

Consultation Summary Document

Establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy

On behalf of:



COMMISSION OF THE EUROPEAN COMMUNITIES

And

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Introduction

The European Commission has proposed a new Council Regulation recasting the EU fisheries control system. The result would be a completely modernized system for inspection, monitoring, control, surveillance and enforcement of Common Fisheries Policy (CFP) rules throughout the market chain, from catch to the retailer.

Harmonised inspection procedures and higher standards would ensure uniform implementation of control policy at national level, while taking account of the diversity and specific characteristics of different fleets. There will be measures to promote a culture of compliance throughout the sector, including simplification of the regulatory framework, and the introduction of harmonised deterrent sanctions.

The capacity of the Commission to intervene to ensure that the rules of the CFP are being effectively implemented and enforced by the Member States will also be strengthened. In general, all aspects of the control and monitoring of fisheries activities would be simplified and made more efficient by the new rules.

The current regulation on fisheries control dates back to 1993. It has since been amended a dozen times, in particular in 1998 to include the control of fishing effort, and in 2002 during the last reform of the Common Fisheries Policy. The resulting system has serious shortcomings that prevent it from being as effective as it should be.

As both the European Commission and the European Court of Auditors have highlighted, the current system is inefficient, expensive, complex, and it does not produce the desired results. This in turn impacts negatively on the implementation of other elements of the CFP and undermines the success of conservation and effort management initiatives. Control failures thus contribute to the negative performance of the CFP, which appears unable to deliver on its fundamental objective.

Despite several years of implementation of the 2002 Reform, which has introduced a number of potentially powerful conservation measures, the state of resources in EU waters remains worrying. Some 88% of stocks are over-fished, and this threatens both fish stocks and the livelihoods of fishermen. If we allow this situation to continue, the negative impact on fisheries resources, the fishing industry and regions dependent on fishing is likely to be very serious. That is why the Commission proposes to substantially reform the control system of the CFP, addressing all its shortcomings and modernising its approach.

Consultation Background

Devon Maritime Forum (DMF) has agreed to contribute to the gathering of opinion on the review of the Regulation Controls for the Common Fisheries Policy (CFP). This important piece of legislation will effectively re-write the regulation controls – the measures by which different agencies are able to ensure compliance with the CFP.

As a key stakeholder, you are invited to comment on the Consultation Procedure on Modernisation and Reform of the Control System of the Common Fisheries Policy. Your comments will be fed directly to the appointed expert to the Rapporteur for Fisheries, who will in turn compile an opinion document for the Committee of the Regions. This will be presented to the Committee of the Regions by Sir Simon Day, the Full Member and Deputy Leader of the UK Delegation to the Committee of the Regions of the European Union and UK Spokesman and Rapporteur for Fisheries.

This document contains an overview of the policy changes, together with some commonly asked questions. It then provides a summary of the original Consultation Document. The complete original text of the Consultation is included as a separate Appendix to this consultation summary.

The original document has been summarised here in order for you to access the main information more easily. You are referred to the original text for any issues or questions requiring accuracy and legality. You are asked to arrange your comments using the following headings (objectives) for the control regulations review, you can choose to comment on any or all of the objectives as you feel appropriate:

- **Objective 1. Developing a new approach to inspection and control**
- **Objective 2. Rationalisation of the Rules**
- **Objective 3. Strengthening the Capacity of the Commission**
- **Objective 4. Harmonising sanctions**
- **Objective 5. Strengthening of Cooperation and of Assistance**
- **Objective 6. Developing a Culture of Control**
- **Objective 7. Use of Modern Technologies**
- **Objective 8. Increasing Cost Effectiveness**
- **Objective 9. Adapting the Mandate of the Agency**

Consultation Timetable:

- | | |
|--|------------------------|
| 1. DMF Consultation begins: | 6 th Feb |
| 2. Comments to be returned to DMF by: | 20 th March |
| 3. Comments delivered to Appointed Expert: | 15 th April |
| 4. Opinions final draft delivered to EU Committee: | 7 th May |

Overview of Control Regulation Changes

European Commissioner for Maritime Affairs and Fisheries Joe Borg has said, "Control and enforcement of catch limits should be the cornerstone of the Common Fisheries Policy. Instead it is our Achilles' heel, undermining the credibility of all our other management measures. Both the Commission and the Court of Auditors have diagnosed the problem: with this proposal, the Commission puts forward its solution. The future of sustainable fisheries requires us to replace a system which is inefficient, expensive and complex with one which can really produce results. I believe this proposal will give all the actors involved the tools they need to do the job."

1. Control and monitoring of fishing activities

Under the new control system, all Member States would have to inspect activities along the whole production chain of fishery products including landing, processing, transport and marketing. The use of modern inspection technology, such as the satellite-based Vessel Monitoring System, electronic logbook and electronic reporting of catch data, is to be extended. A comprehensive traceability system for fisheries products will be introduced which would enable all fish and fisheries products to be tracked throughout the market chain.

Measures such as risk-based analysis to target control activities where they are most productive, and comprehensive cross-checks of all relevant data would contribute to increasing the efficiency of controls.

Other new areas covered include the monitoring by Member States of certain fleet management criteria, such as fishing capacity and engine power. General standards are laid down for the specific control measures related to recovery and multi-annual plans, marine protected areas and discards. A new Sighting and Observer scheme will also be introduced.

2. Inspection powers

The proposed Regulation widens the scope of inspections between Member States national fishery inspectors, as it allows for inspections of fishing vessels to take place outside the waters or territory of the inspecting Member State. Also, independent inspections by Commission fishery inspectors will be possible without prior notice to the Member State concerned.

3. Sanctions

The proposed Regulation would introduce harmonised deterrent sanctions across the EU, based on the economic value of the catches concerned. Another major innovation is the proposal for a penalty point system for infringements committed by masters, operators or beneficial owners of a fishing permit, which would lead ultimately to them being automatically deprived of their permits once they had committed a certain number of offences. Measures are also foreseen against Member States which do not adhere to the CFP rules and where this has caused harm to fish stocks. Such measures include the possibility to suspend or reduce EU financial assistance, the closure of fisheries, the deduction of quotas, and the refusal of quota transfers and/or exchanges.

4. Cooperation among Member States

The Regulation would establish a system of mutual assistance and systematic exchange of control-related information between Member States. It also introduces a new approach to the management and communication of control data via secure national websites with remote access for the Commission.

5. Coordinating authority

The inspection powers of the Community Fisheries Control Agency would be extended by the Regulation to enable it to assist with the uniform implementation of the new control system.

Under the CFP, control and enforcement are the exclusive competence of the Member States. The current proposal also reaffirms the distinctive roles of the Commission and the Member States in order to avoid overlaps and ensure that the Commission focuses on its core activity of controlling and verifying implementation of the CFP rules by Member States. The new regulation will replace the existing legal framework laid down in Council Regulation (EEC) No 2847/93.

Some Commonly Asked Questions

What are the main shortcomings of the existing system?

There are three main kinds of problems with the current system:

1. A control and inspection framework which has not kept pace with changes in fisheries management, and remains disproportionately focused on activities at sea.
2. A low detection rate and lack of effective deterrent sanctions have not encouraged a culture of compliance in a world where too many vessels are chasing too few fish.
3. The Commission lacks the powers it needs to exercise full control over the Member States' implementation of CFP rules, and to intervene when necessary to ensure a level playing-field.

The cumulative and ad hoc nature of previous revisions and amendments means that the current framework is also greatly in need of simplification.

Will the new system proposed really be more effective?

The proposed regulation takes a focused approach to addressing each of the problems listed above, and introducing concrete measures to correct current failings.

- Control and inspection will be focused where it is most effective through an approach based on systematic risk analysis. Inspection procedures will be standardised and harmonised for all stages in the market chain, including transport and marketing. Use of modern data-processing and communications technologies will be extended. Where possible, data processing will be automated, and subject to systematic and comprehensive cross-checking. The result will be a system which is more effectively targeted, more effective, and also less costly and burdensome to operate.
- Harmonised administrative sanctions will be introduced, which reflect the economic benefit derived from the infringement, so as to create a truly deterrent effect. Minimum and maximum fines will be established, and a penalty points system will be introduced, which can lead to fishing permits being suspended, or even withdrawn, after a certain number of points have been accumulated. New, more effective systems for sharing control data will be introduced, and the mandate of the Community Fisheries Control Agency will be extended, to enable it to play its role more effectively.
- Commission inspectors will be given the same powers as national inspectors, allowing them to carry out inspections on their own initiative without prior notification. Where failings are detected, the Member State will be given the opportunity to remedy the situation through an action plan drawn up in collaboration with the Commission. The Commission's powers to close fisheries when quotas are exhausted will be strengthened, and it will be able to impose financial sanctions on Member States for poor management of their obligations under the Common Fisheries Policy, including withholding funding granted under the European Fisheries Fund or to support their control systems.

Will the new system be more expensive?

The proposal will reduce the administrative burdens, and make the system less bureaucratic. The Commission's impact assessment found that with the reform adopted, the total administrative costs for operators would be reduced by 51% (from € 78 to 38 millions), largely through the extension of modern technologies (extension of the use of Electronic Reporting System (ERS), Vessel Monitoring System (VMS), Automatic Identification System (AIS)). Existing paper-based tools will be replaced at all stages of the fisheries chain (log book, landing declarations and sales notes). For example, the electronic logbook will lower the administrative burden for the fishermen, as certain basic information will be automatically recorded whereas when using a paper logbook, the fishermen has to fill in each time and on each sheet all information. The time spent filling in the logbook should be reduced by almost 70%, as the fishermen will only need to fill in the catch data.

The system will be quicker, more accurate, less expensive and will allow automated processing of data. It will also facilitate cross-checking of data and information, and the identification of risks. The result will be a more rational and risk-based approach in practice to control actions at sea and on land, which is inherently more cost-effective.

The proposal will also remove the current obligation on Member States to transmit lists of fishing licenses or fishing permits to the Commission, which will instead be made accessible by electronic means to the control services of their own country and of other Member States, as to the Commission.

How will the penalty points system work?

The penalty point system will basically work in the same way as the existing systems applied to traffic offences in most Member States. The number of points to be attributed for specific infringements will be fixed in an implementation regulation. Every time an infringement is committed, the appropriate number of points will be attributed to the offender in the national registry of fishery offences of the flag Member State. Infringements committed in other Member States will be communicated to the flag Member State.

Any vessel which accumulates more than a certain number of points in any one three-year period will have its fishing authorisation suspended for six months. Once the suspension period is over, if the offender then goes on to accumulate the necessary number of points again within a three year period, then the fishing authorisation will be suspended for a duration of 12 months. If, after the end of the second suspension period, the offender again accumulates the necessary number of points, the fishing authorisation will be withdrawn for good. All outstanding points are cancelled once the offender completes a period of three years during which no infringement is recorded. Penalty point systems would apply both for the fishing vessel, and for the master and the officer of the crew.

How far will the Regulation go in harmonising sanctions? Why is it necessary to do this?

The proposal adopts the same approach as the recent Regulation on fighting illegal, unreported and unregulated fishing¹. Under this approach, a maximum penalty must be imposed which is equivalent to at least five times the value of the fishery products obtained by committing a serious infringement, or at least eight times this value in the case of a repeated serious infringement.

For cases where the severity of the infringement cannot be directly linked to the value of any fishery products obtained in the process, the proposal therefore lays down an appropriate range for such sanctions, extending from a minimum sanction level of 5000 € to a maximum level of 300,000 € for serious infringements (and the double of these amounts in case of a repeated infringement). This approach leaves sufficient room for taking account of the particular details of each individual case. The aim of the new regulation is to ensure that the level of sanctions for serious infringements does not fall below a certain limit to ensure a level playing field across the EU. In so far as these limits are respected, the new regulation will not prescribe the actual level of sanction to be applied in any individual case.

How will the traceability system work in practice?

The proposal introduces a comprehensive traceability system so that all fish and fisheries products can be tracked throughout the market chain. Fisheries products will have to be packed in lots on which certain minimum information (identification number of the lot, name of the species, live weight, catching or harvesting data, the production unit) must be provided. This information must be made available to the competent authorities.

This information will also have to be entered into the validation system where it will be cross-checked systematically with other information available for these fishery products. The information for every lot must be available all along the production chain.

Where and to whom do the new rules apply?

The regulation would apply to all fishing activities in EU waters. For that reason, the rules will also apply to the fishing activities of third countries in EU waters. In the case of bilateral agreements with third countries which contain specific provisions on control, these provisions will take priority over the proposed regulation.

The regulation will also apply also to all EU vessels irrespective of where they operate, including outside EU waters. However, it will not take priority over the special provisions contained in fisheries agreements between the EU and third countries in the waters of which EU vessels operate, or over the measures that apply within the framework of Regional Fisheries Management Organisations.

EXPLANATORY MEMORANDUM

I. Context of the proposal

General context

The cornerstone of the Common Fisheries Policy (CFP) is to limit and control catch volumes by setting total allowable catches (TACs) and national quotas coupled with technical rules and effort schemes. The **European fisheries control policy** is at the heart of the CFP, because its credibility depends on effective application of this control policy. Continuing failure of the control policy will have significant consequences for the future of fisheries resources, the fishing industry and the regions dependent on fishing. Accordingly, the Commission proposes a substantial reform of the control system underpinning the CFP. This initiative is a core priority for the Commission in the field of fisheries in 2008.

Grounds for and objectives of the proposal

Due to its global and integrated approach, focusing on every aspect of the CFP, the **reform of the control policy** should not only improve control capacity and management of fisheries resources and establish a level playing field in the EU, but also have a positive structural impact on the fishing industry and on the market and, thus, combat the environmental, economic and social consequences of non-compliance. More specifically, the **proposal aims to achieve:**

- *A new, common approach to control and inspection*
Introduction of harmonised inspection procedures and higher standards should ensure uniform implementation of control policy at Member State level, while taking account of and respecting the diversity and specific characteristics of different fleets.
- *A culture of compliance*
The objective is to influence the behaviour of all stakeholders involved in the full cycle of fishing activities (catching, processing, distribution and marketing), so that compliance with the CFP policies and regulations is achieved not only by means of monitoring and control activities, but also as a result of a general culture of compliance where every part of the industry invests in compliant activities and the legitimacy of the CFP rules is restored.
- *Effective application of CFP rules*
The objective is to strengthen the Commission's management powers and capacity to intervene proportionately to the level of non-compliance by the Member States. The responsibilities of the Commission and of the Member States will be clearly defined in order to avoid overlaps and to ensure that the Commission sticks to its core activity of controlling and verifying implementation of the CFP rules by Member States. The current system of micro-decisions should be progressively replaced by a macro-management-based approach.

Consistency with the other policies and objectives of the Union

The proposal will contribute to the overall objective of the CFP, namely sustainable exploitation of living aquatic resources. In addition, it will contribute to the Sustainable Development Strategy agreed by the European Council in June 2006, through its focus on protection of natural resources. It is also in line with the objectives established at the World Summit on Sustainable Development in 2002 regarding fisheries management and the principle of striving for better ocean governance, which guides the current discussions on a future Maritime Policy for the Community. Moreover, the overall objective of the control reform comes under the four main areas identified by the Commission where there is currently room for improvement in application of Community law.

II. Consultation of the interested parties and impact assessment

Consultation of the interested parties

The moves by the Commission received positive feedback from the participants in the consultation process. Almost all the contributions stressed that it was appropriate to step up the Community action in this field.

Collection and use of expertise

Summary of advice received and used

- Indicative qualitative and quantitative analyses shows that fully implementing the package as a whole with a binding rather than a voluntary instrument is likely to be the most effective means of achieving a high level of compliance.
- If the proposed measures are implemented by a binding regulation, the incremental net benefits to the industry as a result of recovered and better protected stocks could be in the order of EUR 10 billion over 10 years. Such economic benefits are likely to be accompanied by net increases in employment of up to 4 000 new jobs across all sub-sectors. The significant point is how the increase in fish production stimulates new jobs in the sectors and regions concerned.
- Generation of these benefits through implementation of a new regulation will depend on a shift in the emphasis of controls from the sea to more cost-efficient land-based operations. Net benefits, however, should be generated rapidly, reducing relative costs progressively two or three years after implementation, as the culture of compliance is attained.
- As the control measures become more effective and efficiency increases, the gains in efficiency can be passed on to operators in terms of increased profitability of fishing and in the share available for crew and other operatives.

III. Legal elements of the proposal

Content of the proposal

The basic idea of the proposal is that an efficient control policy should be global and integrated and cover all facets of the problem, from net to plate.

A new, common approach to control and inspection

Although the level of compliance by fishing vessels with technical measures should not be ignored, greater attention needs to be paid to comprehensive monitoring of catches. In this context, it is, in particular, necessary to achieve:

- Standardised, coordinated inspection activities and procedures at every link in the chain (at sea, in port, during transport and on marketing);
- general standards for specific control measures applicable to recovery and multi-annual plans, marine protected areas and discards;
- introduction of a comprehensive traceability system;
- full use of modern technologies and efficient data validation systems in order to carry out systematic and comprehensive cross-checks of all relevant data;
- strategic programming, tactical targeting and sampling strategy; and
- use of information that makes it possible to identify risks and to streamline control.

A culture of compliance

In this context, it is necessary to focus on:

- simplification and streamlining of the legal framework;
- introduction of harmonised deterrent sanctions;
- introduction of a penalty point system for infringements committed by masters, operators or beneficial owners of a fishing licence;
- enforcement measures and accompanying sanctions;
- improved cooperation between Member States and with the Commission, including extension of the mandate of the Community Fisheries Control Agency (CFCA);
- a modern approach to transfers of data and exchanges of information, both between Member States and with the Commission or the CFCA via secure websites.

Effective application of CFP rules

In order to ensure effective application of CFP rules, the capacity of the Commission to intervene proportionately to the level of non-compliance by the Member States should be strengthened. At the same time, the management capacity of the Commission should be enhanced. The proposals include:

- redefinition of the powers of Commission inspectors;

- action plans for Member States to improve their implementation if need be;
- powers for the Commission to rectify catch figures of Member States;
- closures of fisheries on the Commission's initiative;
- more flexibility for the Commission to proceed with deductions from quotas in cases of poor quota management; and
- financial measures in cases of bad management.

SUMMARY OF COUNCIL REGULATION

Establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy

Having regard to the opinion of the Committee of the Regions,

After consulting the European Data Protection Supervisor, there is a summary of proposed changes to legislation:

- (2) Given that the success of the Common Fisheries Policy involves implementing an effective system of control, the measures provided for in this Regulation seek to **establish a Community system for inspection, monitoring, control, surveillance and enforcement** with a global and integrated approach so as to ensure compliance with all the rules of the Common Fisheries Policy in order to provide for the sustainable exploitation of living aquatic resources by covering all aspects of the policy.
- (4) The existing regime and all the obligations therein should be consolidated, rationalised and simplified, in particular through reduction of double regulation and administrative burdens.
- (5) In view of the scale of the depletion of marine aquatic resources, it is vital for the European Community to adopt the necessary measures to develop a culture of compliance among all operators with the rules of the Common Fisheries Policy, and with the objectives set out by the World Summit on Sustainable Development in 2002 as well as the European Council's Sustainable Development Strategy. In addition, minimum levels of sanctions for specific serious infringements should be established as well as a system of penalty points for non-compliance.
- (6) The current system of micro-decisions should be progressively replaced by a macro-management-based approach.
- (7) Appropriate steps should be taken to ensure that Member States adopt the necessary measures to implement total allowable catches (TACs), quotas, effort regimes and technical measures in an effective manner.
- (8) The Member States' authorities should be able to monitor landings in their ports. To that end fishing vessels should be required to pre-notify those authorities of their intention to land in their ports.
- (9) The information contained in the logbooks of fishing vessels should be verified at the time of landing. Accordingly, those involved in the landing and marketing of fish and fishery products should be required to declare the quantities landed, transhipped, offered for sale or purchased.
- (10) In order to ensure an adequate level of control over such vessels, Member States should monitor their activities by the implementation of a sampling plan for small fishing vessels under 10 meters.
- (11) In order to ensure compliance with Community conservation and trade measures, steps should be taken to require all fishery products transported within the Community to be accompanied by a transport document identifying their nature, origin and weight.
- (12) Member States should monitor the activities of their vessels in and outside Community waters. To facilitate effective monitoring masters of Community fishing vessels should be obliged to keep a logbook and submit landing and transhipment declarations.
- (13) Transhipments at sea escape any proper control by flag or coastal states and therefore constitute a possible way for operators to carry illegal catch. To improve controls, transhipment operations in Community waters should be authorised only in designated ports.

- (14) Where the management of TACs and quotas is complemented by an effort regime, measures should be put in place to ensure that the regime is properly implemented.
- (15) In order to establish a comprehensive control regime the whole chain of production and marketing should be covered by such a regime. It should include a coherent traceability system and also protect the interests of consumers by providing the information concerning the commercial designation, the production method and the catch area at each stage of the marketing.
- (16) In view of the capacity requirements in the Community fishing fleet, instruments should be introduced for the control of the fleet capacity which should include the monitoring of the engine power and of the use of fishing gear.
- (17) Clear, tailor-made specific control measures should be applied to multi-annual plans, marine protected areas and discards under a special regime. The procedure for the establishment and lifting of real time-closures for fishing grounds should be clarified.
- (18) Common criteria for the implementation of fisheries control and in particular standardised and coordinated inspection procedures at sea, on land and throughout the market chain should be established.
- (19) Control activities and methods should be based on risk management using cross-checking procedures in a systematic and comprehensive way.
- (20) For the consistent and effective prosecution of infringements, provision should be made to enable inspection and surveillance reports drawn up by Commission inspectors, Community inspectors and officials of Member States to be used in the same way as national reports.
- (21) Cooperation and coordination between Member States, with the Commission and the Community Fisheries Control Agency should be intensified in order to promote compliance with the rules of the Common Fisheries Policy, in particular through the exchange of national inspectors and the strengthening of the role and powers of Community inspectors.
- (22) Data from the vessel monitoring system represents a valuable source for scientific advice. Detailed and aggregated data should therefore be made available to end-users for scientific advice regarding the Common Fisheries Policy.
- (23) Modern technologies should be fully exploited since they allow effective monitoring, systematic and automated cross-checks in a rapid and low cost manner, facilitate the administrative procedures for both the national authorities and the operators and thus allows timely risk analyses and global assessments of all relevant control information.
- (24) An integrated maritime surveillance network should be established between surveillance, monitoring, identification and tracking systems operated for the purposes of maritime security and safety, protection of the marine environment, fisheries control, border control, general law enforcement, and trade facilitation. The network shall have the ability to continuously make available information on activities in the maritime domain in order to support a timely decision process. In turn this would allow, the public authorities engaged in surveillance activities to provide a more effective and cost efficient service.
- (25) Community nationals should be deterred from committing infringements of the rules of the Common Fisheries Policy. It is appropriate to introduce harmonised administrative sanctions in combination with a penalty point system to provide a real deterrent.
- (26) It is appropriate to harmonise the minimum and maximum levels of fines laid down for serious infringements against the rules of the Common Fisheries Policy, taking into account the value of the fishery products obtained by committing the serious infringement, any repetition of an infringement and the prejudice to the fishing resources and the marine environment concerned. Immediate enforcement measures and complementary measures should also be laid down.
- (27) To ensure the achievement of the objectives of the Common Fisheries Policy the Commission should be able to take effective corrective measures; to this end the management capacity of the Commission and its capacity to intervene in a manner proportionate to the level of non compliance by a Member State should be strengthened.

- (28) Appropriate means should be foreseen to address failures to discharge the duties incumbent on them under EC and international law as flag, port, coastal or market states and to make sure that Member States take appropriate measures to ensure compliance by their fishing vessels or nationals with CFP and control rules.
- (29) Powers should be conferred to the Commission to close a fishery when the quota of a Member State or a TAC itself is exhausted. The Commission should also be empowered to deduct quotas and refuse quota transfers or quota exchanges to ensure the achievement of the objectives of the Common Fisheries Policy by the Member States.
- (30) The Commission or the body designated by it should be in a position to access directly the fisheries data of Member States to enable it to verify that Member States comply with their obligations and to intervene where inconsistencies are identified.
- (31) The mandate of the Community Fisheries Control Agency should be adjusted and extended to cover audits, inspections of national control systems, organisation of operational cooperation, assistance to Member States and the possibility to set up emergency units where a serious risk to the Common Fisheries Policy is identified.
- (32) This Regulation should not affect any national control provisions which fall within the scope of this Regulation but go beyond its minimum provisions, provided that such national provisions are in conformity with Community law.
- (33) The regulations should ensure that there is no discrimination between Community and third country nationals.
- (34) All measures adopted by the Commission to implement this Regulation will comply with the proportionality principle.
- (35) It should however be for the Council to decide on the obligation to use electronic monitoring devices and traceability tools such as genetic analysis and other fisheries control technologies. Since those technologies entail costs for national control authorities and for the sector concerned, it is appropriate that the Council should reserve for itself the right to exercise implementing powers directly in this specific case.
- (36) The confidentiality of the data collected and exchanged in the framework of this Regulation should be guaranteed. Clear rules for the processing of personal data are needed for reasons of legal certainty and transparency, and to ensure the protection of fundamental rights, and in particular, the right to the protection of the private life of individuals.
- (37) 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 is intended to ensure the free movement of personal data in the Internal Market. It shall apply to the processing of personal data activities carried out by the Member State in application of this Regulation.
- (38) 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, shall govern the processing of personal data carried out by the Commission in the application of this Regulation.
- (39) In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objective of ensuring the effective implementation of the Common Fisheries Policy to establish a comprehensive and uniform system of controls. This Regulation does not go beyond what is necessary in order to achieve the objectives pursued, in accordance with the third paragraph of Article 5 of the Treaty.

GENERAL CONDITIONS FOR ACCESS TO WATERS AND RESOURCES

Article 6

Fishing licence

- A Community fishing vessel may be used for commercial exploitation of living aquatic resources only if it has a valid fishing licence
- Flag Member States shall issue and manage the fishing licences
- Flag Member State shall withdraw permanently the fishing licence-of a vessel which is the subject of a capacity adjustment measure or which has had its fishing authorisation withdrawn

Article 7

Fishing authorisation

- A fishing authorisation shall not be issued if the vessel concerned does not have a fishing licence or if its fishing licence has been suspended or withdrawn. A fishing authorisation shall automatically become null where the fishing licence corresponding to the vessel has been withdrawn permanently. It shall be suspended where the fishing licence has been suspended temporarily.

Article 8

Marking of the fishing gear

- The master of a vessel shall respect conditions and restrictions relating to the marking and identification of vessels and their gear

Article 9

Vessel Monitoring System

- Member States shall operate a satellite-based Vessel Monitoring System
- A fishing vessel exceeding 10 meters length overall shall have installed on board a fully functioning device which allows that vessel to be automatically located and identified through the Vessel Monitoring System
- Member States shall make detailed and aggregated data available to end-users in order to support scientific analysis
- Community vessels up to 15 meters length overall may be exempted from the requirement to be fitted with a Vessel Monitoring System if they:
 1. operate exclusively within the territorial seas of the flag Member State or
 2. never spend more than 24 hours at sea taken from the time of departure to the return to port.
- Third country fishing vessels operating in Community waters shall have installed on board a fully functioning device which allows automatically localising and identifying that vessel by Vessel Monitoring System
- Member States shall establish and operate Fisheries Monitoring Centres, which shall monitor fishing activities and fishing effort
- Each flag Member State shall appoint the competent authorities responsible for the Fisheries Monitoring Centres and shall ensure that these have the proper staffing resources and equipment enabling automatic data processing and electronic data transmission

Article 10

Automatic Identification System

- A fishing vessel exceeding 15 meters length overall shall be fitted with and maintain in operation an Automatic Identification System

Article 11

Vessel Detection System

- Member States shall ensure that their Fisheries Monitoring Centres possess the technical capacity to use a Vessel Detection System.
- The Commission may require a Member State to use a Vessel Detection System for a given fishery and at a given time

Article 12

Transmission of data for surveillance operations

- Data from the Vessel Monitoring System, Automatic Identification System and Vessel Detection System may be transmitted to Commission agencies and other public authorities of the Member States

Article 13

New technologies

- In order to assess the technology to be used, Member States, in cooperation with the Commission, or the body designated by it, shall carry out pilot projects on traceability tools, such as genetic analysis before 1 June 2013
- The Council shall decide on the introduction of other new fisheries control technologies when these technologies lead to improved compliance with the rules of the Common Fisheries Policy in a cost effective way

MONITORING OF FISHERIES

Chapter I

Monitoring Of The Use Of Fishing Opportunities

Article 14

Logbook

1. Masters of Community fishing vessels exceeding 10 meters length overall shall keep a logbook of their operations, indicating specifically all quantities greater than 15 kg of live-weight equivalent of each species caught and kept on board, the date and the relevant geographical area, and the type of gear used.
2. Masters of Community fishing vessels shall record and account in their logbooks for the time spent in an area
3. The permitted margin of tolerance in estimates recorded in the logbook of the quantities in kilograms of fish retained on board shall be 5 %

Article 15

Electronic recording and transmission of logbook data

1. The master of a Community fishing vessel exceeding 10 meters length overall shall record by electronic means fisheries logbook information and shall send it by electronic means to the competent authority of the flag Member State at least once a day

Article 16

Vessels exempted from logbook requirements

1. Each Member State shall monitor the activities of fishing vessels which are exempt from the requirements in order to ensure compliance
2. Each Member State shall establish a sampling plan and transmit it every year before 31 January to the Commission indicating the methods used for the establishment of this plan

Article 17

Prior notification

2. A master of a Community fishing vessel or his representative shall transmit the prior notification by electronic means to the competent authority of the flag Member State. The logbook information may be sent in one transmission if this transmission contains the required information regarding each of them

Article 18

Transshipment

1. Transshipments at sea shall be prohibited in Community waters. They shall be allowed only subject to an authorisation in ports of Member States designated for this purpose, and under the conditions laid down in this Regulation

Article 19

Transhipment declaration

1. The masters, or their representatives, of both the transshipping and the receiving vessel shall submit a transhipment declaration, as soon as possible and not later than 24 hours after transhipment,
2. The transhipment declaration shall be submitted only to the flag Member State. The flag Member State shall forward immediately upon receipt the transhipment declarations to the port Member State concerned
3. The transhipment declaration shall indicate the quantity of fishery products by species that has been transhipped, the date and place of each catch, the names of the vessels involved and the ports of transhipment and destination. Masters of both the vessels involved shall be held responsible for the accuracy of such declarations

Article 20

Authorisation to land and to tranship

2. Landing shall not commence until it has been authorised by the competent authorities of the Member State concerned
4. When giving the authorisation to land, the competent authorities shall assign a unique landing number (ULN) to the landing and inform the master of the vessel thereof

Article 21

Landing declaration

1. The master shall be responsible for the accuracy of the landing declaration which shall indicate the quantities landed of each species stipulated in Article 14 and the area where and the date when they were caught

Article 22

Vessels exempted from landing declaration requirements

1. Each Member State shall monitor the activities of fishing vessels which are exempt from the landing declaration requirements in order to ensure compliance by these vessels with the rules of the Common Fisheries Policy
2. To this end, each Member State shall establish a sampling plan based on the methodology adopted by the Commission and transmit it every year before 31 January to the Commission

Article 23

Recording of catches and fishing effort

1. Each Member State shall record all relevant data on fishing opportunities as referred to in this Chapter, expressed both in terms of catches and fishing effort, and shall keep the originals of that data for a period of three years or longer in accordance with national rules
3. All catches of a stock or a group of stocks subject to quota made by Community fishing vessels shall be charged against the quota applicable to the flag Member State for the stock or group of stocks in question, irrespective of the place of landing

Article 24

Exchange of data

1. Member States of landing shall provide data on landings, sales, transshipments or transport of fishery products carried out in its ports or waters under its sovereignty or jurisdiction by fishing vessels flying the flag of the requesting Member State
2. This information shall at least consist of the name and the external identification mark of the vessel in question, the quantities of fish by stock or group of stocks landed, sold or transhipped by that vessel as well as the date and place of landing, sale, transhipment or transport
3. The Member State where the landing, sale, transhipment or transport has taken place shall transmit to the Commission this information at the same time as it is communicated to the flag Member State of the vessel

Article 25

Data on the exhaustion of fishing opportunities

1. A Member State shall inform the Commission, without delay, when it establishes that:
 - a) the catches of a stock or group of stocks subject to a quota made by the fishing vessels flying its flag are deemed to have exhausted 80 % of that quota, or
 - b) 80 % of the maximum fishing effort level for a fishing area and applicable to all or part of the fishing vessels flying its flag is deemed to have been reached

Article 26

Closure of fisheries by Member States

1. Each Member States shall establish the date from which:
 - a) the catches of a stock or group of stocks subject to a quota made by the fishing vessels flying its flag shall be deemed to have exhausted that quota;
 - b) the maximum fishing effort level for a fishing area and applicable to all or part of the fishing vessels flying its flag shall be deemed to have been reached

Article 27

Closure of fisheries by the Commission

2. On the basis of the information under Article 26 or on its own initiative, where the Commission finds that fishing opportunities available to the Community or a Member State are deemed to be exhausted, it shall inform the Member States concerned thereof and shall prohibit fishing activities for the respective area, gear, stock, group of stocks or fleet involved in those specific fishing activities

Article 28

Corrective measures

2. These measures may involve making deductions from the fishing opportunities of any Member State which has over-fished, the quantities so deducted to be allocated appropriately to the Member States whose fishing activities were halted before their fishing opportunities were exhausted
3. These deductions and the consequent allocations shall be made taking into account as a matter of priority the species and zones for which the fishing opportunities were fixed

Chapter II Monitoring Of Fleet Management

Article 29

Fishing capacity

1. Member States shall be responsible for carrying out the necessary checks in order to ensure that the total capacity corresponding to the fishing licences issued by a Member State, in GT and in kW, shall at any moment not be higher than the maximum capacity levels for that Member State

Article 30

Monitoring of engine power

1. Fishing shall only be allowed with fishing vessels equipped with engines that do not have a power exceeding that stated in the engine certificate
2. It shall be prohibited to manipulate an engine with the aim of increasing its power beyond the maximum power according to the engine certificate
3. It shall be prohibited to use new or replacement engines that have not been officially approved by the Member State concerned
4. Member States shall ensure that certified engine power is not exceeded

Article 31

Certification of engine power

1. New engines, replacement engines and engines that have been technically modified shall be officially approved by the Member States' authorities for not being capable of producing more power than stated in the engine certificate

Article 32

Cross checking of engine power

1. Member States shall undertake data cross-checks to verify the consistency of engine power with all the information available to the administration concerning the vessel technical characteristics
2. When there are indications that the power of the engine of a fishing vessel is greater than the power stated on its fishing licence, Member States shall proceed to a physical verification of the engine power

Chapter III
Monitoring Of Multi-annual Plans

Article 33

Transshipments in port

1. Community fishing vessels shall not transfer their catches on board of any other vessel or vehicle without previously landing their catches in order to be weighed in an auction centre or other body authorised by Member States

Article 34

Designated ports

1. The Council may decide on a threshold amount applicable to the live weight of species above which a vessel shall be required to land its catches in a designated port
2. Where more than the threshold quantity of fish as referred to in paragraph 1 is to be landed, the master of a Community fishing vessel shall ensure that such landing is only made in a designated port in the Community
3. Each Member State shall designate ports in which landings referred to in paragraph 2 shall take place

Article 35

Separate stowage of recovery species

1. It shall be prohibited to retain on board a Community fishing vessel quantity of a species subject to a multiannual plan mixed with any other fishery product
2. Boxes shall be properly marked with a label indicating the FAO code of the species and shall be stowed in the hold in such a way that they are kept separate from other boxes

Article 36

National control action programmes

1. Member States shall define a national control action programmes applicable to each multiannual plan
2. Member States shall set out specific inspection benchmarks

Chapter IV
Monitoring Of Technical Measures

Article 37

Fishing gear

1. Any fishing gear used in a fishery shall comply with the technical specifications laid down in the rules of the Common Fisheries Policy for this fishery
2. In fisheries in which it is allowed to have more than two types of gear on board, the gear which is not used shall be stowed so that it may not readily be used in accordance with the following conditions:
 - a) nets, weights and similar gear shall be disconnected from their trawl boards and towing and hauling wires and ropes;
 - b) nets which are on or above deck shall be securely lashed and
 - c) longlines shall be stowed in lower decks

Article 38

Catch composition

1. All changes from the mesh size previously used as well as the catch composition on board at the moment of any such change shall be entered into the logbook and the landing declaration

Article 39

Vessel monitoring system

1. When a Marine Protected Area is defined, the position limiting the geographical polygon and the correspondent vessel positions shall be measured in accordance with the applicable standard
2. Fishing activities of Community fishing vessels in fishing zones where a Marine Protected Area has been defined shall be monitored by the Fisheries Monitoring Centre of the coastal State, which shall have a system to detect and record the vessels' entry into, transit through and exit from the Marine Protected Area
3. An alarm system shall be available in the Fisheries Monitoring Centre of the coastal State that can automatically detect vessels entering in the Marine Protected Area. The alarm system shall also be on board the vessel so as to alert the master of the vessel if he is about to enter the Marine Protected Area
4. Member States shall establish an alarm system when the vessel enters the control safety zone around the areas to be protected
5. The frequency of data transmissions shall be of at least once every 15 minutes when a vessel enters the control safety zone and it shall be real-time transmission when the vessel enters in the Marine Protected Area

Article 40

Transit through a Marine Protected Area

1. Transit through a Marine Protected Area is allowed for all fishing vessels subject to the following conditions:
 - a) all gears carried on board are lashed and stowed during the transit; and
 - b) the speed during transit is not less than 6 knots

Article 41

Registration of discards

1. The master of a fishing vessel shall record all discards above 15 kg of live weight equivalents in volume and shall communicate this information without delay to its competent authorities
2. Member States shall establish a special scheme to monitor fishing vessels flying their flag with a fishing authorisation under a scheme of progressive reduction of discards

Article 42

Logbook checks

1. For vessels fitted with a Vessel Monitoring System, Member States shall verify systematically that the information received at the Fisheries Monitoring Centre corresponds to activities recorded in the logbook by using Vessel Monitoring System data. Such cross-checks shall be recorded in computer-readable format and kept for a period of three years.

Article 43

General provisions

1. When a trigger by-catch level has been reached the area concerned shall be temporarily closed to fisheries in accordance with the provisions of this Section. Such a real time closure shall be established for a fixed time not exceeding 10 days

Article 44

Real-time closure by Member States

1. When a trigger by-catch level has been detected by any fishery protection vessel, the fishery protection vessel shall inform without delay the competent authorities of the coastal Member State
2. Where the quantity of by-catches exceeds a trigger by-catch level in any one haul, the fishing vessel shall change the fishing area by at least five nautical miles from any position of the previous haul

before continuing fishing and shall inform without delay the competent authorities of the coastal Member State. If at least three fishing vessels have had to leave a fishing area as a result of exceeding the trigger by-catch level, the information received from those vessels shall be used by the coastal Member State to establish a real time closure

3. On the basis of the information received in accordance with paragraphs 1 or 2 the coastal Member State shall decide the real-time closure of the area concerned. It shall inform without delay the Commission, all Member States and third countries whose vessels are authorised to operate in the concerned area that a real-time closure has been established. Fishing activities in such an area are prohibited as defined in the decision establishing the real-time closure.

Article 45

Real-time closure by the Commission

1. On the basis of the information received demonstrating that a trigger by-catch level has been reached the Commission may determine an area to be temporarily closed if the coastal Member State has not itself established such a closure
2. The Commission shall inform without delay all Member States and third countries whose vessels operate in this area and shall make available without delay on its official website a map with the coordinates of the area temporarily closed, specifying the duration of the closure and the conditions governing fisheries in that specific closed area

Article 46

Re-opening of a temporarily closed area

1. After a minimum of 60 hours after the defined area has been closed, and under the control of the inspection services of the coastal Member State, a limited number of vessels carrying on board a scientific observer, shall undertake trial fishing operations to verify the level of by-catches

Article 47

Recreational fisheries

1. Recreational fisheries on a vessel in Community waters on a stock subject to a multi-annual plan shall be subject to an authorisation for that vessel issued by the flag Member State
2. Catches in recreational fisheries on stocks subject to a multi-annual plan shall be registered by the flag Member State
3. Catches of species subject to a multi-annual plan by recreational fisheries shall be counted against the relevant quotas of the flag Member State. The Member States concerned shall establish a share from such quotas to be used exclusively for the purpose of recreational fisheries
4. The marketing of catches from a recreational fishery shall be prohibited except for philanthropic purposes

MONITORING OF MARKETING

General Provisions

Article 48

Principles for the monitoring of marketing

1. Each Member State shall be responsible for monitoring on its territory the application of the rules of the Common Fisheries Policy at all stages of the marketing of fishery and aquaculture products, from the first sale to the retail sale, including transport
4. Member States shall ensure that all fishery and aquaculture products from catching or harvesting are put into lots.

Article 49

Common marketing standards

1. Member States shall ensure that the products to which common marketing standards apply are displayed for sale, offered for sale, sold or otherwise marketed only if they comply with these standards

Article 50

Traceability

1. Member States shall ensure that their operators put in place systems and procedures which allow the information on the provenance of the fishery and aquaculture products to be made available to the competent authority
2. The minimum information requirements for all lots of fishery and aquaculture products in order to trace their provenance shall be:
 - a) the identification number of each lot;
 - b) the commercial and scientific name of each species;
 - c) the live weight in kilograms;
 - d) the date of catching and/or harvesting;
 - e) the production unit (name of the fishing vessels, aquaculture site);
 - f) name and address of the suppliers;
 - g) the gear

Post-landing activities

Article 52

First sale in auction centres

1. Member States shall ensure that the first marketing of all quantities subject to catch or effort limits are sold and/or registered at an auction centre to registered buyers
3. The buyer of fisheries products from a fishing vessel at first sale shall be registered with the authorities of the Member State where the first sale takes place

Article 53

Weighing of fishery and aquaculture products

1. The weighing shall be carried out prior to the fish being sorted, processed, held in storage and transported from the place of landing or resold
2. The figure resulting from the weighing shall be used for the completion of landing declarations, sales notes and takeover declarations
4. The competent authorities of a Member State may require that any quantity of fish first landed in that Member State is weighed in the presence of officials before being transported elsewhere from the place landing

Article 54

Sales notes

1. Registered buyers, registered auctions or other bodies shall submit a sales note to the competent authorities of the Member State in whose territory the first sale takes place
2. Member States responsible for monitoring the first marketing shall ensure that a copy of the sales note is submitted to the authorities responsible for monitoring the landing of the products concerned and to the authorities of the flag Member State of the vessel

Article 57

Take-over declaration

1. The submission of the take-over declaration and its accuracy shall be the responsibility of the holder of this declaration

Article 58

Transport document

1. Fishery products landed into the Community shall be accompanied by a transport document until the first sale has taken place.
2. In the event that the products are transported to a Member State other than the Member State of landing, a copy of the transport document to the competent authorities of the Member State in whose territory the first marketing is declared to take place
4. The transport document shall indicate:
 - a) the place of destination of the consignment(s) and the identification of the transport vehicle;
 - b) the name and Community fleet register of the fishing vessel that has landed the products;
 - c) the quantities of fish for each species transported in kilograms of processed or unprocessed weight, the name(s) and address(es) of the consignee(s), the place and date of loading and the geographical origin of each species, expressed by reference to a sub-area and division or sub-division in which catch limits apply pursuant to Community legislation

Producer Organisations Price And Intervention Arrangements

Article 59

Monitoring of producer organisations

2. In order to ensure that the rules pertaining to producer organisations are complied with, the Commission shall carry out checks and in the light of such checks may, where appropriate, request that Member States withdraw recognition

Article 60

Monitoring of price and intervention arrangements

Member States shall carry out all the checks regarding the price and intervention arrangements, in particular:

- (a) the withdrawal of products from the market for purposes other than human consumption;
- (b) carry over operations for stabilising, storing and/or processing of products withdrawn from the market;
- (c) private storage of products frozen at sea;
- (d) compensatory allowance for tuna intended for processing.

SURVEILLANCE

Article 61

Sightings at sea and detection by Member States

1. Member States shall carry out surveillance in maritime waters under their sovereignty or jurisdiction based on
 - (a) sightings of fishing vessels by inspection vessels or surveillance aircrafts,
 - (b) a Vessel Detection System as referred to in Article 11
4. In the event that an official of a Member State sights or detects a fishing vessel engaged in activities that may be considered as an infringement to the rules of the Common Fisheries Policy, he shall without delay issue a surveillance report and send it to their competent authorities

Article 62

Action to be taken upon information on sightings and detection

1. Flag Member States shall, upon receipt of a surveillance report from another Member State, take prompt action on it
2. Member States shall verify whether the sighted vessel reported has carried out activities in the waters under their jurisdiction or sovereignty or if fishery products stemming from that vessel have been landed or imported into their territory
3. Flag Member States shall also examine suitably documented information regarding sighted vessels submitted by individual citizens, civil society organisations, including environmental organisations, as well as representatives of fisheries or fish trade stakeholder interests

Article 63

Observers

1. Observers on board vessels shall monitor the fishing vessel's compliance with the rules of the Common Fisheries Policy. They shall implement all the tasks of an observer scheme and in particular verify and record the vessel's fishing activities and relevant documents
2. Observers shall be qualified and experienced for their tasks. They shall be independent of the owner, the master of the vessel and any crew member. They shall not be a member of the crew of the vessel
3. As far as possible observers shall ensure that their presence on board fishing vessels does not hinder or interfere with the fishing activities and the normal operations of the vessel
4. Observers shall draw up a surveillance report and forward it to their authorities and/or to the flag State authorities
5. Masters of Community fishing vessels shall provide adequate accommodation for assigned observers, facilitate their work and avoid interference with the discharge of their duties. Masters shall provide observers access to relevant parts of the vessel, including the catch, and to the vessel's documents including electronic files
6. All costs arising from the operation of observers under this Article shall be borne by the flag Member States. Member States may charge those costs, in part or in full, to the operators of the vessels flying their flags involved in the relevant fishery

Article 64

Admissibility of surveillance reports

1. Surveillance reports drawn up by authorised persons shall constitute admissible evidence in administrative or judicial proceedings of any Member State. For establishing facts they shall be treated equally to surveillance reports of officials of the Member State where the administrative or judicial proceedings take place. Appropriate follow-up action shall be taken on the basis of those reports

INSPECTION

General provisions

Article 65

Conduct of inspections

2. Officials shall carry out their duties in accordance with Community law. They shall conduct inspections in a non-discriminatory manner at sea, in ports, during transport, on processing premises and during the marketing of the fish
2. Officials shall check in particular
 - a) the legality of the catch kept on board, stored, transported, processed or marketed and the accuracy of the documentations relating to it;
 - b) the legality of the fishing gear used for the targeted species and for the catches kept on board;
 - c) if appropriate, the stowage plan and the separate stowage of species and
 - d) the marking of passive gear
3. Officials shall examine all relevant areas, decks and rooms where fishery products are caught, stored, transported, processed or marketed. They shall also examine catches, processed or not, nets or other gear, equipment, containers and packages containing fish or fishery products and any relevant documents which they deem necessary to verify compliance with the rules of the Common Fisheries Policy. They may also question persons deemed to have information on the matter that is the subject of the inspection

Article 66

Duties of the operator

1. The operator shall facilitate the safe access to the vessel, transport vehicle or room where the fishery products are stored, processed or marketed. He shall ensure the safety of the officials and shall not obstruct, intimidate or interfere with the officials in the performance of their duties

Article 67

Inspection report

1. Officials shall draw up an inspection report after each inspection and shall forward it to their authorities. In case of an inspection carried out in the waters under the sovereignty or jurisdiction of another Member State, a copy of the inspection report shall be sent without delay to that Member State

Article 68

Admissibility of inspection reports

1. Inspection reports drawn up by authorised persons authorised shall constitute admissible evidence in the administrative or judicial proceedings of any Member State

Article 69

Electronic database

1. Member States shall set up and keep up to date an electronic database where they upload all inspection and surveillance reports drawn up by their officials

Article 70

Community inspectors

1. A list of Community inspectors shall be established by the Commission, who shall be officials of a Member State or the Commission or the Agency
4. Community inspectors shall have the same powers as national inspectors. While performing their tasks and exercising their powers, Community inspectors shall comply with Community law and the national law of the Member State where the inspection takes place

Inspections outside the waters or the territory of the inspecting Member State

Article 71

Inspections of vessels outside the waters of the inspecting Member State

1. A Member State may inspect fishing vessels flying its flag in all Community water
3. A Member State may inspect Community fishing vessels flying the flag of another Member State in international waters
4. A Member State may inspect Community fishing vessels flying its own flag or the flag of another Member State in waters of third countries in accordance with international agreements
5. Member States shall designate the competent authority which shall act as the contact point for the purpose of this Article

Article 72

Requests for authorisation

2. The requesting Member State shall be informed of the decision without delay. Decisions shall also be communicated to the Commission or the body designated by it
3. Requests for authorisations shall be denied in whole or in part only to the extent necessary for compelling reasons of national security

Article 73

Inspections outside the territory of the inspecting Member State

A Member State may carry out inspections in accordance with this Regulation on the territory of another Member State:

- a) following authorisation of the Member State concerned, or
- b) where a Specific Community control action programmes has been adopted in accordance with Article 87

Infringements detected in the course of inspections

Article 75

Infringements detected outside the waters of the inspecting Member State

1. If an infringement has been detected as a result of an inspection carried out, the inspecting Member State shall immediately submit a summary inspection report to the coastal Member State. A full inspection report shall be submitted to the coastal and to the flag State within seven days from the time of inspection

Article 76

Enhanced follow-up with regard to certain serious infringements

1. The flag Member State or the coastal Member State shall require the vessel to proceed immediately to a port for a full investigation
3. Inspectors may remain on board a fishing vessel until a full investigation has been undertaken
4. The master of the fishing vessel shall cease all fishing activities and proceed to port as required.

Prosecution of infringements detected in the course of inspections

Article 78

Transfer of prosecution

1. The inspecting Member State may transfer prosecution of the infringement to the competent authorities of the flag Member State or the Member State of registration or the Member State of which the offender is a citizen

Article 79

Infringement detected by Community inspectors

1. Member States shall undertake all necessary actions to prosecute any infringement that a Community inspector has discovered on their territory, in the waters under their sovereignty or jurisdiction, or on a vessel flying their flag

Article 80

Corrective measures in the absence of prosecution by the Member State of landing or transhipment

1. If the Member State of landing or transhipment is not the flag Member State the quantities illegally landed or transhipped may be set against the quota allocated to the Member State of landing or transhipment
2. The quantities of fish to be set against the quota of the Member State of landing or transhipment shall be fixed after the Commission has consulted the two Member States concerned
3. If the Member State of landing or transhipment no longer has a corresponding quota at its disposal, illegally landed or transhipped shall be deemed equivalent to the amount of the prejudice suffered, as mentioned in that Article, by the flag Member State

ENFORCEMENT

Article 81

Measures to ensure compliance

1. Member States shall ensure that appropriate measures are systematically taken against the persons suspected of a breach of any of the rules of the Common Fisheries Policy
2. The proceedings shall be capable of effectively depriving those responsible of the economic benefit of the infringements and of producing results proportionate to the seriousness of such infringements, thereby effectively discouraging further offences of the same kind
3. Member States may apply a system whereby a fine is proportionate to the turnover of the person, or to the financial advantage achieved or envisaged by the commission of the serious infringement
4. The competent authorities of the Member State having jurisdiction in the event of an infringement shall notify all nations or bodies with an interest in the follow up of the infringement or other measures taken and of any definitive ruling relating to such infringement, including the number of points assigned

Article 82

Sanctions for serious infringements

1. Member States shall ensure that infringements are punishable by effective, proportionate and dissuasive administrative sanctions
2. In addition, for all serious infringements, Member States shall ensure that infringement is punishable by an administrative fine of a minimum of at least 5.000 EUR and a maximum of at least 300.000 EUR for each serious infringement
3. In case of a repeated serious infringement within a 5 year period, a Member State shall impose an administrative fine of a minimum of at least 10.000 EUR and a maximum of at least 600.000 EUR
4. In fixing the amount of the fines the Member States shall also take into account the value of the prejudice to the fishing resources and the marine environment concerned
5. Member States in which the Euro has not been adopted shall apply the market exchange rate between the Euro and their currency of the last but one day of the month proceeding the one when the administrative fine is imposed, as published in the C series of the Official Journal of the European Union
6. Member States may also, or alternatively, use effective, proportionate and dissuasive criminal sanctions

Article 84

Penalty point system

1. Member States shall apply a penalty point system on the basis of which the holder of a fishing authorisation receives appropriate penalty points as a result of an infringement against the rules of the Common Fisheries Policy

3. When the total number of penalty points equals or exceeds a specified number of points, the fishing authorisation shall be automatically suspended for a period of at least six months. That period shall be one year if the fishing authorisation is suspended a second time as a consequence of a permit holder being assigned the specified number of points. In case of the holder being assigned the specified number of points for a third time, the fishing authorisation shall be permanently withdrawn
4. In the event of a serious infringement the penalty points assigned shall be at least equal to half of the points referred to in paragraph 3
5. If the holder of a suspended fishing authorisation does not commit, within three years from the date of the last infringement, another infringement, all points on the fishing authorisation shall be deleted
7. Member States shall also establish a penalty point system under which the master and the officers of a vessel receive appropriate penalty points as a result of an infringement against the rules of the Common Fisheries Policy committed by them

Article 85

National registers of infringements

1. Member States shall register in a national data base all infringements against rules of the Common Fisheries Policy, committed by vessels flying their flag or by their nationals, including the sanctions they incurred and the number of points assigned
2. When prosecuting an infringement against rules of the Common Fisheries Policy, Member States shall systematically request other Member States to provide information in their national data bases, on the fishing vessels and persons suspected of having committed the infringement in question or caught in the act while committing the infringement in question

CONTROL PROGRAMMES

Article 86

Common control programmes

1. Member States may carry out, among themselves and on their initiative, monitoring, inspecting and surveillance programmes concerning fisheries activities

Article 87

Specific Community control action programmes

1. The Commission, in concert with the Member States concerned, may determine which fisheries shall be subject to Specific Community control action programmes
4. The Member States concerned shall adopt the necessary measures to ensure the implementation of the Specific Community control action programmes, particularly as regards required human and material resources and the periods and zones where these are to be deployed.

EVALUATION, MANAGEMENT AND CONTROL BY THE COMMISSION

Article 88

Responsibilities of the Commission

1. The Commission shall control and evaluate the application of the rules of the Common Fisheries Policy by the Member States. For this purpose the Commission may, on its own accord and by its own means, initiate and carry out inquiries, audits and inspections
2. The Commission shall issue written instructions to its inspectors indicating their authority and the objectives of their mission

Article 89

Programmed verifications

1. Wherever it is deemed necessary by the Commission, its officials may be present during control activities carried out by national control authorities

3. Wherever the Commission officials encounter difficulties in the execution of their duties, the Member States concerned shall provide the Commission with the means to accomplish its task and give the officials the opportunity to evaluate the specific control and inspection operations
5. The Commission may arrange for its officials visiting a Member State to be accompanied by one or more officials from another Member State as observers. Member States may also draw up a list of national officials whom the Commission may invite to be present at such controls and inspections

Article 90

Autonomous verifications

1. Commission inspectors may conduct observations on the implementation of this Regulation
2. During their observations, Commission officials shall have access to the relevant files and documents and to the public premises and places, vessels and private premises, land and means of transport where the activities covered by this Regulation take place, in order to collect data (not containing named references) necessary for the accomplishment of their tasks

Article 91

Autonomous inspections

1. When there is reason to believe that irregularities occur in the application of the rules of the Common Fisheries Policy the Commission may carry out autonomous inspections
2. Commission officials may carry out inspections on fishing vessels, transport vehicles as well as on the premises of businesses and other bodies with activities relating to the Common Fisheries
3. Commission officials shall have the same powers as national inspectors
4. Officials of the Member State concerned shall be given the possibility to be present during the inspection
5. All operators may be subject to autonomous inspections where these are considered necessary

Article 92

Audit

1. The Commission may carry out audits of the control systems of Member States

Article 93

Inspection and audit reports

2. Commission inspectors shall draw up an inspection report after each inspection
3. The Commission shall draw up an audit report after each audit
5. The Commission may publish the inspection and audit reports, together with the comments of the Member State concerned, on the secure part of its official website

Article 94

Follow-up of inspection and audit reports

1. Member States shall provide the Commission with such information as it may request on the implementation of this Regulation
3. The Member States concerned shall inform the Commission of the results of the inquiry and forward a report to the Commission

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MEASURES TO ENSURE COMPLIANCE BY MEMBER STATES OF COMMON FISHERIES POLICY OBJECTIVES

Financial Measures

Article 95

Suspension and cancellation of Community financial assistance

1. The Commission may decide to suspend for a maximum period of eighteen months all or part of the payments of the Community financial assistance where there is evidence that:

- a) the provisions of this Regulation have not been complied with as a result of an action or omission directly attributable to the Member State concerned, and that
 - b) this may lead to a serious threat to the conservation of living aquatic resources or the effective operation of the Community control and enforcement system;
- and where the Commission concludes that the Member State concerned has not taken adequate measures to remedy the situation and is not in a position to do so in the immediate future
5. The percentage by which payments may be suspended or cancelled shall be proportionate to the nature and importance of the Member State's non-compliance with applicable rules on conservation, control, inspection or enforcement and the gravity of the threat to the conservation of living aquatic resources or the effective operation of the Community control and enforcement system
 7. A suspension shall be discontinued if the conditions laid down in paragraph 1 are no longer met

Closure of fisheries

Article 96

Closure of fisheries for failure to comply with the objectives of the Common Fisheries Policy

1. Where a Member State does not respect its obligations the Commission may provisionally close the fisheries affected by those shortcomings
2. The Commission shall inform the Member State concerned of its findings and set a deadline of no more than 10 working days for the Member State to demonstrate that the fisheries can be safely exploited
5. The Commission shall lift the closure after the Member State has demonstrated in writing, to the satisfaction of the Commission that the fisheries can be safely exploited

Deduction and transfers of quotas

Article 97

Deduction of quotas

1. When the Commission has established that a Member State has over-fished its quota, the Commission shall operate deductions according to the following table:

Extent of over-fishing relative to the permitted landings	Multiplying factor
Up to 5%	Over-fishing * 1.0
Over 5% up to 10 %	Over-fishing * 1.1
Over 10% up to 20%	Over-fishing * 1.2
Over 20% up to 40%	Over-fishing * 1.4
Over 40% up to 50%	Over-fishing * 1.8
Any further Over-fishing greater than 50%	Over-fishing * 2.0

2. If a Member State has repeatedly over-fished its quota, the multiplying factor shall be doubled
3. If a Member State takes catches from a stock subject to a quota for which it has no quota, the Commission may deduct quotas for other stocks or groups of stocks available to that Member State in accordance with paragraph 1

Article 98

Deduction of quotas for failure to comply with the objectives of the Common Fisheries Policy

1. Where there is evidence that rules on conservation, control, inspection or enforcement under the Common Fisheries Policy are not being complied with by a Member State the Commission may operate deductions from the annual quotas, allocations or shares of a stock or group of stocks available to that Member State
2. The Commission shall inform in writing the Member State concerned of its findings and set a deadline of no more than 10 working days for the Member State to demonstrate that the fisheries can be safely exploited

Article 99

Refusal of quota transfers

1. The Commission may deny the transfer of quotas for stocks of a Member State to the following year if:
 - a) the quota to be transferred has been over-fished by the Member State concerned
 - b) the quota refers to a stock that is under a multi-annual plan or is caught in association with a stock under a multi-annual plan
 - c) the Member State concerned does not take appropriate measures to ensure a proper management of the fishing opportunities of the stocks concerned

Article 100

Refusal of quota exchanges

1. The Commission may exclude the possibility to exchange:
 - a) for quotas for which there was an over-fishing of more than 10% of the quotas available to one of the Member State concerned
 - b) if the Member State concerned does not take appropriate measures to ensure a proper management of the fishing opportunities of the stocks concerned

Emergency measures

Article 101

Emergency measures

1. If there is evidence that fishing activities undermine the Common Fisheries Policy or threaten the marine eco-system, the Commission may decide on emergency measures which shall last not more than one year
2. The emergency measures provided for in paragraph 1 shall be proportionate to the threat and may include:
 - a) suspension of fishing activities of vessels flying the flag of the Member States concerned;
 - b) closure of fisheries;
 - c) prohibition for Community operators to accept landings, placing in cages for fattening or farming, or transshipments of fish and fishery products caught by the vessels flying the flag of the Member States concerned;
 - d) prohibition to place on the market or use for other commercial purposes fish and fishery products caught by the vessels flying the flag of the Member States concerned;
 - e) prohibition of provision of live fish for fish farming in the waters under the jurisdiction of the Member States concerned;
 - f) prohibition to accept live fish caught by vessels flying the flag of the Member State concerned for the purposes of fish farming in waters under the jurisdiction of the other Member States;
 - g) prohibition for fishing vessels flying the flag of the Member State concerned to fish in waters under the jurisdiction of other Member States;
 - h) modification of the fishing data submitted by Member States in an appropriate way
4. The emergency measures shall have immediate effect

DATA AND INFORMATION

Analysis And Audit Of Data

Article 102

General principles for the analysis of data

1. Member States shall check the accuracy of all data recorded and shall establish a computerised validation system that includes in particular:
 - a) procedures for checking the quality of all data recorded in accordance with this Regulation;
 - b) cross-checks, analysis and verification of all data recorded in accordance with this Regulation;
 - c) procedures for checking compliance with deadlines for the submission of all data recorded in accordance with this Regulation
2. The validation system shall allow the immediate identification of inconsistencies of related data and their consequent follow-up
3. Member States shall set up a computerized database for the purpose of the validation system
4. Member States shall ensure that the database provides information on the follow-up of inconsistencies, allows the identification of fishing vessels and permits the correction of wrong data entries
5. Member States shall ensure that data is entered manually into the database without delay
6. Member States shall continuously, systematically and thoroughly validate all data, in particular by means of data cross-checking
7. If an inconsistency of related data has been identified the Member State shall undertake the necessary investigations and the necessary action

Article 103

Communication of data

1. For the purpose of the verification of the completeness and the quality of the data Member States shall ensure that the Commission has direct real time access to the computerised database

2. Inconsistencies detected by the validation system shall be connected to the relevant data in such a way that follow-up can be traced
4. If the Commission has identified inconsistencies in the data entered in the validation system of the Member State, it may require the Member State to correct these data, and shall inform the other Member States

Confidentiality of data

Article 104

Protection of personal data

2. The names of persons shall not be communicated to the Commission or to another Member State except in the case where such communication is expressly provided for in this Regulation or if it is necessary for the purposes of preventing or pursuing infringements or the verification of apparent infringements

Article 105

Confidentiality and professional and commercial secrecy

1. Member States and the Commission shall take all necessary steps to ensure that the data collected and received shall be treated in a confidential manner
2. The data exchanged between Member States and the Commission shall not be transmitted to persons other than those in Member States or Community institutions
3. The data referred to in paragraph 1 shall not be used for any other purpose unless consent is given
4. Data communicated in the framework of this Regulation shall be permitted only if it is necessary to bring about the cessation or prohibition of an infringement of the rules of the Common Fisheries Policy and the authority communicating the information consents to its disclosure
5. Such data shall benefit from the same protection accorded to similar data by the national legislation of Member State
7. This Article shall not prejudice the obligations pursuant to international conventions concerning mutual assistance in criminal matters

Official websites

Article 106

Official websites

1. Each Member State shall set up by 1 June 2010 an official website. The Commission may decide to develop common standards and procedures to ensure transparent communication between the Member States themselves as well as between the Member States, the Agency and the Commission, including transmission of regular snapshots on records of fishing activities in relation to fishing possibilities
2. Each Member State's official website shall be composed of a publicly accessible part and a secure part

Article 107

The public accessible part of the website

1. On the public accessible part of their website Member States shall publish:
 - a) the names and addresses of the competent authorities responsible for issuing fishing licences
 - b) the list of designated ports for the purpose of transshipment
 - d) the contact point details for the transmission or submission of logbooks, prior notifications, transshipment declarations, landing declarations, sales notes, take over declarations and transport documents
 - e) a map with the coordinates of the area of temporary real time
 - f) the decision to close a fishery and all necessary details

Article 108

The secure part of the website

1. On the secure part of the website each Member State shall establish, maintain and keep up to date the following lists and data bases:
 - a) the lists of officials in charge of inspections;
 - b) the electronic data base for the treatment of inspection and surveillance reports;
 - c) the Vessel Monitoring System computer files recorded by its Fisheries Monitoring Centre;
 - d) the electronic data base containing the list of all fishing licences, with a clear indication of the conditions set out and the information on all suspensions and withdrawals;
 - e) the electronic data base containing all relevant data on fishing opportunities;
 - f) the electronic data base containing all infringements of rules of the Common Fisheries Policy;
 - g) the electronic data base for the purpose of the verification of the completeness and the quality of the data collected
2. On the secure part of its website each Member State shall establish a national fisheries related information system
3. For the secure part of its website, each Member State shall provide remote access to the Commission and the body designated by it
4. The data contained in the secure parts of the websites shall be made available only for specific users authorised to that effect by either the Member States or the Commission or the body designated by it
5. The data contained in the secure parts of the website shall only be stored for as long as necessary for the purpose of this Regulation, but always for a minimum of three calendar years, starting from the year following that in which the information is recorded

IMPLEMENTATION

Article 109

Administrative cooperation of Member States

1. The authorities responsible for the implementation of this Regulation shall cooperate with each other, with authorities of third countries, with the Commission and the body designated by it
2. A system of mutual assistance shall be established, which shall include rules on the exchange of information upon prior request or on a spontaneous basis

Article 110

Reporting obligations

1. Every four years, Member States shall transmit a report to the Commission on the application of this Regulation
2. On the basis of the reports submitted by the Member States and its own observations, the Commission shall draw up a report every five years to be submitted to the Council and the European Parliament
3. An evaluation of the impact of this Regulation on the Common Fisheries Policy shall be undertaken by the Commission 5 years after the entry into force of this Regulation
4. Member States shall transmit to the Commission a report stating the rules that have been used from the basic data for producing reports