

**A first look
at the proposal for a
REGULATION
amending Council Regulation (EC) No 1224/2009, and
amending Council Regulations
(EC) No 768/2005, (EC) No 1967/2006, (EC) No
1005/2008, and Regulation (EU) No
2016/1139 as regards fisheries control**

**MEDAC - WG1
Gian Ludovico Ceccaroni
Rome, October 12, 2018**

General overview of COM (2018) 368

THE PROPOSAL OF REGULATION AMENDS THE FOLLOWING REGULATION:

Council Regulation (EC) No 1224/2009 establishing a Union control system for ensuring compliance with the rules of the common fisheries policy

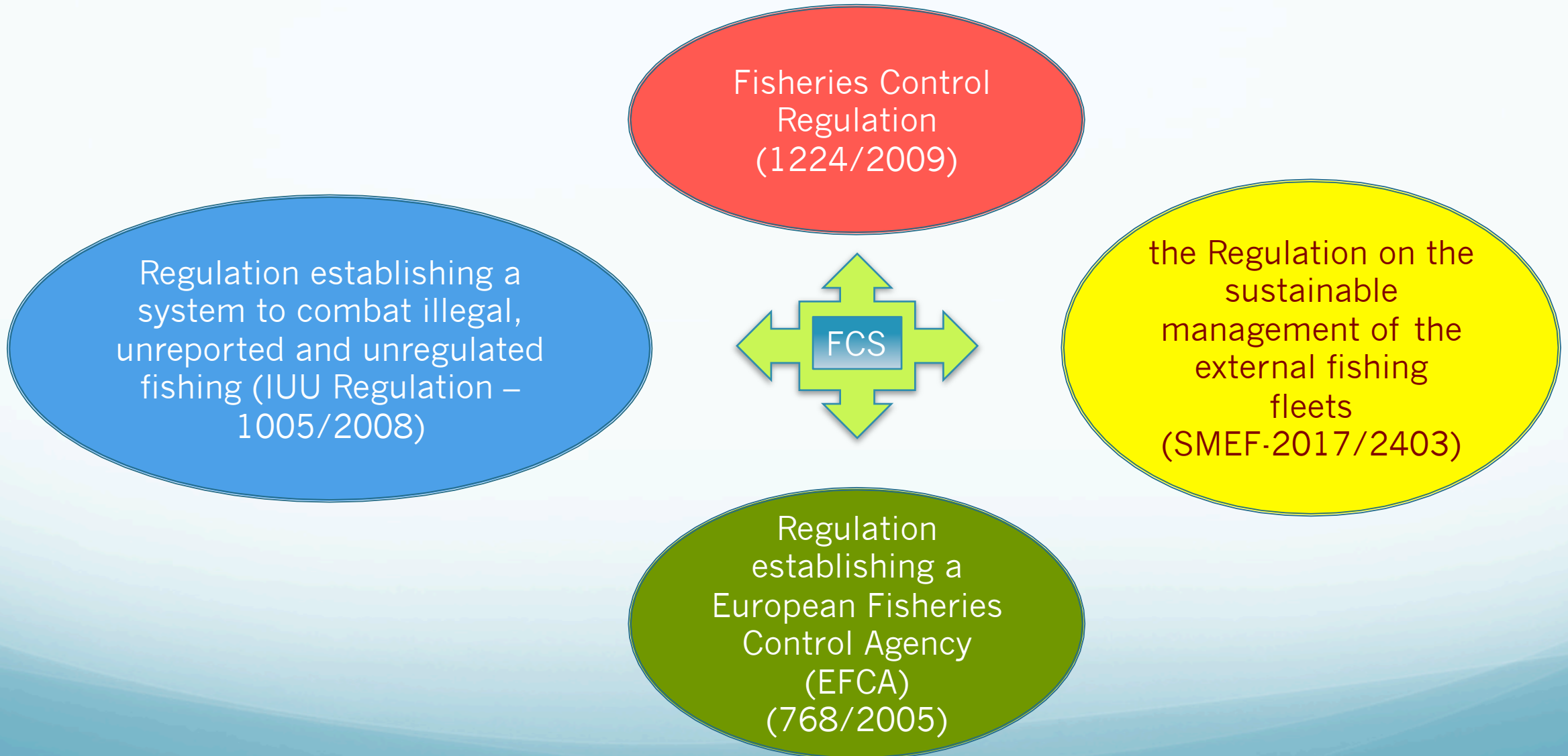
Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing

Council Regulation (EC) No 1967/2006 concerning management measures for the sustainable exploitation of fishery resources in the Mediterranean Sea

Regulation (EU) 2016/1139 establishing a multiannual plan for the stocks of cod, herring and sprat in the Baltic Sea and the fisheries exploiting those stocks

Council Regulation (EC) No 768/2005 establishing a European Fisheries Control Agency

THE EU FISHING CONTROL SYSTEM



WHY TO MODIFY FISHERY CONTROL SYSTEM?

CONTROL STRATEGIES,
METHODOLOGIES AND
CHALLENGES OBSOLETE (MORE
THAN 10 YEARS)

FCS DESIGNED PRIOR TO
THE REFORMED COMMON
FISHERIES POLICY (CFP)

SYSTEM NOT REFLECT RECENT UNION POLICIES,
(PLASTIC STRATEGY, DIGITAL SINGLE MARKET
STRATEGY, INTERNATIONAL OCEAN GOVERNANCE)

NOT FULLY COHERENT
WITH CFP REFORMED

- COMMISSION REFIT EVALUATION
- SPECIAL REPORT OF THE EUROPEAN COURT OF AUDITORS
- RESOLUTION BY THE EUROPEAN PARLIAMENT

REFIT Conclusions

Evaluation of Reg.1224/09 [COM (2017)192]

Evaluation confirmed that

- ✓ **current legislative framework is not entirely fit for purpose.**
- ✓ **strong call from stakeholders to better adapt the control system to the new CFP**
- ✓ **Furthermore lack of clarity of some of the provisions were one of the factors that resulted in sometimes different implementation approaches at Member State level, hindering the level playing field among operators and therefore their trust in the system.**
- ✓ **obsolescence of some of the provisions, the lack of flexibility as well as sometimes ineffective implementation by Member States**
- ✓ **provisions on sanctions and point system, follow up of infringements, data exchange and data sharing, traceability, monitoring and catch reporting tools for vessels below 12 meters require particular attention.**



Special report of the European Court of Auditors 1

Main conclusions:

Member States were not yet carrying out all the required controls

The control system itself needed to be updated and there are weaknesses with:

- - the verification of the accuracy of MS fleets' capacity,
- - the control of small vessels,
- - the reliability of reported catch data
- - the equal treatment of fishing operators in the application of sanctions.
- **ECA made a number of recommendations both to the European Commission and to the Member States to improve fisheries controls.**

Special report of the European Court of Auditors 2



RECOMANDATIONS

- 1. IMPROVING THE RELIABILITY OF INFORMATION ON FISHING FLEETS**
- 2. IMPROVING THE MONITORING OF FISHERIES MANAGEMENT MEASURES**
- 3. IMPROVING THE RELIABILITY OF FISHERIES DATA**
- 4. IMPROVING INSPECTIONS AND SANCTIONS**

EUROPEAN PARLIAMENT RESOLUTION

25 OCTOBER 2016

OBJECT OF RESOLUTION: HOW TO MAKE FISHERIES CONTROLS IN EUROPE UNIFORM (75 POINTS)
MAIN CONCLUSIONS (NOT EXHAUSTIVE):

maintain a **level playing field**
among EU fleets

reduction in the administrative
burden with a view to achieving
'better lawmaking', in particular
revision of Council Regulation
(EC) No 1224/2009,

simplification and
improvement of Union
legislation

ensuring **effective control** of
fisheries activities in order to
guarantee sustainable
exploitation of living marine
resources

European institutions **work
together** with the fisheries sector
in this review

Control Regulation not weakened,

EUROPEAN PARLIAMENT RESOLUTION

25 OCTOBER 2016

strengthening of controls
to prevent the
importation of fish from
IUU fisheries

expanding the controls –
for example extending
monitoring – to cover the
entire production chain

adoption of specific measures
with a view to achieving **more
aware and responsible
consumption in restaurants**,
without ruling out a
mandatory requirement for
restaurateurs to provide
minimum information about
the products

assigning **responsibility for
control at sea to a single
administrative body**, in order to
avoid an overlapping of controls
which wastes human, logistic,
and financial resources and
causes confusion and
unnecessary pressure on those
operating in the fisheries sector

**inculcating a culture of
understanding and respect**
of law in fishery sector:
effective consultation with
the advisory councils to this
end

prefers economic sanctions, including temporary suspensions of activity, to penal sanctions

standardisation of sanctions while keeping them at a level that is proportional and non-discriminatory and that acts as a deterrent

encourages the EC and MS to consider **the development of a harmonised minimum-level penalty**, applicable to serious infringements and/or repeated illegal behaviour

imposing harsher sanctions for illegal, unreported and unregulated fishing

inclusion of the impact of **recreational fisheries** in the revised Control Regulation

Total opposition to any **mandatory video surveillance** system on board;

penalty for exceeding the limit for incidental catches without even taking into account the absence of negligence or intent when engaging in lawful conduct, clearly conflicts with the fundamental principles of the EU

EC to lay down guidelines to prevent unequal treatment between Member States

General overview – Procedure

Rapporteur: Isabelle THOMAS

S&D

Shadow rapporteurs:

Francisco José MILLAN MON



Rosa D'AMATO



Norica NICOLAI >>

Linnéa ENGSTRÖM



Peter VAN DALEN



Maria Lidia SENRA RODRIGUEZ



Ordinary
legislative
procedure

Deadline for amendments PECH : 29 november 2018 (TBC)

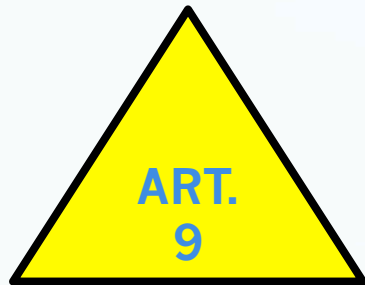
CONTROL SYSTEM REVISION [COM(2018)368]

MAIN CONTENTS (Source EP/Legislative Observatory)

- ✧ **use of remote electronic monitoring tools,**
- ✧ **more reliable and complete fisheries data system**
- ✧ improving the reporting of lost fishing gear
- ✧ **new list of infringements**
- ✧ **better traceability of EU** and imported fishery and aquaculture products
- ✧ clarification of the inspection process
- ✧ the revision of the mandate of the European Fisheries Control Agency
- ✧ the amendments to Reg. # 1224/2009

This is only a first look at the proposal...

USE OF REMOTE ELECTRONIC MONITORING TOOLS - VMS



Vessel monitoring systems for effective monitoring of position and movement of the fishing vessels

The transmission of vessel position data and the polling shall either pass through satellite connection, or may use a land-based mobile network when in reach of such network

Vessels >12 m LOA → satellite connection
Vessels <12 m LOA → land-based mobile network

Reg. 1124/2009
VMS >12 m LOA (possible exemption 12-15 LOA)
No VMS < 12 LOA

USE OF REMOTE ELECTRONIC MONITORING TOOLS – CONTROL OF LANDING OBLIGATION

For effective control of LO a **minimum** percentage of fishing vessels, fishing for species subject to the landing obligation, shall be equipped with continuously recording Closed-Circuit Television (**CCTV**) systems incorporating data storage.

The percentage of fishing vessels established for different risk categories in specific control and inspection programmes.

In addition to the CCTV systems MS may require the use of other electronic monitoring systems for the purpose of controlling the landing obligation.



The Commission may (Implementing acts) lay down detailed rules on the requirements, technical specifications, installation and functioning of the electronic monitoring systems for the control of the LO including continuously recording CCTV systems.

Reg. 1124/2009
NO CCTV

USE OF REMOTE ELECTRONIC MONITORING TOOLS: CONTINUOUS MONITORING OF ENGINE POWER

Vessels using the following active fishing gears: trawls, seines and surrounding nets are equipped with permanently installed devices that measure and record engine power in cases where:

a) the vessels are equipped with propulsive engines with certified engine power exceeding 221 kilowatts;

Or b) the vessels are equipped with propulsive engines with certified engine power between 120 and 221 kilowatts and operate in areas subject to effort regimes or restrictions on engine power.

The devices shall ensure the continuous measurement of propulsive engine power in kilowatts.

Masters shall ensure that the devices function at all times and that the information from the continuous measurement of propulsive engine power is recorded and stored on board and is accessible to officials at all times.

**ART.
39a
(new)**

Reg. 1124/2009
NO

COMPLETION OF FISHING LOGBOOK 1

Art.
14

The master of each Union catching vessel shall keep an electronic fishing logbook for the purpose of recording fishing activities.

Fishing logbook contains the pertinent information **including:**

- (a) a unique fishing trip identification number; New**
- (b) the date and, where appropriate, time of catches; New**
- (c) the type of gear, technical specifications and dimensions;**
- (d) the estimated quantities of each species in kilograms live weight or, where appropriate, the number of individuals, including the quantities or individuals below the applicable MCRS, as a separate entry; for Union fishing vessels of 12 m LOA or more, this information shall be provided per haul or per fishing operation;**

Reg. 1124/2009

...Estimated quantities of each species caught and kept on board **above 50 kg of live-weight equivalent.**

Modified by Reg. 812/2015 for species with MCRS and subject to LO

COMPLETION OF FISHING LOGBOOK 2

Art.
14

The master of each Union catching vessel shall keep an electronic fishing logbook for the purpose of recording fishing activities.

- h) estimated discards of live-weight equivalent in volume for any species not subject to the landing obligation;
- i) estimated discards in volume for any species not subject to the landing obligation pursuant to Article 15(4) and (5) of Regulation (EU) No 1380/2013;

- Margin of tolerance Landed/Estimated 10 % per species.
- **For species retained on board that do not exceed 50kg live weight equivalent, the permitted margin of tolerance shall be 20% per species. New**
- **Derogation for small pelagic fisheries and fisheries for industrial purposes (R.1380.Art.15.1.a)**

Reg. 1124/2009
< 10m LOA → No Logbook
≥ 10 m LOA → (paper) Logbook ← ≤12 LOA
Electronic Logbook > 12 m LOA
(possible exemption 12-15 m LOA)

Reg. 1124/2009
Margin of
Tolerance:
10%

ELECTRONIC SUBMISSION OF THE LOGBOOK

Art.
15

Vessels > 12 m LOA or more submit by electronic means the information to the competent authority of their flag Member State:

- (a) at least once a day, **and where applicable, after each haul**; and
- (b) after the last fishing operation has been completed and before entering port.

Vessels < 12 m LOA submit by electronic means the information to the competent authority of their flag Member State after the last fishing operation has been completed and before entering port.

PRIOR NOTIFICATION



Vessels > 12 m LOA notify by electronic means the competent authorities of their flag MS **at least 4 hours before** the estimated time of arrival at port of the relevant information.

The coastal Member State may set a shorter period of prior notification for vessels flying its flag which operate exclusively within its territorial waters provided that it does not impair the ability of Member States to carry out inspections."

Reg. 1124/2009
Prior notification only for vessels > 12 m
LOA engaged in fisheries on stocks subject
to a multi annual plan

COMPLETION OF THE LANDING DECLARATION

Art.
23

The master of a Union fishing vessel, or its representative, shall complete an **electronic** landing declaration, containing the relevant information, including the unique fishing trip identification number; **the quantities of each species landed in kilograms of product weighed** in accordance with Article 60 and in live weight, broken down by type of product presentation, or, where appropriate, the number of individuals, including, as a separate entry, the quantities or individuals below MCRS

Reg. 1124/2009

< 10m LOA → No Landing declaration

≥ 10 m LOA → (paper) Landing declaration ← ≤12 LOA

Electronic landing declaration > 12 m LOA

(possible exemption 12-15 m LOA)

ELECTRONIC TRANSMISSION OF LANDING DECLARATION DATA

Art.
24

The master of a Union fishing vessel or their representative shall submit by electronic means the information of landing declaration to the competent authority within 24 hours after completion of the landing.

By way of derogation, for fisheries products for human consumption landed unsorted which are weighed in accordance with Article 60(5)(c) [second weighing], the master submits the information as updated immediately after the second weighing, to include the result of the second weighing.

Reg. 1124/2009
Paper landing declaration → 48 h
Electronic landing declaration 24 h

RECREATIONAL FISHERIES

MS ensure that recreational are conducted in a manner compatible with the objectives and rules of the CFP.

- registration or a licensing system monitoring the number of persons involved in recreational fisheries; and
- collection of data on catches from such fisheries through catch reporting or other data collection mechanisms

As regards stocks, groups of stocks and species that are subject to Union conservation measures applicable to recreational fisheries:

- MS ensure persons involved in recreational fisheries for such species record and send catch declarations electronically to the competent authorities on a daily basis or after each fishing trip; and
- MS put in place a registration or licensing system for vessels used in such recreational fisheries, in addition to the registration or licencing system for natural and legal persons.

The sale of catches from recreational fisheries shall be prohibited.

CONTROLS IN SUPPLY CHAIN

Principles for the control of marketing

MS are responsible for controlling on its territory the application of the rules of the CFP at all stages of marketing of fishery and aquaculture products, from their placing on the market to the retail sale, including transport.

MS shall in particular take measures to ensure that the use of fishery products below the applicable MCRS subject to the landing **obligation is restricted to purposes other than direct human consumption.**

Where a minimum size has been fixed for a given species in Union legislation, operators responsible for purchasing, selling, stocking or transporting shall be able to prove the relevant geographical area of origin of the products.

Alignement to
Reg. 1380/13
Landing
Obligation

Art.
56

LOTS

Fishery and aquaculture products from catching or harvesting shall be put into lots prior to placing on the market.

A lot shall only contain fishery or aquaculture products of a single species, of the same presentation and coming from the same relevant geographical area and from the same fishing vessel, or group of fishing vessels, or coming from the same aquaculture production unit.

Derogation 1: quantities of fishery products totalling less than 30kg of fishery products of several species and coming from the same relevant geographical area and of the same presentation, per vessel and per day, may be put into the same lot by the operator of the fishing vessel, the producer organisation of which the operator of the fishing vessel is a member or by a registered buyer, prior to the placing on the market.

Derogation 2, quantities of fishery products of several species, consisting of individuals below the applicable minimum conservation reference size and coming from the same relevant geographical area and the same fishing vessel, or group of fishing vessels, may be put into lots prior to the placing on the market for purposes other than direct human consumption.

LOTS 2

After the placing on the market, a lot of fishery or aquaculture products **may only be merged with another lot or split**, if the lot created by merging or the lots created by splitting meet the following conditions:

(a) they contain fishery or aquaculture products of a single species and of the same presentation;

(b) the traceability information listed in Article 58 paragraphs 5 and 6 is provided for the newly created lot(s);

(c) the operator responsible for placing the newly created lot on the market is able to provide the information concerning the composition of the newly created lot, in particular the information relating to each of the lots of fishery or aquaculture products which it contains and the quantities of fishery or aquaculture products coming from each of the lots forming the new lot.

TRACEABILITY

Lots of fishery or **aquaculture** products are traceable at all stages of production, processing and distribution, from catching or harvesting to retail stage, including fisheries and aquaculture products which are destined for export.

Operators at all stages of production, processing and distribution, from catching or harvesting to retail stage, shall **ensure that for each lot of fishery or aquaculture products**, the information:

- (a) is kept on record in a digitalised way;
- (b) is made available upon request to competent authorities;
- (c) is transmitted or made available, electronically, to the business operator to whom the fishery product or aquaculture product is supplied.

Lots of fishery and aquaculture products placed on the market or likely to be placed on the market in the Union, or exported or likely to be exported, shall be adequately marked or labelled to ensure the traceability of each lot.

MS check that operators have in place digitalised systems and procedures to identify any operator from whom they have been supplied with lots of fishery and aquaculture products and to whom these products have been supplied.

TRACEABILITY 2

INFORMATION FOR TRACEABILITY

the identification number of the lot

the unique fishing trip identification number

the FAO alpha-3 code of the species and the scientific name

the relevant geographical area(s) for fishery products caught at sea

the date of catches for fishery products or date of harvest for aquaculture products

the quantities in kilograms expressed in net weight or, where appropriate, the number of individuals;

if fishery products below the MCRS are present, separate information on the quantities in kilograms expressed in net weight, or the number of individuals below the minimum conservation reference size

for fishery products, the category of fishing gear as laid down in the first column of Annex III to Regulation (EU) No 1379/2013

for lots of products subject to common marketing standards, the individual size or weight, size category, presentation and freshness

TRACEABILITY 3

MS may exempt from the requirements set out in Article 58 small quantities of products sold directly from fishing vessels to consumers, provided that these do not exceed **5kg of fishery product per consumer per day**.



Reg. 1124/2009

Member States may exempt from the requirements set out in this Article small quantities of products sold directly from fishing vessels to consumers, provided that these do not exceed **the value of EUR 50 per day**.

WEIGHING

MS shall ensure that procedures are in place to enable that all fishery products are weighed upon landing on systems approved by the competent authorities and **that weighing is carried out by operators registered** for the weighing of fisheries products.

Before registration of an operator to perform the weighing of fishery products, MS shall ensure that the operator is competent and adequately equipped to carry out weighing activities. MS shall also have a system in place by which operators that no longer comply with the conditions for carrying out weighing activities, are no longer registered



Art.
60

WEIGHING OF FISHERY PRODUCTS

- ✧ All quantities of fishery products are weighed per species on weighing systems and by operators registered immediately after landing, prior to the fishery products being held in storage, transported or placed on the market.
- ✧ Operators registered to perform the weighing of fishery products shall complete a weighing record for each landing and shall be responsible for the accuracy of the weighing.
The registered weigher shall keep weighing records for a period of three years.

Derogation: MS may permit fishery products to be weighed unsorted on landing if the following conditions are met:

- The weighing of the unsorted fishery product is performed upon landing on a system operated or controlled by the competent authorities before transport, storage or placing on the market;
- In the case of unsorted landings not destined for human consumption: the Member State has adopted a risk-based sampling plan and the Commission has approved that plan;
- In the case of fishery products destined for human consumption:** a second weighing per species of fisheries products is performed by a registered weigher. That second weighing may take place, after transport, at an auction centre, at the premises of a registered buyer or producer organisation. The result of that second weighing shall be transmitted to the master.



TITLE VIII – ENFORCEMENT

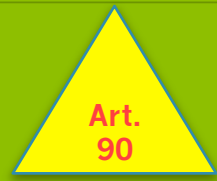
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Sanctions

Infringements of rules of common fisheries policy punishable by effective, proportionate and dissuasive administrative sanctions.

The overall level of sanctions and accompanying sanctions set in accordance with this Regulation and the relevant provisions of national law is adequate in severity **to discourage further infringements** and **effectively deprive those responsible of the economic benefit derived or expected from their infringement** without prejudice to the legitimate right to exercise their profession. For this purpose, account shall be taken of immediate measures taken pursuant to Article 91.

MS take into account, in particular, the gravity of the infringement, including the level of environmental damage done, the value of the prejudice to the fishing resources, the nature and extent of the infringement, its duration or repetition, or the accumulation of simultaneous infringements.



SERIOUS INFRINGEMENTS **New**

Two lists of serious infringements:

- 1) qualified as serious by nature (without applying any criteria).
- 2) qualified as serious infringements depending on the gravity of the infringement in question determined by the competent authority of the Member State taking into account one or more of the alternative criteria defined in Annex IV of the proposal

Sanctions for serious infringements (91a)

In case of established serious infringement where the serious infringement has lead to obtaining fishery products, Member States shall impose fines for which:

- the minimum shall be **at least 3 times** the value of the fishery products obtained by committing the serious infringement, and
- the maximum shall be **at least 5 times** the value of the fishery products obtained by committing the serious infringement.

In case of any repeated serious infringement where the serious infringement leads to obtaining fishery products within a three-year period, the Member States shall impose fines for which:

- the minimum shall be **at least 5 times** the value of the fishery products obtained by committing the serious infringement, and
- the maximum shall be **at least 8 times** the value of the fishery products obtained by committing the serious infringement.

The amounts is calculated **on the value** of the fisheries products according to the prices of the European Market Observatory for Fisheries and Aquaculture Products (EUMOFA) platform at the time of the identification of the infringement, if available.

If EUMOFA values are not available or not relevant, national prices in auction halls or prices identified on principal international markets relevant for the species and fishing area concerned.

Where the serious infringement did not lead to obtaining fishery products, the fines shall be determined by the Member States **at a level leading to a deterrent effect** similar to the effect of the fines set in paragraphs 1 and 2.

"ANNEX III

POINTS TO BE ASSIGNED TO UNION FISHING LICENCE HOLDERS OR UNION MASTERS FOR SERIOUS INFRINGEMENTS

No	Serious infringement	points
1	Not fulfilling of obligations to accurately record and report data relating to fishing activities, including data to be transmitted by vessel monitoring system and prior notices, as required under the rules of the common fisheries policy.	3
2	Not making available of a catch declaration or a landing declaration to the third country and not sending an electronic copy of it to the flag Member States as required under in paragraph 1 of Article 30 of the Regulation (EU) 2017/2403.	3
3	Not transmitting a landing declaration or a sales note to the flag Member State when the landing of the catch has taken place in the port of a third country, or a transshipment declaration or a transfer declaration, when the operation has taken place outside Union waters.	3
4	Using non-compliant fishing gear.	4
5	Not fulfilling obligations related to the use of fishing gears as set in the rules of the common fisheries policy.	4
6	Manipulating of an engine or of continuous engine power monitoring devices with the aim of increasing its power beyond the maximum continuous engine power according to the engine certificate.	5
7	Falsifying or concealing markings of fishing vessel or fishing gear, identity or registration of a fishing vessel.	5
8	Falsifying documents, data or information or using of falsified or invalid documents, data or information required under the rules of the common fisheries policy, including documents, data and information as referred to in Council Regulation (EC) No 1005/2008;	5
9	Concealing, tampering or disposal of evidence relating to an investigation.	5

No	Serious infringement	points
10	Committing multiple infringements which together constitute a serious disregard of conservation and management measures.	5
11	Failing to bring and retain on board the fishing vessel, including through slipping, and to tranship, transfer and land any undersized catches in contravention of the legislation in force or catches of species subject to the landing obligation set out in Article 15 of Regulation (EU) No 1380/2013, unless the bringing and retention on board and the landing of such catches would be contrary to obligations including for regional fisheries management organisation areas or subject to exemptions provided for in the rules of the common fisheries policy in fisheries or fishing zones where such rules apply.	5
12	Carrying out fishing activities in the area of a regional fisheries management organisation in a manner inconsistent with or in contravention of the conservation and management measures of that organisation.	5
13	Conducting transfer operations in breach of the common fisheries policy rules or the applicable conservation and management measures adopted by regional fisheries management organisations.	5
14	Landing in ports of third countries without prior notification as referred to in Article 19a of this Regulation; or landing fisheries products stemming from IUU fishing activities.	5
15	Using prohibited fishing gear.	6
16	Fishing in a restricted or closed area, or a fish stock recovery area, or during a closed season, or without or after attainment of a quota or beyond a closed depth.	6
17	Fishing without a valid licence, authorisation or permit issued by the flag State or the relevant coastal State.	7
18	Engaging in directed fishing, retaining on board, transhipping, transferring or landing species which is subject to a moratorium, a closed season or for which fishing is prohibited.	7
19	Obstructing the work of officials or observers in the exercise of their duties.	7

No	Serious infringement	points
20	Transshipping from or to, or conducting transfer operations with, participating in joint fishing operations with, supporting or supplying vessels, engaged in IUU fishing as defined under Council Regulation (EC) No 1005/2008, in particular those listed in the IUU vessel list of the Union or of a regional fisheries management organisation, as referred to in Articles 29 and 30 of Council Regulation (EC) No 1005/2008.	7
21	Transshipping without the required authorisation or where such transshipment is prohibited.	7
22	Being involved in the operation, management, ownership of, or being hired on, a vessel engaged in IUU fishing as defined under Council Regulation (EC) No 1005/2008, in particular those listed in the IUU vessel list of the Union or of a regional fisheries management organisation as referred to in Articles 29 and 30 of Council Regulation (EC) No 1005/2008.	7

To be continued....

Thank you for your attention!

