

Commission Regulation (EC) No 1010/2009 of 22 October 2009 laying down detailed rules for the implementation of Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing

COMMISSION REGULATION (EC) No 1010/2009

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laying down detailed rules for the implementation of Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing<sup>(1)</sup>, and in particular Articles 6(3), 8(3), 9(1), 12(4), 12(5), 13(1), 16(1), 16(3), 17(3), 20(4), 49(1), 52 thereof,

After consulting the European Data Protection Supervisor,

Whereas:

- (1) Regulation (EC) No 1005/2008 provides for the adoption of detailed rules and measures to implement the provisions it sets out.
- (2) In accordance with Articles 6(3) and 16(1) of Regulation (EC) No 1005/2008 the period of three working days set out for the prior notification of landings or transshipments in port and for the submission of catch certificates before the estimated time of arrival of fishery products at the place of entry into the territory of the Community may be modified in the light of certain factors. These factors include: the type of fishery product; the distance between the fishing ground, landing places and ports where the vessels in question are registered or listed; the distance to the place of entry into the territory of the Community; the transport means used. Fresh fishery products and consignments arriving by air, road or rail require a shorter period than three working days.
- (3) Consistency should be ensured in documents transmitted in relation to prior notification of landings and transshipments, landing and transshipment declarations and sighting reports. For that reason formats for these must be set out in accordance with Articles 6(1), 8(3) and 49(1) of Regulation (EC) No 1005/2008.
- (4) Article 9(1) and Article 17(3) of Regulation (EC) No 1005/2008 provide that Member States shall carry out port inspections of at least 5 % of landing and transshipment operations by third country fishing vessels as well as verifications deemed necessary to ensure that the provisions of the Regulation are correctly applied, in accordance with benchmarks determined on the basis of risk management and on the basis of

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*Status: Point in time view as at 09/03/2011.*

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national or Community risk management criteria. It is appropriate to lay down common risk management criteria for checking, inspection and verification activities in order to allow timely risk analyses and global assessments of relevant control information. The common criteria aim at ensuring a harmonised approach to inspection and verification in all Member States and to establish a level playing field for all operators.

- (5) Article 52 of Regulation (EC) No 1005/2008 provides that measures necessary for implementing the provisions of that Regulation are to be adopted in accordance with the Committee procedure. Given the fact that the Community should take account of possible capacity constraints for the proper implementation of the certification scheme, it is deemed necessary to adapt the scheme for some fishery products obtained by small fishing vessels, introducing the possibility of a simplified catch certificate. In the absence of a general definition of small scale fisheries certain specific criteria should be laid down under which the validation of a simplified catch certificate may be requested by the exporter. These criteria should take account in the first instance of the limited capacity of the fishing vessels concerned, in relation to which the obligation to apply the standard catch certification scheme would constitute a disproportionate burden.
- (6) Article 13(1) of Regulation (EC) No 1005/2008 provides for the recognition of catch documentation schemes agreed and in force in the framework of regional fisheries management organisations (hereinafter referred to as RFMO) in so far as they comply with the requirements of the Regulation. Some of these schemes can be recognised as complying with the requirements of Regulation (EC) No 1005/2008, while others are subject to additional conditions.
- (7) Economic operators who fulfil the conditions for obtaining the status of approved economic operator should be able to benefit from a simplified procedure when importing fishery products into the territory of the Community. It is necessary to establish common conditions in all Member States for the granting, amendment or withdrawal of approved economic operators' certificates, or for suspension or revocation of the status of approved economic operator, and rules on the application for and issuing of approved economic operators' certificates.
- (8) Article 12(4) of Regulation (EC) No 1005/2008 provides for an administrative cooperation between the Commission and third countries in areas pertaining to the implementation of the catch certification provisions. Within the framework of Article 20(4) of Regulation (EC) No 1005/2008, the catch certificate may be established, validated or submitted by electronic means or may be replaced by electronic traceability systems ensuring the same level of control by authorities, in agreement with flag States. These administrative arrangements with flag States shall be regularly updated and Member States and the public shall be informed in due time.
- (9) According to Article 51(2) of Regulation (EC) No 1005/2008 a system shall be established for mutual assistance between the Member States, with third countries and the Commission. Such administrative cooperation is essential to ensure that the Community catch certification scheme can be applied properly and that IUU fishing is properly investigated and sanctioned. Rules should therefore be drawn up for a systematic exchange of information either on request or spontaneously, and for the

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possibility to request enforcement measures and administrative notification by another Member State. Practical procedures should be laid down for exchanging information and requesting assistance. However, these provisions are not such as to affect the application in the Member States of rules on judicial cooperation in criminal cases.

- (10) The protection of individuals with regard to the processing of personal data by the Member States is governed by Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data<sup>(2)</sup>. The protection of individuals with regard to the processing of personal data by the Commission is governed by Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data<sup>(3)</sup>, in particular as regards to the requirements of confidentiality and security of processing, the transfer of personal data from the national systems of Member States to the Commission, the lawfulness of processing, and the rights of data subjects to information, access to and rectification of their personal data.
- (11) Annex I of Regulation (EC) No 1005/2008, which lists the products excluded from the definition of ‘fishery products’, may be reviewed annually in accordance with Article 12(5), on the basis of information gathered under Chapters II, III, IV, V, VIII, X and XII. Hence, on the basis of the information gathered under the cooperation provided for in Article 20(4), Annex I shall be amended accordingly.
- (12) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Fisheries and Aquaculture,

HAS ADOPTED THIS REGULATION:

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- (1) OJ L 286, 29.10.2008, p. 1.
- (2) OJ L 281, 23.11.1995, p. 31.
- (3) OJ L 8, 12.1.2001, p. 1.

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