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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	30 May 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2018) 368 final - ANNEX 1
Subject:	ANNEX to Proposal for a Regulation of the European Parliament and of the Council 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 of the European Parliament and of the Council as regards fisheries controls

Delegations will find attached document COM(2018) 368 final - ANNEX 1.

Encl.: COM(2018) 368 final - ANNEX 1



Brussels, 30.5.2018
COM(2018) 368 final

ANNEX

ANNEX

to

**Proposal for a Regulation of the European Parliament and of the Council
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 of the European Parliament and of the Council as regards fisheries controls**

{SEC(2018) 267 final} - {SWD(2018) 279 final} - {SWD(2018) 280 final}

ANNEX I

The following Annexes III and IV are added to Regulation (EC) No 1224/2009

"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

ANNEX IV¹

Alternative criteria to qualify an infringement as serious, in accordance with Article 90(3) of this Regulation

Activities	Criteria
<p>Article 90(3)(a) 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;</p> <p>Article 90(3)(b) Not making available of a catch declaration or a landing declaration to the third country and not sending an electronic copy of it to their flag Member States as required under in paragraph 1 of Article 30 of the Regulation (EU) 2017/2403;</p> <p>Article 90(3)(e) 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;</p> <p>Article 90(3)(f)</p>	<p>- the catches related to the suspected infringement occurred: in a closed area; or beyond a closed depth;</p> <p>- the infringement is the second one detected in the preceding twelve months;</p> <p>- catches related to the suspected infringement represent quantities that are equal to or more than twice above the permitted margins of tolerance referred to in Article 14(3) and Article 21(3) of this Regulation;</p> <p>- the catches related to the suspected infringement correspond a) to quantities more than 100 kilos or 20% of the total quantities mentioned in the logbook or landing or transhipment declaration, or b) a value of 10% of the total value of fisheries products, when the infringement is related to any of the following species:</p> <ul style="list-style-type: none"> ▪ all species subject to minimum conservation reference size under the rules of the common fisheries policy; ▪ all species subject to the landing obligation as referred to in Article 15 of Regulation 1380/2013; ▪ all species subject to fishing opportunities under the rules of the common fisheries policy; ▪ all species subject to multiannual plans;

¹ The amounts referred to in this annex shall be calculated on the value of the fisheries products obtained by committing the infringement according to the prices in force on the EUMOFA platform at the time of the identification of the infringement, if available. In the situation where the EUMOFA values are not available or not relevant, national prices or prices identified on principal international markets relevant for the species concerned shall be applicable, and the higher price prevails.

Activities	Criteria
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.	<ul style="list-style-type: none"> ▪ all species subject to a moratorium, a closed season or for which fishing is prohibited; ▪ all species regulated by a regional fisheries management organisation.
<p>Article 90(3)(g)</p> <p>Making available on the market fisheries products in breach of the rules of the common fisheries policy</p>	<ul style="list-style-type: none"> - the suspected infringement is a second one detected in the preceding twelve months; - the suspected infringement is related to marketing of IUU products knowingly or in contravention to the IUU Regulation - when the direct sale was made with a non-registered auction center or non-registered buyer, as referred to in Article 59 of this Regulation; - completion or submission of sales notes does not comply with Article 62 of this regulation, including the obligation to record and transmit all data electronically; - the catches related to the suspected infringement correspond to quantities more than 100 kilos or 20% of the total quantities mentioned in the logbook or landing or transshipment declaration, or a value of 10% of the total value of fisheries products, when the infringement is related to any of the following species: <ul style="list-style-type: none"> ▪ all species subject to minimum conservation reference size under the rules of the common fisheries policy; ▪ all species subject to the landing obligation as referred to in Article 15 of Regulation (EU) No 1380/2013; ▪ all species subject to fishing opportunities under the rules of the common fisheries policy; ▪ all species subject to a multiannual plan; ▪ all species subject to a moratorium, a closed season or for which fishing is prohibited; ▪ all species regulated by a regional fisheries management

Activities	Criteria
<p>Article 90(3)(c) Using non-compliant fishing gear.</p> <p>Article 90(3)(d) Not fulfilling obligations related to the use of fishing gears as set in the rules of the common fisheries policy.</p>	<p>organisation.</p> <ul style="list-style-type: none"> - the catches related to the suspected infringement occurred: <ul style="list-style-type: none"> in a closed area; or beyond a closed depth; - the gear used is one of the following: <ul style="list-style-type: none"> ▪ Fishing with explosive ▪ Prohibited drifting gillnets - the number of authorised gear exceeds by 2 units the number of authorised gears on board the fishing vessels; - the suspected infringement is a second one detected in the preceding twelve months; - catches related to the suspected infringement represent quantities that are equal or more than twice above the permitted margins of tolerance referred to in Article 14(3) of this Regulation; - the catches related to the suspected infringement correspond to quantities more than 100 kilos or 20% of the total quantities mentioned in the logbook or landing or transshipment declaration, or a value of 10% of the total value of fisheries products, when the infringement is related to any of the following species: <ul style="list-style-type: none"> ▪ all species subject to minimum conservation reference under the rules of the common fisheries policy; ▪ all species subject to the landing obligation as referred to in Article 15 of Regulation (EU) No 1380/2013; ▪ all species subject to fishing under the rules of the common fisheries policy; ▪ all species subject to a multiannual plan; ▪ all species subject to a moratorium, a closed season or for which fishing is prohibited;

Activities	Criteria
	<ul style="list-style-type: none"> ▪ all species regulated by a regional fisheries management organisation.
<p>Article 90(3)(h) Conducting recreational fishing activities in breach of rules of the common fisheries policy or selling of catches from recreational fisheries.</p>	<ul style="list-style-type: none"> - the catches related to the suspected infringement occurred: <ul style="list-style-type: none"> ▪ in a closed area; or ▪ beyond a closed depth; - the suspected infringement is the third one detected in the preceding six months; - the catches related to the suspected infringement correspond to quantities more than 5 kilos, when the infringement is related to any of the following species: <ul style="list-style-type: none"> ▪ all species subject to minimum conservation reference size as referred to under the rules of the common fisheries policy; ▪ all species subject to the landing obligation as referred to in Article 15 of Regulation (EU) No 1380/2013; ▪ all species subject to fishing opportunities under the rules of the common fisheries policy; ▪ all species subject to a multiannual plan; ▪ all species subject to a moratorium, a closed season or for which fishing is prohibited.
<p>Article 90(3)(i) Committing multiple infringements which together constitute a serious disregard of conservation and management measures.</p>	<p>The number of simultaneous infringements which are not considered individually serious infringements exceeds 3.</p>

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ANNEX II

Annex II to Regulation (EC) No 1005/2008 and the Appendix to that Annex are replaced by the following:

‘ANNEX II – European Union Catch Certificate and Re-Export Certificate

(i) EUROPEAN UNION CATCH CERTIFICATE							
Document number				Validating Authority			
1. Name		Address			Tel. Fax		
2. Fishing Vessel Name		Flag - Home Port & Registration Number		Call Sign		IMO/Lloyd's Number (if issued)	
Fishing licence No. – Valid to		Inmarsat No. Telefax No. Telephone No. E-mail address (if issued)					
3. Description of Product		Type of processing authorised on board:		4. References of applicable conservation and management measures			
Species	Product code	Catch area(s) and dates	Estimated live weight (net fish weight in kg)	Estimated live weight to be landed (net fish weight in kg)	Verified Weight Landed (net weight in kg)		
5. Name of master of fishing vessel - Signature - Seal:							
6. Declaration of Transhipment at Sea Name of Master of Fishing vessel			Signature and Date		Transhipment Date/Area/Position		Estimated weight (kg)
Master of Receiving Vessel		Signature	Vessel Name		Call Sign	IMO/Lloyds Number (if issued)	
7. Transhipment and/or landing authorisation within a Port Area:							
Name	Authority	Signature	Address	Tel.	Port of Landing (as appropriate)	Date of Landing (as appropriate)	Seal (Stamp)
					Port of transhipment (as appropriate)	Date of transhipment (as appropriate)	Seal (Stamp)
8. Name and address of Exporter		Signature		Date		Seal	

9. Flag State Authority Validation:				
Name/Title	Signature	Date	Seal (Stamp)	
10. Transport details : See Appendix				
11. Importer Declaration:				
Company, name, address, EORI number and contact details of importer of importer (specify details)	Signature	Date	Seal	
Company, name, address, EORI number and contact details of representative of the importer (specify details)	Signature	Date	Seal	
Product description:	CN code	Product description	Net weight in kg	Net fish weight in kg
Document under Article 14(1) of Regulation (EC) No 1005/2008:	Yes / no (as appropriate)	References		
Document under Article 14(2) of Regulation (EC) No 1005/2008:	Yes / no (as appropriate)	References		
Member State and office of import				
Means of transport upon arrival (air, vehicle, ship, train)	Transport document reference	Estimated time of arrival (if submission under Art. 12(1) of Regulation (EC) No 1005/2008)		
Customs declaration number (if issued)	CVED number (if available)			
12. Import control: Authority	Place	Importation authorised(*)	Importation suspended(*)	Verification requested - date
13. Refusal of Catch Certificate	Catch certificate refused on the basis of:			(*)
	Art. 18 (1a)			
	Art. 18 (1b)			
	Art. 18 (1c)			
	Art. 18 (1d)			
	Art. 18 (1e)			
	Art. 18 (1f)			

	Art. 18 (1g)	
	Art. 18 (2a)	
	Art. 18 (2b)	
	Art. 18 (2c)	
	Art. 18 (2d)	

(*) Tick as appropriate

<u>(ii) EUROPEAN UNION RE-EXPORT CERTIFICATE</u>			
Certificate number	Date	Member State	
1. Description of re-exported product:		Weight (kg)	
Species	Product code	Balance from total quantity declared in the catch certificate	
2. Name of re-exporter	Address	Signature	Date
3. Authority			
Name/Title	Signature	Date	Seal/Stamp
4. Re-export Control			
Place:	Re-export authorised(*)	Verification requested(*)	Re-export declaration number and date

(*) Tick as appropriate

Appendix

TRANSPORT DETAILS

1. Country of exportation Port/airport/other place of departure	2. Exporter Signature			
Vessel name and flag Flight number/ airway bill number Truck nationality and registration number Railway bill number Other transport document	Container number(s) list attached	Name	Address	Signature