

Commission Implementing Regulation (EU) No 404/2011 of 8 April 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy

TITLE III

CONTROL OF FISHERIES

CHAPTER I

Fishing logbook, transhipment declaration and landing declaration in paper format

Section 1

Completion and submission of a fishing logbook, landing declaration and transhipment declaration in paper format

Article 29

EU fishing vessels subject to the completion and submission of a fishing logbook and transhipment/landing declaration in paper format

1 Without prejudice to specific provisions contained in multi-annual plans, the master of a EU fishing vessel of 10 metres length overall or more that is not subject to the electronic completion and transmission of fishing logbook data, transhipment declarations and landing declarations, shall complete and submit the fishing logbook data, transhipment declarations and landing declarations referred to in Articles 14, 21 and 23 of the Control Regulation in paper format. These transhipment declarations and landing declarations may also be completed and submitted by the representative of the master on his behalf.

2 The requirement to complete and submit the fishing logbook data, transhipment declarations and landing declarations in paper format shall also apply to EU fishing vessels whose length overall is less than 10 metres when they are required by their flag Member State to keep a fishing logbook and submit transhipment and/or landing declarations in accordance with Articles 16(3) and 25(3) of the Control Regulation.

Article 30

Models for fishing logbooks, transhipment declarations and landing declarations in paper format

1 For all fishing areas, except NAFO sub area 1 and ICES divisions V(a) and XIV, the fishing logbook, transhipment declaration and landing declaration in paper format shall be completed and submitted by masters of EU fishing vessels in accordance with the model shown in Annex VI. However, the model shown in Annex VII may be used for fisheries operations carried out exclusively in the Mediterranean by masters of EU fishing vessels which are not

subject to the obligation to transmit fishing logbook, transshipment declaration and landing declaration data electronically, and which make daily fishing trips in a single fishing zone.

2 For NAFO sub area 1 and ICES divisions V(a) and XIV, the format shown in Annex VIII shall be used for the paper fishing logbook and the format shown in Annex IX for paper transshipment declarations and landing declarations.

3 The fishing logbook, transshipment declaration and landing declaration in paper format shown in Annexes VI and VII shall also be kept in accordance with paragraph 1 and Article 31 of this Regulation when such EU fishing vessels are carrying out fishing activities in the waters of a third country, in waters regulated by a Regional Fisheries Management Organisation or in waters outside EU waters not regulated by a Regional Fisheries Management Organisation, unless the third country or the rules of the Regional Fisheries Management Organisation concerned specifically require a different kind of fishing logbook, transshipment declaration or landing declaration to be completed and submitted. If the third country does not specify a particular fishing logbook, but does require data elements different from those required by the European Union, such data elements shall be recorded.

4 Member States may continue to use paper fishing logbook formats in conformity with Regulation (EEC) No 2807/83 for EU fishing vessels not subject to the electronic completion and transmission of fishing logbook data in accordance with Article 15 of the Control Regulation until stocks of paper fishing logbook formats have been used up.

Article 31

Instructions for the completion and submission of fishing logbooks, transshipment declarations and landing declarations in paper format

1 The fishing logbook, transshipment declaration and landing declaration in paper format shall be completed and submitted in accordance with the instructions set out in Annex X.

2 Where the instructions set out in Annex X state that the application of a rule is optional, the flag Member State may make it mandatory.

3 All entries in the fishing logbook, transshipment declaration or landing declaration shall be legible and indelible. No entry shall be erased or altered. If a mistake is made the incorrect entry shall be crossed out with a single line and the new correct entry shall be written and initialled by the master. Each line shall be initialled by the master.

4 The master of the EU fishing vessel or, for transshipment declarations and landing declarations, his representative shall certify with his initials or signature that the entries in the fishing logbook, transshipment declaration and landing declaration are correct.

Article 32

Deadlines for the submission of a fishing logbook, transshipment declaration and a landing declaration in paper format

1 When a EU fishing vessel has made a landing in a port or a transshipment in a port or in a place close to the shore of its flag Member State, its master shall submit the original(s) of the fishing logbook, transshipment declaration and landing declaration as soon as possible and not later than 48 hours after completion of transshipment or landing to the competent authorities of the Member State concerned. The original(s) of such a transshipment declaration and landing declaration may also be submitted by the representative of the master on his behalf.

Status: This is the original version (as it was originally adopted).

2 When no catches are landed after a fishing trip, the master shall submit the original(s) of the fishing logbook and transhipment declaration as soon as possible and not later than 48 hours after arrival in port. The original(s) of such a transhipment declaration may also be submitted by the representative of the master on his behalf.

3 When a EU fishing vessel has made a transhipment in a port or in a place close to the shore or a landing in a port of a Member State other than its flag Member State, it shall submit the first copy (copies) of the fishing logbook, transhipment declaration and landing declaration as soon as possible and not later than 48 hours after transhipment or landing to the competent authorities of the Member State in which the transhipment or landing takes place. The original(s) of the fishing logbook, transhipment declaration and landing declaration shall be dispatched as soon as possible and not later than 48 hours after transhipment or landing to the competent authorities of the flag Member State.

4 When a EU fishing vessel has made a transhipment in a port or in the waters of a third country or on the high seas or a landing in a port of a third country, it shall dispatch the original(s) of the fishing logbook, transhipment declaration and landing declaration as soon as possible and not later than 48 hours after the transhipment or landing to the competent authorities of the flag Member State.

5 When a third country or the rules of a Regional Fisheries Management Organisation require a different kind of fishing logbook, transhipment declaration or landing declaration from the one in Annex VI the master of the EU fishing vessel shall submit a copy of that document to his competent authorities as soon as possible and not later than 48 hours after transhipment or landing.

Section 2

Specific rules for the fishing logbook in paper format

Article 33

Completion of fishing logbook in paper format

1 The paper fishing logbook shall be completed with all obligatory information even when there are no catches:

- a daily by not later than 24.00 and before entering the port;
- b at the time of any inspection at sea;
- c at the time of events defined in the Community legislation or by the flag Member State.

2 A new line in the paper fishing logbook shall be filled in:

- a for each day at sea;
- b when fishing in a new ICES Division or another fishing zone the same day;
- c when entering fishing effort data.

3 A new page in the paper fishing logbook shall be filled in:

- a when using different gear, or a net of a different mesh size range, to that of the previous gear used;
- b for any fishing done after a transhipment or an intermediate landing;
- c if the number of columns is insufficient;
- d on departure from a port when no landing has taken place.

4 On departure from a port, or following completion of a transshipment operation, and when catches remain on board, the quantities of each species shall be indicated on a new fishing logbook page.

5 The codes given in Annex XI shall apply to indicate, under the appropriate headings of the paper format fishing logbook, the fishing gear used.

Section 3

Specific rules for the transshipment declaration and landing declaration in paper format

Article 34

Handing over of a transshipment declaration in paper format

1 In the case of a transshipment operation between two EU fishing vessels on completion of a transshipment operation the master of the transshipping fishing vessel or his representative shall hand over a copy of his vessel's paper transshipment declaration to the master of the receiving vessel or his representative. The master of the receiving vessel or his representative on completion of transshipment operation shall also hand over a copy of his vessel's paper transshipment declaration to the master of the transshipping vessel or his representative.

2 The copies referred to in paragraph 1 shall be presented for the purposes of control and inspection at the request of an official.

Article 35

Signing of the landing declaration

Each page of the landing declaration shall be signed prior to submission by the master or his representative.

CHAPTER II

Fishing logbook, landing declaration and transshipment declaration in electronic format

Section 1

Completion and transmission of a fishing logbook, landing declaration and transshipment declaration data in electronic format

Article 36

Requirement of electronic recording and reporting system on EU fishing vessels

1 Without prejudice to Article 39(4) of this Regulation an EU fishing vessel subject to electronic completion and transmission of fishing logbook, transshipment declaration and landing declaration in accordance with Articles 15, 21 and 24 of the Control Regulation shall not

be allowed to leave port without a fully operational electronic recording and reporting system installed on board.

2 This Chapter shall not apply to EU fishing vessels used exclusively for the exploitation of aquaculture.

Article 37

Format for transmission of data from an EU fishing vessel to the competent authority of its flag State

Member States shall determine the format to be used between EU fishing vessels flying their flags and their competent authorities for the completion and transmission of fishing logbook, transshipment declaration and landing declaration data as referred to in Articles 15, 21 and 24 of the Control Regulation.

Article 38

Return messages

1 Return messages shall be issued to the EU fishing vessels for each transmission of fishing logbook, transshipment, prior notification and landing data. The return message shall contain an acknowledgement of receipt.

2 The master of an EU fishing vessel shall retain the return message until the end of the fishing trip.

Article 39

Provisions in the event of technical failure or non-functioning of electronic recording and reporting systems

1 In the event of a technical failure or non-functioning of the electronic recording and reporting system fitted on board a EU fishing vessel, the master of the fishing vessel or his representative shall, starting from the time that the event was detected or from the time that he was informed in accordance with Article 40(1) of this Regulation, communicate fishing logbook, transshipment declaration and landing declaration data to the competent authorities of the flag Member State by appropriate telecommunications means on a daily basis and no later than 24.00 even when there are no catches. Member States shall decide on the telecommunication means to be used and indicate them on the website referred to in Article 115 of the Control Regulation.

2 In the event of a technical failure or non-functioning of the electronic recording and reporting system fishing logbook and transshipment declaration data shall also be sent:

- a at the request of the competent authority of the flag State;
- b immediately after the last fishing operation or after the transshipment has been completed;
- c before entering into port;
- d at the time of any inspection at sea;
- e at the time of events defined in Community legislation or by the flag State.

Prior notification and landing declaration data shall also be sent in the cases referred to in (a) and (e).

3 The competent authorities of the flag Member State shall enter the data referred to in paragraph 1 into the electronic data base without delay on their receipt.

4 Following a technical failure or non-functioning of its electronic recording and reporting system, a EU fishing vessel may only leave port once the recording and reporting system fitted on board is fully functioning to the satisfaction of the competent authorities of the flag Member State or is otherwise authorised to leave by the competent authorities of the flag Member State. The flag Member State shall immediately notify the coastal Member State when it has authorised one of its fishing vessels to leave a port in the coastal Member State with a non-functioning electronic recording and reporting system.

5 The removal of the electronic recording and reporting system for repair or replacement shall be subject to the approval of the competent authorities of the flag Member State.

Article 40

Non-receipt of data

1 When the competent authorities of a flag Member State have not received data transmissions in accordance with Articles 15, 22 and 24 of the Control Regulation they shall notify the master or the operator of the EU fishing vessel or their representative(s) thereof as soon as possible. If, in respect of a particular EU fishing vessel, that situation occurs more than three times within a period of calendar year, the flag Member State shall ensure that the electronic recording and reporting system of the fishing vessel is thoroughly checked. The flag Member State shall investigate the matter in order to establish why data have not been received and shall take appropriate measures.

2 When the competent authorities of a flag Member State have not received data transmissions in accordance with Articles 15, 22 and 24 of the Control Regulation and the last position received through the Vessel Monitoring System was from within the waters of a coastal Member State they shall notify the competent authorities of that coastal Member State thereof as soon as possible.

3 The master or the operator of the EU fishing vessel or their representative shall send all data which have not yet been transmitted and for which a notification was received in accordance with paragraph 1 to the competent authorities of the flag Member State immediately on receipt of the notification.

Article 41

Data access failure

1 When the competent authorities of a coastal Member State observe an EU fishing vessel of another Member State in their waters and cannot access fishing logbook or transshipment data in accordance with Article 44 of this Regulation they shall request the competent authorities of the flag Member State to ensure access to those data.

2 If the access referred to in paragraph 1 is not ensured within 4 hours of the request, the coastal Member State shall notify the flag Member State. On receipt of the notification the flag Member State shall immediately send the data to the coastal Member State by any available electronic means.

3 If the coastal Member State does not receive the data referred to in paragraph 2, the master or operator of the EU fishing vessel or their representative shall send the data and a copy of the return message referred to in Article 38 of this Regulation to the competent authorities of the coastal Member State on request and by any available, if possible electronic, means. Member States shall decide on the means to be used and shall indicate them on the website referred to in Article 115 of the Control Regulation.

4 If the master or the operator of the EU fishing vessel or their representative can not provide the competent authorities of the coastal Member State with a copy of the return message referred to in Article 38 of this Regulation, fishing activities in the waters of the coastal Member State by the fishing vessel concerned shall be prohibited until the master, the operator of the fishing vessel or his representative can provide a copy of the return message or information referred to in Article 14(1) of the Control Regulation to the said authorities.

Article 42

Data on the functioning of the electronic recording and reporting system

1 Member States shall maintain databases on the functioning of their electronic recording and reporting system. Those databases shall contain at least and be capable to generate automatically the following information:

- a the list of their fishing vessels whose electronic recording and reporting systems have experienced technical failure or have failed to function;
- b the number of vessels that have not made daily electronic fishing logbook transmissions and the average number of electronic fishing logbook transmissions received per fishing vessel, broken down by flag Member State;
- c the number of transshipment declaration, landing declaration, takeover declaration and sales note transmissions received, broken down by flag Member State.

2 Summaries of information generated according to paragraph 1 shall be sent to the Commission at its request. Alternatively this information may also be made available on the secure website in a format and at time intervals to be decided by the Commission after consultation with Member States.

Article 43

Format for exchange of information between Member States

1 Information referred to in this Section shall be exchanged between Member States using the format defined in Annex XII from which extensible mark-up language (XML) shall be derived. The XML standard to be used for all electronic data exchanges between Member States, and between Member States, the Commission and the body designated by it, shall be decided by the Commission after consultation with Member States.

2 Amendments to the format referred to in paragraph 1 shall be clearly identified and marked with the date it was updated. Such amendments shall not come into effect earlier than 6 months after they have been decided.

3 When a Member State receives electronic information from another Member State it shall ensure that a return message is issued to the competent authorities of that Member State. The return message shall contain an acknowledgement of receipt.

4 Data elements in Annex XII that are mandatory for masters to record in their fishing logbook according to EU rules shall also be mandatory in exchanges between Member States.

Article 44

Access to data

1 A flag Member State shall ensure in real time the electronic exchange of information referred to in Article 111(1) of the Control Regulation to a coastal Member State on fishing logbook, transshipment declaration, prior notifications and landing declaration data of its fishing vessels when conducting fishing operations in the waters under the sovereignty or jurisdiction or entering a port of the coastal Member State.

2 Without prejudice to paragraph 1 a flag Member State may on request ensure in real time the electronic exchange of information referred to in Article 111(1) of the Control Regulation on fishing logbook and transshipment declaration data of its fishing vessels to a Member State carrying out, in accordance with Article 80 of the Control Regulation, inspections of fishing vessels of another Member State in EU waters outside of the waters of the requesting Member State, in international waters or in waters of third countries.

3 Data referred to in paragraphs 1 and 2 for the previous 12 months shall be made available by the flag Member State on request.

4 The data referred to in paragraph 1 shall at least include the data from the last departure from port to the time when the landing is completed. The data referred to in paragraph 2 shall at least include the data from the last departure from port to the time of the request. Data as referred to in paragraphs 1 and 2 from fishing trips for the previous 12 months shall be made available on request.

5 The master of an EU fishing vessel shall have secure access to his own electronic fishing logbook information, transshipment declaration data and landing declaration data stored in the database of the flag Member State at any time.

6 A coastal Member State shall grant online access to its database of fishing logbook, transshipment declaration, prior notification and landing declaration data to a fishery patrol vessel of another Member State via the FMC of that Member State in the context of a joint deployment plan or other agreed joint inspection activities.

Article 45

Exchange of data between Member States

1 Access to the data referred to in Article 44 of this Regulation shall be by secure Internet connection on a permanent basis.

2 Member States shall exchange the relevant technical information to ensure mutual access to and exchange of electronic fishing logbook data, transshipment declaration data and landing declaration data.

3 Member States shall:

- a ensure that data received according to this Chapter are recorded in computer-readable form and safely stored in computerised databases for at least 3 years;
- b take all necessary measures to ensure that they are only used for official purposes; and

- c take all necessary technical measures to protect such data against any accidental or illicit destruction, accidental loss, deterioration, distribution or unauthorised consultation.

Article 46

Single authority

1 In each Member State, the single authority referred to in Article 5(5) of the Control Regulation shall be responsible for transmitting, receiving, managing and processing all data covered by this Chapter.

2 Member States shall exchange contact details of the authorities referred to in paragraph 1 and shall inform the Commission and the body designated by it thereof within 3 months after the entry into force of this Regulation.

3 Any changes in the information referred to in paragraphs 1 and 2 shall be communicated to the Commission, the body designated by it and other Member States before they become effective.

Section 2

Specific rules for the fishing logbook in electronic format

Article 47

Frequency of transmission

1 When at sea the master of an EU fishing vessel shall transmit the electronic fishing logbook information to the competent authorities of the flag Member State at least once a day and no later than 24.00 even when there are no catches. He shall also send such data:

- a at the request of the competent authority of the flag Member State;
- b immediately after the last fishing operation has been completed;
- c before entering into port;
- d at the time of any inspection at sea;
- e at the time of events defined in EU legislation or by the flag State.

When the last fishing operation took place not more than 1 hour before the entry into port the transmissions referred to in (b) and (c) may be sent in a single message.

2 The master may transmit corrections to the electronic fishing logbook and transshipment declaration data up to the last transmission referred to in paragraph 1(c). Corrections shall be easily identifiable. All original electronic fishing logbook data and corrections to those data shall be stored by the competent authorities of the flag Member State.

3 The master shall keep a copy of the information referred to in paragraph 1 on board the fishing vessel for the duration of each absence from port and until the landing declaration has been submitted.

4 When a EU fishing vessel is in port, does not carry fishery products on board and the master has submitted the landing declaration for all fishing operations on the last fishing trip, transmission in accordance with paragraph 1 of this Article may be suspended subject to prior notification to the FMC of the flag Member State. Transmission shall be resumed when the EU

fishing vessel leaves the port. Prior notification is not required for EU fishing vessels equipped with and transmitting data via VMS.

CHAPTER III

Common rules for fishing logbooks, transshipment declarations and landing declarations in paper or electronic format

Section 1

Common rules for the determination of live weight

Article 48

Definitions

For the purpose of this Chapter the following definitions shall apply:

- (1) 'presentation' means the form into which the fish is processed while on board of the fishing vessel and prior to landing, as described in Annex I;
- (2) 'collective presentation' means a presentation consisting of two or more parts extracted from the same fish.

Article 49

Conversion factors

1 For the completion and submission of fishing logbooks as referred to in Articles 14 and 15 of the Control Regulation the EU conversion factors set out in Annexes XIII, XIV and XV shall apply to convert stored or processed fish weight into live fish weight. They shall apply to fisheries products on board or transhipped or landed by EU fishing vessels.

2 By way of derogation from paragraph 1, where Regional Fisheries Management Organisations, of which the European Union is a contracting party or cooperating non-contracting party, for its regulatory area or a third country with whom the European Union has an agreement to fish, for the waters under its sovereignty or jurisdiction, have established conversion factors, those factors shall apply.

3 Where no conversion factors as referred to in paragraphs 1 and 2 exist for a given species and presentation, the conversion factor adopted by the flag Member State shall apply.

4 Without prejudice to paragraph 2 the competent authorities of Member States shall use the EU conversion factors referred to in paragraph 1 when calculating the live weight of transshipments and landings in order to monitor the quota uptake.

Article 50

Calculation method

- 1 The fish live weight shall be obtained by multiplying the fish processed weight by the conversion factors referred to in Article 49 of this Regulation for each species and presentation.
- 2 In case of collective presentations, only one conversion factor corresponding to one of the parts of the collective presentation of a fish shall be used.

Section 2

Common rules for the completion and submission of the Fishing logbook

Article 51

General rules for fishing logbooks

- 1 The margin of tolerance referred to in Article 14(3) of the Control Regulation for the estimation of quantities in kilograms live weight of each species retained on board shall be expressed as a percentage of the fishing logbook figures.
- 2 For catches which are to be landed unsorted the margin of tolerance may be calculated on the basis of one or more representative samples for the total quantities kept on board.
- 3 For the purpose of the application of Article 14 of the Control Regulation species caught for live bait shall be considered as a species caught and kept on board.
- 4 The master of a EU fishing vessel crossing an effort zone where it is authorised to fish shall record and report the information referred to in Article 14(5) of the Control Regulation as applicable even if he does not carry out any fishing activities in that zone.

Section 3

Common rules for the completion and submission of transshipment/landing declarations

Article 52

Margin of tolerance in the transshipment declaration

The margin of tolerance referred to in Article 21(3) of the Control Regulation for the estimation of quantities in kilograms live weight of each species transhipped or received shall be expressed as a percentage of the transshipment declaration figures.

*Article 53***Difference in transhipped catches**

When a difference exists between the quantities of catches transhipped from the transshipping vessel and the quantities taken on board by the receiving vessel the higher quantity shall be considered to have been transhipped. Member States shall ensure that follow up action is taken to determine the actual weight of fishery products transhipped between the transshipping and the receiving vessel.

*Article 54***Completion of landing operation**

When, in accordance with Article 61 of the Control Regulation, the fisheries products are transported from the place of landing before they have been weighed, the landing operation shall be regarded to have been completed for the purpose of the application of Articles 23(3) and 24(1) of the Control Regulation when the fisheries products have been weighed.

*Article 55***Fishing Operations involving two or more EU fishing vessels**

Without prejudice to special rules in the case of fishing operations involving two or more EU fishing vessels:

- from different Member States, or
- from the same Member State but where the catches are landed in a Member States of which they do not fly the flag,

the landed catch shall be attributed to the EU fishing vessel landing the fisheries products.

*CHAPTER IV****Sampling plans and collection of data on EU fishing vessels not subject to fishing logbook and landing declaration requirements****Article 56***Establishment of sampling plans**

The sampling plans referred to in Articles 16(2) and 25(2) of the Control Regulation for the monitoring of EU fishing vessels not subject to fishing logbook and landing declaration requirements shall be established by Member States in accordance with this Chapter to determine the landings of a stock or group of stocks taken by such fishing vessels and, where appropriate, their fishing effort. These data shall be used for the recording of catches and, where appropriate, fishing effort as referred to in Article 33 of the Control Regulation.

Article 57

Sampling methodology

1 The sampling plans referred to in Article 56 of this Regulation shall be drawn up in accordance with Annex XVI.

2 The size of the sample to be inspected shall be determined on the basis of risk as follows:

- a 'very low' risk: 3 % of the sample;
- b 'low' risk: 5 % of the sample;
- c 'medium' risk: 10 % of the sample;
- d 'high' risk: 15 % of the sample;
- e 'very high' risk: 20 % of the sample.

3 Catches per day of a fleet sector for a given stock shall be estimated by multiplying the total number of active EU fishing vessels of the fleet sector concerned with the average daily catch per given stock per EU fishing vessel based on the catches of the sample of the EU fishing vessels inspected.

4 Member States that collect systematically on at least a monthly basis for each of their fishing vessels not subject to fishing logbook and landing requirements data:

- a on all landings of catches of all species in kilogram, including zero landings;
- b on the statistical rectangles where these catches were taken, shall be considered to have met the requirement of a sampling plan as referred to in Article 56 of this Regulation.

CHAPTER V

Control of fishing effort

Article 58

Fishing effort report

1 The fishing effort report referred to in Article 28 of the Control Regulation shall be sent in accordance with Annex XVII.

2 Where the master of an EU fishing vessel transmits a message to the competent authorities by radio in accordance with Article 28(1) of the Control Regulation, Member States shall decide on the radio stations to be used and indicate them on the website referred to in Article 115 of the Control Regulation.

CHAPTER VI

Corrective measures

Article 59

General principles

In order to benefit from the corrective measures referred to in Article 37 of the Control Regulation, Member States shall notify the Commission as soon as possible and in any case within 1 month of the date of the publication in the Official Journal of a closure of a fishery in accordance with Article 36 of the Control Regulation of the extent of the prejudice suffered.

Article 60

Allocation of available fishing opportunities

1 When the prejudice has not been removed wholly or in part by action in accordance with Article 20(5) of Regulation (EC) No 2371/2002, the Commission shall, as soon as possible after receiving the information referred to in Article 59 of this Regulation, take the necessary measures with the aim of remedying the prejudice caused.

- 2 The measure referred to in paragraph 1 shall state:
- a which Member States have suffered prejudice (the prejudiced Member States) and the amount of the prejudice (as reduced by any quota exchanges);
 - b where applicable, which Member States have exceeded their fishing opportunities (the exceeding Member States) and the amount of the excess of fishing opportunities (as reduced by any exchanges in accordance with Article 20(5) of Regulation (EC) No 2371/2002);
 - c where applicable, the deductions to be made from the fishing opportunities of the exceeding Member States in proportion to the exceeded fishing opportunities;
 - d where applicable, the additions to be made to the fishing opportunities of the prejudiced Member States in proportion to the prejudice suffered;
 - e where applicable the date or dates on which the additions and deductions shall take effect;
 - f where appropriate, any other necessary measure for remedying the prejudice suffered.

CHAPTER VII

Engine power

Article 61

Certification of propulsion engine power

1 The certification of the maximum continuous engine power of a new propulsion engine, a replacement propulsion engine and a propulsion engine that has been technically modified, as referred to in Article 40(1) and (2) of the Control Regulation, shall be provided in accordance with Council Regulation (EEC) No 2930/86⁽¹⁾.

2 A propulsion engine shall be considered to have been technically modified as referred to in paragraph 1 when any of its main components (parts), including but not limited to, injection equipment, valves, turbocharger, pistons, cylinder liners, connecting rods, cylinder heads, have been modified or replaced by new parts with different technical specifications resulting in a modified power rating or when the engine adjustments, such as the injection settings, turbocharger configuration, or the valve timings have been modified. The nature of the technical modification shall be clearly explained in the certification referred to in paragraph 1.

3 The holder of a fishing licence shall inform the competent authorities before a new propulsion engine will be installed or before an existing propulsion engine will be replaced or technically modified.

4 This Article shall apply to fishing vessels subject to a fishing effort regime as from 1 January 2012. For other fishing vessels it shall apply as from 1 January 2013. It shall only apply to fishing vessels which have had new propulsion engines installed, or whose existing propulsion engines have been replaced or technically modified, after the entry into force of this Regulation.

Article 62

Verification and sampling plan

1 For the purpose of verifying the engine power in accordance with Article 41 of the Control Regulation, Member States shall establish a sampling plan for the identification of those fishing vessels or groups of fishing vessels in their fleet with a risk of under-declaration of propulsion engine power. As a minimum, the sampling plan shall be based on following high risk criteria:

- a fishing vessels operating in fisheries that are subject to fishing effort regimes, in particular those fishing vessels to which an individual effort allocation in kW*days has been allocated;
- b fishing vessels subject to limitations of vessel power resulting from national or European Union law;
- c fishing vessels for which the ratio of vessel power (kW) to vessel tonnage (GT) is 50 % lower than the average ratio for the same type of fishing vessel, gear type and target species. For the purpose of that analysis, Member States may divide the fleet according to one or several of the following criteria:
 - (i) fleet segmentation or management units defined in national law;
 - (ii) length categories;
 - (iii) tonnage categories;
 - (iv) gears used;
 - (v) target species.

2 Member States may consider additional risk criteria following their own assessment.

3 Member States shall draw a list of their fishing vessels which meet one or more of the risk criteria referred to in paragraph 1 and, where appropriate, the risk criteria referred to in paragraph 2.

4 From each group of fishing vessels corresponding to one of the risk criteria referred to in paragraphs 1 and 2, Member States shall take a random sample of fishing vessels. The size

of the sample shall be equal to the square root rounded to the nearest whole number of fishing vessels in the group concerned.

5 For each fishing vessel included in the random sample, Member States shall verify all technical documents as referred to in Article 41(1) of the Control Regulation in their possession. Among the other documents as referred to under letter (g) of Article 41(1) of the Control Regulation, Member States shall pay special attention to the engine maker catalogue specifications, where available.

6 This Article shall apply as from 1 January 2012. Physical verifications as referred to in Article 41(2) of the Control Regulation shall prioritise trawlers operating in a fishery subject to a fishing effort regime.

Article 63

Physical verification

1 When propulsion power measurements are performed on board a fishing vessel in the framework of a physical verification of propulsion engine power as referred to in Article 41(2) of the Control Regulation, the propulsion engine power may be measured at the most accessible point between the propeller and the engine.

2 If the power of the propulsion engine is measured after the reduction gear, an appropriate correction shall be applied to the measurement in order to calculate the propulsion engine power at the engine output flange according to the definition in Article 5(1) of Regulation (EEC) No 2930/86. That correction shall take into account the power losses resulting from the gearbox on the basis of the official technical data provided by the gearbox manufacturer.

CHAPTER VIII

Control of recreational fisheries

Article 64

Establishment of sampling plans

1 Without prejudice to the use of data as referred to in paragraph 5, sampling plans to be established by Member States in accordance with Article 55(3) of the Control Regulation for the purpose of monitoring catches of stocks subject to recovery plans practised from vessels engaged in recreational fisheries shall provide for the collection of biennial data.

2 The methods used in the sampling plans shall be established clearly and shall be, as far as possible:

- a stable over time;
- b standardised within regions;
- c in accordance with the quality standards established by relevant international scientific bodies and, where appropriate, by the relevant Regional Fisheries Management Organisations to which the European Union is contracting party or observer.

3 The sampling plan shall include a sampling design for the estimation of catches of stocks subject to recovery plans, the gear used and the relevant geographical area of the recovery plan concerned where these catches were taken;

4 Member States shall estimate systematically the accuracy and precision of the collected data.

5 For the purpose of the sampling plans referred to in paragraph 1 Member States may use the data collected according to the multiannual Community programme as laid down in Council Regulation (EC) No 199/2008⁽²⁾ to the extent that such data are available.

6 This provision shall not apply when a Member State has prohibited recreational fisheries of stocks subject to a recovery plan.

Article 65

Notification and evaluation of sampling plans

1 Member States shall notify their sampling plans to the Commission 12 months after the entry into force of a recovery plan. For recovery plans which are already in force at the time of entry into force of this Regulation, the sampling plan shall be notified within 12 months after entry into force of this Regulation. Amendments of the sampling plan shall be notified before they become effective.

2 In addition to the evaluation requested in Article 55(4) of the Control Regulation, the Scientific, Technical and Economic Committee for Fisheries shall also evaluate:

- a after the notification referred to in paragraph 1 and every 5 years thereafter the conformity of the notified sampling plans with the criteria and requirements mentioned in Article 64(2) and (3) of this Regulation;
- b the conformity of any amendments to a sampling plan referred to in paragraph 1 with the criteria and requirements mentioned in Article 64(2) and (3) of this Regulation.

3 The Scientific, Technical and Economic Committee for Fisheries shall make recommendations, where appropriate, for improving the sampling plan.

Status: This is the original version (as it was originally adopted).

- (1) OJ L 274, 25.9.1986, p. 1.
- (2) OJ L 60, 5.3.2008, p. 1.