

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

## TITLE I

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

#### CHAPTER I

##### *Conditions for access to port by third country fishing vessels*

###### *Article 1*

###### **Prior notification**

By way of derogation from Article 6(1) of Regulation (EC) No 1005/2008, vessels landing the types of fishery products set out in Annex I to this Regulation shall be subject to a prior notification period of 4 hours.

###### *Article 2*

###### **Prior notification form**

1 The form for prior notification referred to in Article 6(1) of Regulation (EC) No 1005/2008 is set out in Annex IIA to this Regulation.

2 Where all catches are accompanied by a validated catch certificate, the simplified prior notification form set out in Annex IIB may be used.

###### *Article 3*

###### **Procedures and forms for pre-landing and pre-transhipment declarations**

1 The form of the pre-landing declaration referred to in Article 8(1) of Regulation (EC) No 1005/2008 shall be as set out in Annex IIIA to this Regulation.

2 The form of the pre-transhipment declaration referred to in Article 8(1) of Regulation (EC) No 1005/2008 shall be as set out in Annex IIIB to this Regulation.

3 A third country fishing vessel may submit the pre-landing or pre-transhipment declaration in electronic format if the Member State whose designated ports of landing and transhipment facilities it intends to use and the flag State of the vessel have agreed to electronic exchange of data.

4 Unless otherwise provided for in the agreement referred to in paragraph 3, a third country fishing vessel shall submit the pre-landing or pre-transhipment declaration either in:

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- a the official language of the Member State of landing or transshipment; or
- b English if accepted by the Member State of landing or transshipment.

5 The pre-landing or pre-transshipment declaration shall be submitted at least 4 hours before the intended landing or transshipment.

## *CHAPTER II*

### ***Port inspections***

#### *Article 4*

#### **Benchmarks for port inspections**

The benchmarks for port inspections as referred to in Article 9(1) of Regulation (EC) No 1005/2008 shall consist of the following criteria:

- (a) the species concerned are subject to a management or recovery plan;
- (b) the fishing vessel is suspected of not implementing applicable provisions on VMS according to Chapter IV of Commission Regulation (EC) No 2244/2003 of 18 December 2003 laying down detailed provisions regarding satellite-based Vessel Monitoring Systems<sup>(1)</sup>;
- (c) the fishing vessel has not been controlled at port in the port Member State in the last 3 months;
- (d) the fishing vessel has not been controlled by the port Member State in the last 6 months;
- (e) the fishing vessel is not on the list of establishments from which imports of specified products of animal origin are permitted, as set out in Article 12 of Regulation (EC) No 854/2004 of the European Parliament and of the Council<sup>(2)</sup>;
- (f) importation, exportation or trade in fishery products obtained from species of high commercial value;
- (g) introduction of new kinds of fishery products or discovery of new trade patterns;
- (h) inconsistencies between the trade patterns and the known fishing activities of a flag State in particular in respect of species, volumes or characteristics of its fishing fleet;
- (i) inconsistencies between the trade patterns and the known fishing-related activities of a third country in particular in respect of the characteristics of its processing industry or its trade in fishery products;
- (j) trade pattern not justified in terms of economic criteria;
- (k) involvement of a newly established operator;
- (l) significant and sudden increase in trade volume for a certain species;
- (m) submission of copies of catch certificates accompanying processing statements according to Annex IV of Regulation (EC) No 1005/2008, for instance when the catch has been split during production;

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- (n) prior notification, required under Article 6 of Regulation (EC) No 1005/2008, not transmitted at the proper time or information incomplete;
- (o) inconsistencies between catch data declared by the operator and other information available to the competent authority;
- (p) vessel or vessel owner suspected of being or having been involved in IUU fishing activities;
- (q) vessel having recently changed name, flag or registration number;
- (r) flag State not notified according to Article 20 of Regulation (EC) No 1005/2008 or information available on possible irregularities in the validation of catch certificates by a given flag State (e.g. stamps or validation seal from a competent authority lost, stolen or forged);
- (s) presumed deficiencies in the control system of a flag State;
- (t) operators concerned who have already been involved in illegal activities constituting a potential risk in respect of IUU fishing<sup>[F1];</sup>
- (u) <sup>[F2]</sup>the fishing vessel has been denied entry or use of port in accordance with the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, concluded in the framework of the Food and Agriculture Organisation of the United Nations (FAO).]

<sup>[F3]</sup>In respect of points (c) and (d) of the first paragraph, Member States shall without delay report to the Commission the name and the flag of the third country vessel inspected and the date of inspection. The Commission shall make this information available to other Member States.]

#### Textual Amendments

- F1** Substituted by Commission Regulation (EU) No 202/2011 of 1 March 2011 amending Annex I to Council Regulation (EC) No 1005/2008 as regards the definition of fishery products and amending Regulation (EC) No 1010/2009 as regards prior notification templates, benchmarks for port inspections and recognised catch documentation schemes adopted by regional fisheries management organisations.
- F2** Inserted by Commission Regulation (EU) No 202/2011 of 1 March 2011 amending Annex I to Council Regulation (EC) No 1005/2008 as regards the definition of fishery products and amending Regulation (EC) No 1010/2009 as regards prior notification templates, benchmarks for port inspections and recognised catch documentation schemes adopted by regional fisheries management organisations.
- F3** Inserted by Commission Regulation (EU) No 86/2010 of 29 January 2010 amending Annex I to Council Regulation (EC) No 1005/2008 as regards the definition of fishery products and amending Commission Regulation (EC) No 1010/2009 as regards exchange of information on inspections of third country vessels and administrative arrangements on catch certificates.

### Article 5

#### Reporting on the application of benchmarks

1 Member States shall report on the application of benchmarks referred to in Article 4 in their report to be transmitted to the Commission every two years according to Article 55(1) of Regulation (EC) No 1005/2008.

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2 On the basis of those reports and its own observations, the Commission shall undertake an evaluation and possible adjustment of the benchmarks.

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- (1) [OJ L 333, 20.12.2003, p. 17.](#)
- (2) [OJ L 226, 25.6.2004, p. 83.](#)

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**Changes and effects yet to be applied to :**

- Title 1 applied (with modifications) by [S.I. 2020/1599 reg. 6\(2\)\(a\)\(3\)](#)
- Title 1 heading words substituted by [S.I. 2019/739 reg. 12\(2\)](#)

**Changes and effects yet to be applied to the whole legislation item and associated provisions**

- Annex 2A applied (with modifications) by [S.I. 2020/1599 reg. 6\(2\)\(b\)\(3\)](#)
- Annex 3A applied (with modifications) by [S.I. 2020/1599 reg. 6\(2\)\(b\)\(3\)](#)
- Annex 3B applied (with modifications) by [S.I. 2020/1599 reg. 6\(2\)\(b\)\(3\)](#)
- Art. 4(b) words substituted by [S.I. 2019/739 reg. 12\(4\)\(b\)](#)
- Art. 4(c) words substituted by [S.I. 2019/739 reg. 12\(4\)\(c\)](#)
- Art. 4(d) words substituted by [S.I. 2019/739 reg. 12\(4\)\(d\)](#)
- Art. 21(5)(a) word omitted by [S.I. 2019/739 reg. 12\(15\)\(c\)\(ii\)](#)
- Art. 22(1)(b) words substituted by [S.I. 2019/739 reg. 12\(16\)\(a\)\(ii\)](#)
- Art. 22(1)(b) words substituted by [S.I. 2019/739 reg. 12\(16\)\(a\)\(iii\)](#)
- Art. 27(1)(b) words substituted by [S.I. 2019/739 reg. 12\(21\)\(a\)](#)
- Art. 31(m) omitted by [S.I. 2019/739 reg. 12\(25\)\(c\)](#)