC) No 199/2008 of 25 February 2008 concerning the establishment of a Community framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the Common Fisheries Policy (repealed)

CHAPTER I

**GENERAL PROVISIONS**

*Article 1*

**Subject-matter**

- 1 This Regulation establishes rules on:
  - a the collection and management, in the framework of multi-annual programmes, of biological, technical, environmental and socio-economic data concerning the fisheries sector;
  - b the use of data concerning the fisheries sector in the framework of the Common Fisheries Policy (hereinafter referred to as the CFP), for the purpose of scientific analysis.
- 2 This Regulation also lays down provisions for the improvement of the scientific advice needed for the implementation of the CFP.
- 3 This Regulation shall be without prejudice to the obligations under Directive 95/46/EC, Regulation (EC) No 45/2001, Directive 2003/4/EC and Regulation (EC) No 1367/2006.

*Article 2*

**Definitions**

For the purposes of this Regulation, the following definitions shall apply:

- (a) 'fisheries sector' means activities related to commercial fisheries, recreational fisheries, aquaculture and industries processing fisheries products;
- (b) 'aquaculture' means the rearing or cultivation of aquatic organisms using techniques designed to increase the production of the organisms in question beyond the natural capacity of the environment; the organisms remaining the property of a natural or legal person throughout the rearing or culture stage, up to and including harvesting;
- (c) 'recreational fisheries' means non-commercial fishing activities exploiting living aquatic resources for recreation or sport;
- (d) 'marine regions' means the geographical areas set out in Annex I to Council Decision 2004/585/EC and the areas established by the regional fisheries management organisations;
- (e) 'primary data' means data associated with individual vessels, natural or legal persons or individual samples;

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- (f) 'meta data' means data giving qualitative and quantitative information on the collected primary data;
- (g) 'detailed data' means data based on primary data in a form which does not allow natural persons or legal entities to be identified directly or indirectly;
- (h) 'aggregated data' means the output resulting from summarising the primary or detailed data for specific analytic purposes;
- (i) 'end-users' means bodies with a research or management interest in the scientific analysis of data in the fisheries sector;
- (j) 'fleet-fishery based sampling' means biological, technical and socio-economic data collection surveys based on agreed regional fishing types and fleet segments;
- (k) 'Community fishing vessel' means a vessel as defined in Article 3(d) of Regulation (EC) No 2371/2002.

## CHAPTER II

### **COLLECTION, MANAGEMENT AND USE OF DATA IN THE FRAMEWORK OF MULTI-ANNUAL PROGRAMMES**

#### SECTION 1

#### **Community programme and national programmes**

##### *Article 3*

#### **Community programme**

1 A multi-annual Community programme for collection, management and use of biological, technical, environmental, and socio-economic data concerning:

- a commercial fisheries carried out by Community fishing vessels:
  - (i) within Community waters, including commercial fisheries for eels and salmon in inland waters;
  - (ii) outside Community waters;
- b recreational fisheries carried out within Community waters including recreational fisheries for eels and salmon in inland waters;
- c aquaculture activities related to marine species, including eels and salmon, carried out within the Member States and the Community waters;
- d industries processing fisheries products;

shall be defined in accordance with the procedure referred to in Article 27(2).

2 The Community programme shall be drawn for three-year periods. The first period shall cover the years 2009 and 2010.

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## Article 4

### National programmes

1 Without prejudice to their current data collection obligations under Community law, Member States shall collect primary biological, technical, environmental and socio-economic data within the framework of a multi-annual national programme (hereinafter referred to as the national programme) drawn up in accordance with the Community programme.

2 The national programme shall include, in particular, the following matters as provided for in Section 2:

- a multi-annual sampling programmes;
- b a scheme for at-sea monitoring of commercial and recreational fisheries, where necessary;
- c a scheme for research surveys-at-sea;
- d a scheme for management and use of the data for scientific analyses purposes.

3 The procedures and methods to be used in collecting and analysing data and in estimating their accuracy and precision shall be included in the national programmes.

4 Member States shall submit their national programmes for approval to the Commission. They shall submit them by electronic means by the date, in the format and to the address to be established by the Commission in accordance with the procedure referred to in Article 27(2).

5 The first national programmes shall include the activities for the years 2009 and 2010.

## Article 5

### Coordination and cooperation

1 Member States shall coordinate their national programmes with other Member States in the same marine region and make every effort to coordinate their actions with third countries having sovereignty or jurisdiction over waters in the same marine region. For this purpose the Commission may organise Regional Coordination Meetings in order to assist Member States in coordinating their national programmes and the implementation of the collection, management and use of the data in same region.

2 In order to take into account any recommendation made at regional level at the Regional Coordination Meetings, Member States shall where appropriate submit amendments to their national programmes during the programming period. Those amendments shall be sent to the Commission at the latest two months prior to the year of implementation.

3 Detailed rules for the application of this Article shall be adopted in accordance with the procedure referred to in Article 27(2).

## Article 6

### Evaluation and approval of national programmes

1 The Scientific, Technical and Economic Committee for Fisheries (STECF) shall evaluate:

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- a the conformity of the national programmes and any amendments thereto with Articles 4 and 5; and
- b the scientific relevance of the data to be covered by national programmes for the purposes laid down in Article 1(1) and the quality of the proposed methods and procedures.

2 If the evaluation by STECF, referred to in paragraph 1, indicates that a national programme does not comply with Articles 4 and 5 or does not guarantee the scientific relevance of the data or sufficient quality of the proposed methods and procedures, the Commission shall immediately inform the Member State concerned and propose amendments to that programme. Subsequently, the Member State concerned shall submit a revised national programme to the Commission.

3 The Commission shall approve the national programmes and the amendments thereto made in accordance with Article 5(2) on the basis of the evaluation by the STECF and the evaluation of costs carried out by its services.

#### *Article 7*

#### **Evaluation and approval of the outcomes of the national programmes**

1 Member States shall on an annual basis submit to the Commission a report on the carrying out of their national programmes. They shall submit them by the date, in the format and to the address to be established by the Commission in accordance with the procedure referred to in Article 27(2).

2 The STECF shall evaluate:

- a the execution of the national programmes approved by the Commission in accordance with Article 6(3); and
- b the quality of the data collected by the Member States.

3 The Commission shall assess the implementation of the national programmes on the basis of:

- a the evaluation by the STECF;
- b the consultation of appropriate regional fisheries management organisations to which the Community is contracting party or observer and relevant international scientific bodies; and
- c the evaluation of costs carried out by its services.

#### *Article 8*

#### **Community financial assistance**

1 Community financial assistance for national programmes shall be implemented in accordance with the rules laid down in Regulation (EC) No 861/2006.

2 The basic data referred to Article 9 of Regulation (EC) No 861/2006 shall cover only those parts of Member States' national programmes that implement the Community programme.

3 Community financial assistance for national programmes shall only be granted if the rules set out in this Regulation are fully respected.

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4 The Commission may, after having afforded the Member States concerned an opportunity of being heard, suspend and/or recover Community financial assistance in the following circumstances:

- a the evaluation, referred to in Article 7, indicates that the execution of a national programme does not comply with this Regulation; or
- [<sup>X1</sup>b the consultation referred to in Article 7(3)(b) indicates that the data has not been provided by Member States in accordance with Articles 16(4) and 20(1); or]
- c data quality control and data process were not achieved in accordance with Articles 14(2) and 17.

5 Without prejudice to paragraph 3, the Commission may, after having afforded the Member States concerned an opportunity of being heard, also reduce Community financial assistance in the following circumstances:

- a if a national programme was not submitted to the Commission by the date established in accordance with Article 4(4);
- b if a report was not submitted to the Commission by the date established in accordance with Article 7(1);
- c if an official request for data has been made by an end-user and the data was not delivered in accordance with Articles 20(2) and 20(3) to the end-user concerned or the quality control and the processing of these data were not in accordance to Articles 14(2) and 17.

6 The reduction of the Community financial assistance referred to in paragraphs 4 and 5 shall be proportionate to the degree of non-compliance. The reduction of the Community financial assistance referred to in paragraph 5 shall be applied gradually over time and shall amount to no more than 25 % of the total annual cost of the national programme.

7 Detailed rules for the application of the reduction referred to in paragraph 6 shall be adopted in accordance with the procedure referred to in Article 27(2).

#### **Editorial Information**

- X1** Substituted by [Corrigendum to Council Regulation \(EC\) No 199/2008 of 25 February 2008 concerning the establishment of a Community framework for the collection, management and use of data in the fisheries sector and support for scientific advice regarding the common fisheries policy \(Official Journal of the European Union L 60 of 5 March 2008\)](#).

## SECTION 2

### **Requirements for the data collection process**

#### *Article 9*

#### **Sampling programmes**

- 1 Member States shall establish multi-annual national sampling programmes.
- 2 Multi-annual national sampling programmes shall include, in particular:
  - a a sampling design for biological data following fleet-fishery based sampling including, where appropriate, recreational fisheries;

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- b a sampling design for ecosystem data that allows the impact of the fisheries sector on the marine ecosystem to be estimated and that contributes to monitoring of the state of the marine ecosystem;
  - c a sampling design for socio-economic data that permits the economic situation of the fisheries sector to be assessed and enables its performance over time to be analysed, and impact assessments of measures undertaken, or proposed to be carried out.
- 3 The protocols and the methods used for the establishment of national sampling programmes shall be given by Member States and shall be, as far as possible:
- a stable over time;
  - b standardised within regions;
  - c in accordance with the quality standards established by the appropriate regional fisheries management organisations to which the Community is contracting party or observer and relevant international scientific bodies.
- 4 Accuracy and precision for the data collected shall be systematically estimated where required.

#### *Article 10*

##### **Access to the sampling sites**

Member States shall ensure that, in order to carry out their duties, samplers designated by the body in charge of the implementation of the national programme have access to:

- (a) all landings, including as appropriate, transshipments and transfers to aquaculture;
- (b) vessel and business registers operated by public bodies relevant for the collection of economic data;
- (c) economic data of fisheries related businesses.

#### *Article 11*

##### **At-sea monitoring of commercial and recreational fisheries**

1 Where necessary for the purposes of the collection of the data under the national programmes, Member States shall design and implement at-sea monitoring of commercial and recreational fisheries.

2 The tasks of the at-sea monitoring shall be determined by the Member States.

3 The masters of Community fishing vessels shall accept on board samplers operating under the at-sea monitoring scheme and designated by the body in charge of the implementation of the national programme and cooperate with them in order to allow them to discharge their duties while on board Community fishing vessels.

4 The masters of Community fishing vessels may refuse to accept on board the samplers operating under the at-sea monitoring scheme only on the basis of an obvious lack of space on the vessel or for safety reasons in accordance with national legislation. In such cases, data shall be collected through a self-sampling programme, carried out by the crew of the Community fishing vessel, and designed and controlled by the body in charge of the implementation of the national programme.

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## Article 12

### Research surveys at sea

1 Member States shall carry out research surveys at sea to evaluate the abundance and distribution of stocks, independently of the data provided by commercial fisheries, and to assess the impact of the fishing activity on the environment.

2 The list of research surveys at sea eligible for the Community financial assistance shall be adopted in accordance with the procedure referred to in Article 27(2).

## CHAPTER III

### DATA MANAGEMENT PROCESS

## Article 13

### Data storage

Member States shall:

- (a) ensure that primary data collected under national programmes are safely stored in computerised databases and take all necessary measures to ensure that they are treated as confidential;
- (b) ensure that metadata related to the primary socio-economic data collected under national programmes are safely stored in computerised databases;
- (c) take all necessary technical measures to protect such data against any accidental or illicit destruction, accidental loss, deterioration, distribution or unauthorised consultation.

## Article 14

### Data quality control and validation

1 Member States shall be responsible for the quality and completeness of the primary data collected under national programmes, and for the detailed and aggregated data derived therefrom which are transmitted to end-users.

- 2 Member States shall ensure that:
- a primary data collected under national programmes are properly checked for errors by appropriate quality control procedures;
  - b detailed and aggregated data derived from primary data collected under national programmes are validated before their transmission to end-users;
  - c the quality assurance procedures applied to the primary, detailed and aggregated data referred to in (a) and (b) are developed in accordance with the procedures adopted by the international scientific bodies, regional fisheries management organisations and STECF.

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## CHAPTER IV

### USE OF DATA COLLECTED IN THE FRAMEWORK OF THE CFP

#### *Article 15*

##### **Data covered**

- 1 This Chapter shall apply to all data collected:
  - a under Regulations (EEC) No 2847/93, (EC) No 788/96, (EC) No 2091/98, (EC) No 104/2000, (EC) No 2347/2002, (EC) No 1954/2003, (EC) No 2244/2003, (EC) No 26/2004, (EC) No 812/2004, (EC) No 1921/2006, (EC) No 1966/2006 and (EC) No 1100/2007;
  - b under the framework of this Regulation:
    - (i) data on vessels' activity based on information from satellite monitoring and other monitoring systems with the required format;
    - (ii) data allowing the reliable estimation of the total volume of catches per stock by defined regional fishing types and fleet segments, geographical area and time period, including discards and, where appropriate, data regarding catches in recreational fisheries;
    - (iii) all biological data needed to assess the status of exploited stocks;
    - (iv) ecosystem data needed to evaluate the impact of fishing activities on the marine ecosystem;
    - (v) the socio-economic data from the fisheries sector.
- 2 Member States shall avoid any duplication in the collection of the data referred to in paragraph 1.

#### *Article 16*

##### **Access to and transmission of primary data**

- 1 For the purpose of the verification of the existence of the primary data collected in accordance with Article 4(1), other than socio-economic data, Member States shall ensure that the Commission has access to the national computerised databases referred to in Article 13(a).
- 2 For the purpose of the verification of the socio-economic data collected in accordance with Article 4(1) Member States shall ensure that the Commission has access to the national computerised databases referred to in Article 13(b).
- 3 Member States shall conclude agreements with the Commission to ensure effective and unhindered access for the Commission to their national computerised databases referred to in paragraph 1 and 2, without prejudice to the obligations established by other Community rules.
- 4 Member States shall ensure that the primary data collected under the research surveys at sea are transmitted to international scientific organisations and appropriate scientific bodies within regional fisheries management organisations in accordance with the international obligations of the Community and the Member States.



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### *Article 17*

#### **Processing of primary data**

1 Member States shall process the primary data into data sets of detailed or aggregated data in accordance with:

- a relevant international standards, wherever they exist;
- b protocols agreed at international or regional level, wherever they exist.

2 The Member State shall provide to the end-users and the Commission, whenever necessary, a description of the methods applied to process the requested data and their statistical properties.

### *Article 18*

#### **Submission of detailed and aggregated data**

1 Member States shall make detailed and aggregated data available to end-users to support scientific analysis:

- a as a basis for advice to fisheries management, including to Regional Advisory Councils;
- b in the interest of public debate and stakeholder participation in policy development;
- c for scientific publication.

2 Where necessary, to ensure anonymity Member States may refuse to provide data on vessels' activity based on information from vessel satellite monitoring to end-users for the purposes referred to in paragraph 1(b).

### *Article 19*

#### **Transmission of detailed and aggregated data**

Member States shall transmit detailed and aggregated data in a secure electronic format.

### *Article 20*

#### **Procedure for transmission of detailed and aggregated data**

1 Member States shall ensure that relevant detailed and aggregated data to be sent on a regular basis is provided timely to the appropriate regional fisheries management organisations to which the Community is a contracting party or observer and relevant international scientific bodies in accordance with the international obligations of the Community and the Member States.

2 Where detailed and aggregated data are requested for specific scientific analysis, Member States shall ensure that the data is provided to end-users:

- a for the purpose referred to in Article 18(1)(a), within one month from the receipt of the request for these data;
- b for the purpose referred to in Article 18(1)(b), within two months from the receipt of the request for these data.

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3 Where detailed and aggregated data are requested for scientific publication referred to in Article 18(1)(c), Member States:

- a may, in order to protect the professional interests of the data collectors, withhold data transmission to the end-users for a period of three years following the date of collection of the data. Member States shall inform the end-users and the Commission of any such decisions. In duly justified cases the Commission may authorise that period to be extended;
- b shall in case that three years period has already expired, ensure that the data is provided to end-users within two months from the receipt of the request for these data.

4 Member States may refuse to transmit the relevant detailed and aggregated data only:

- a if there is a risk of natural persons and/or legal entities being identified, in which case the Member State may propose alternative means to meet the needs of the end-user which ensure anonymity;
- b in the cases referred to in Article 22(3);
- c if the same data are already available in another form or format which is easily accessible by end-users.

5 In cases where the data requested by end-users other than appropriate regional fisheries management organisations to which the Community is contracting party or observer and relevant international scientific bodies are different from those already provided to appropriate regional fisheries management organisations to which the Community is contracting party or observer and relevant international scientific bodies, Member States may charge those end-users the actual costs of extraction and, if required, aggregation of the data before their transmission.

#### *Article 21*

#### **Review of refusal to provide data**

1 If a Member State refuses to provide data under Article 20(3)(a), the end-user may request the Commission to review the refusal. If the Commission finds that the refusal is not duly justified, it may require the Member State to supply the data to the end-user within one month.

2 If the Member State fails to provide such data within the period laid down in paragraph 1, Article 8 paragraphs 5 and 6 shall apply.

#### *Article 22*

#### **Obligations for end-users**

1 The end-users of data shall:

- a use the data only for the purpose stated in their request in accordance with Article 18;
- b duly acknowledge the data sources;
- c be responsible for correct and appropriate use of the data with regard to scientific ethics;
- d inform the Commission and the Member States concerned of any suspected problems with the data;
- e provide the Member States concerned and the Commission with references to the results of the use of the data;
- f not forward the requested data to third parties without consent with the Member State concerned;
- g not sell the data to any third party.

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2 The Member States shall inform the Commission of any non-compliance by end-users.

3 Where an end-user fails to comply with any of the requirements set out in paragraph 1, the Commission may allow the Member State concerned to limit or refuse access to the data to that end-user.

## CHAPTER V

### SUPPORT FOR SCIENTIFIC ADVICE

#### *Article 23*

#### **Participation in meetings of international bodies**

Member States shall ensure that their national experts participate in relevant meetings of regional fisheries management organisations to which the Community is contracting party or observer and international scientific bodies.

#### *Article 24*

#### **Coordination and cooperation**

1 Member States and the Commission shall coordinate their efforts and cooperate in order to further improve the reliability of scientific advice, the quality of the work programmes and the working methods of the regional fisheries management organisations to which the Community is contracting party or observer and international scientific bodies.

2 Such coordination and cooperation shall take place without prejudice to open scientific debate and shall aim to promote impartial scientific advice.

## CHAPTER VI

### FINAL PROVISIONS

#### *Article 25*

#### **Implementing measures**

The measures necessary for the implementation of this Regulation shall be adopted in accordance with the procedure referred to in Article 27(2).

#### *Article 26*

#### **Monitoring**

The Commission, in association with the STECF, shall monitor the progress of the national programmes in the Committee for Fisheries and Aquaculture established by Article 30 of Regulation (EC) No 2371/2002 (hereinafter referred to as the Committee).

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### *Article 27*

#### **Committee**

- 1 The Commission shall be assisted by the Committee.
- 2 Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.
- 3 The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at one month.

### *Article 28*

#### **Repeal**

- 1 Regulation (EC) No 1543/2000 is hereby repealed with effect from 1 January 2009. However, the repealed provisions shall remain applicable for national programmes approved before 31 December 2008.
- 2 Reference to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in the Annex hereto.

### *Article 29*

#### **Entry into force**

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

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

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