

COMMISSION IMPLEMENTING DECISION

of 24 May 2011

establishing a specific control and inspection programme for pelagic fisheries in Western Waters of the North East Atlantic

(notified under document C(2011) 3415)

(Only the Danish, Dutch, English, Estonian, French, German, Latvian, Lithuanian, Polish, Portuguese and Spanish texts are authentic)

(2011/310/EU)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006⁽¹⁾, and in particular Article 95 thereof,

Whereas:

(1) Fisheries exploiting herring, mackerel, horse mackerel, anchovy and blue whiting stocks (hereinafter referred to as 'pelagic fisheries') in EU waters of ICES zones V to IX (hereinafter referred to as 'Western Waters') are subject to conservation and control measures provided for, inter alia:

— by Regulation (EU) No 1236/2010 of the European Parliament and of the Council of 15 December 2010 laying down a scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries⁽²⁾,

— by Council Regulation (EC) No 1300/2008 of 18 December 2008 establishing a multi-annual plan for the stock of herring distributed to the west of Scotland and the fisheries exploiting that stock⁽³⁾,

— by Council Regulation (EU) No 57/2011 of 18 January 2011 fixing for 2011 the fishing opportunities for certain fish stocks and groups of fish stocks, applicable in EU waters and, for EU vessels, in certain non-EU waters⁽⁴⁾.

(2) Landings of quantities exceeding 10 tonnes of herring, mackerel and horse mackerel caught in ICES zones I to

X, XII and XIV and EU waters of CECAF are subject to procedures laid down by Commission Regulation (EC) No 1542/2007⁽⁵⁾.

(3) As a general rule, pelagic fishing activities in Western Waters, including landings and transshipments of pelagic species are subject to the control measures laid down by Regulation (EC) No 1224/2009.

(4) In order to ensure, at Union level, the uniform and effective application of those conservation and control measures, it is necessary to establish a specific control and inspection programme involving Denmark, Germany, Estonia, Ireland, Spain, France, Latvia, Lithuania, the Netherlands, Poland, Portugal, and the United Kingdom.

(5) That specific control and inspection programme should be set up for the period from the entry into force of this Decision to 31 December 2012.

(6) The specific control and inspection programme should include common rules for the control and inspection activities to be carried out by the competent authorities of the Member States concerned. Those rules should establish benchmarks for the intensity of control and inspection activities as well as control and inspection priorities and procedures. The Member States concerned shall adopt the necessary measures in accordance with those common rules.

(7) Where a large part of the catches by pelagic fisheries is exported to third countries, it is appropriate to extend control and inspection activities throughout the whole chain, including trade.

(8) Joint inspection and surveillance activities between Member States should be carried out, where applicable, in accordance with a Joint Deployment Plan established by the Community Fisheries Control Agency (CFCA) pursuant to Article 9 of Council Regulation (EC) No 768/2005⁽⁶⁾.

(9) The results obtained by the application of the specific control and inspection programme should be periodically evaluated by the Member States concerned, where possible by the CFCA.

⁽¹⁾ OJ L 343, 22.12.2009, p. 1.

⁽²⁾ OJ L 348, 31.12.2010, p. 17.

⁽³⁾ OJ L 344, 20.12.2008, p. 6.

⁽⁴⁾ OJ L 24, 27.1.2011, p. 1.

⁽⁵⁾ OJ L 337, 21.12.2007, p. 56.

⁽⁶⁾ OJ L 128, 21.5.2005, p. 1.

- (10) The measures provided for in this Decision have been established in concert with the Member States concerned.
- (11) The measures provided for in this Decision are in accordance with the opinion of the Committee for Fisheries and Aquaculture,

1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999 ⁽¹⁾;

- (e) 'export' means exportation as defined in Article 2(13) of Regulation (EC) No 1005/2008.

HAS ADOPTED THIS DECISION:

Article 1

Subject matter

This Decision establishes a specific control and inspection programme in order to ensure the uniform and effective implementation of conservation and control measures applicable to pelagic fisheries in Western Waters.

Article 2

Scope

1. The specific control and inspection programme covers:
 - (a) all fishing activities, including landings and transshipments, by fishing vessels of pelagic species in Western Waters;
 - (b) all post-landing activities, including weighing, marketing, freezing, processing, storage, takeover, transport, import and export of pelagic species caught in Western Waters.
2. The specific control and inspection programme shall apply as from its entry into force until 31 December 2012.
3. The specific control and inspection programme shall be implemented by Denmark, Germany, Estonia, Ireland, Spain, France, Latvia, Lithuania, the Netherlands, Poland, Portugal and the United Kingdom.

Article 3

Definitions

For the purposes of this Decision the following definitions shall apply:

- (a) 'pelagic species' means herring, mackerel, horse mackerel, anchovy and blue whiting;
- (b) 'pelagic fisheries' means the fisheries exploiting herring, mackerel, horse mackerel, anchovy and blue whiting stocks;
- (c) 'Western Waters' means EU waters of ICES zones V to IX;
- (d) 'import' means importation as defined in Article 2(11) of Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No

Article 4

Common rules and national measures

1. The common rules for the specific control and inspection programme, in particular the objectives, priorities and procedures as well as the benchmarks for inspection, are set out in Annex I.
2. The measures for the implementation of the specific control and inspection programme, adopted by Member States pursuant to Article 95(4) of Regulation (EC) No 1224/2009, shall regulate the matters listed in Annex II.

Article 5

Cooperation between Member States and with third countries

1. The Member States referred to in Article 2(3) shall cooperate for the implementation of the specific control and inspection programme.
2. All other Member States shall cooperate with the Member States referred to in Article 2(3) and with the competent authorities of third countries for the implementation of the specific control and inspection programme.
3. When Member States cooperate in the framework of Chapter III of Regulation (EC) No 768/2005, part or the whole of the specific control and inspection programme may be implemented by way of a joint deployment plan adopted by the Community Fisheries Control Agency (CFCA).

Article 6

Joint inspection and surveillance activities

1. The Member States referred to in Article 2(3) shall undertake joint inspection and surveillance activities and, where applicable, in the framework of Chapter III of Regulation (EC) No 768/2005.
2. For the purpose of joint inspection and surveillance activities, the Member States concerned shall:
 - (a) ensure that inspectors from other Member States concerned are invited to participate in joint inspection and surveillance activities;
 - (b) establish joint operational procedures applicable to their surveillance crafts.
3. Commission officials and Community inspectors may participate in joint inspection and surveillance activities.

⁽¹⁾ OJ L 286, 29.10.2008, p. 1.

*Article 7***Information**

1. The Member States referred to in Article 2(3) shall communicate by electronic means to the Commission and to the CFCA, by the 10th day of each quarter, the following information concerning the preceding quarter:

- (a) the inspection and control activities carried out;
- (b) all infringements detected, including for each infringement the identification of:
 - (i) the fishing vessel (name, flag and external identification code) or the enterprise engaged in the processing and/or trade of pelagic species concerned;
 - (ii) the date, time and location of the inspection; and
 - (iii) the nature of the infringement;
- (c) the current state of play concerning the follow-up of infringements detected.

2. An infringement shall continue to be listed on each subsequent report until the action is concluded under the laws of the Member State concerned. Each subsequent report shall:

- (a) indicate the current status of the case (e.g. case pending, under appeal, still under investigation); and

- (b) describe in specific terms any penalties imposed (e.g. level of fines, value of forfeited fish and/or gear, written warning given).

3. Reports shall include an explanation if no action has been taken following the detection of an infringement.

*Article 8***Evaluation**

The Member States referred to in Article 2(3), shall, by 31 March of 2013, send to the Commission and to the CFCA an evaluation report concerning the control and inspection activities carried out under this specific control and inspection programme.

*Article 9***Addressees**

This Decision is addressed to the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, Ireland, the Kingdom of Spain, the French Republic, the Republic of Latvia, the Republic of Lithuania, the Kingdom of the Netherlands, the Republic of Poland, the Portuguese Republic and the United Kingdom of Great Britain and Northern Ireland.

Done at Brussels, 24 May 2011.

For the Commission
Maria DAMANAKI
Member of the Commission

ANNEX I

COMMON RULES FOR THE SPECIFIC CONTROL AND INSPECTION PROGRAMME**1. OBJECTIVE**

The general objective of the specific control and inspection programme shall be the verification of compliance with applicable legislation concerning:

- (a) quantitative restrictions on catches and any specific conditions associated therewith, including the monitoring of quota uptake;
- (b) the documentation required by the legislation applicable to the pelagic fisheries, in particular the reliability of the information recorded and reported;
- (c) landing and weighing procedures;
- (d) transshipments;
- (e) the high grading ban provided for in Article 1(2)(b) of Council Regulation (EC) No 1288/2009 of 27 November 2009 establishing transitional technical measures from 1 January 2010 to 30 June 2011 ⁽¹⁾ and any failure to land pelagic species caught during a fishing operation as referred to in Article 90(1)(c) of Regulation (EC) No 1224/2009.

2. STRATEGY

Member States shall carry out control and inspection of fishing and all related activities by fishing vessels and other economic operators throughout the whole chain on the basis of risk management as defined in Article 4(18) of Regulation (EC) No 1224/2009.

Inspections made after landing or transshipment shall in particular be used as a complementary cross-checking mechanism to verify the reliability of the information recorded and reported on catches and landings.

3. PRIORITIES

Different gear categories shall be subject to different levels of prioritisation, according to the annual fishing plan. For that reason, each Member State shall set specific priorities based on risk management.

4. MONITORING TASKS

All fishing trips by authorised fishing vessels equipped with VMS shall be monitored in real time and cross-checked with the documentation of landing, transshipment, sales and takeover declarations as well as any inspection and surveillance reports.

All landings, sales, imports and exports shall be monitored.

5. TARGET INSPECTION BENCHMARKS

No later than 1 month after the entry into force of this Decision for year 2011 and before 1 January 2012 for year 2012, Member States shall where appropriate define additional target inspection benchmarks and schedule inspections on the basis of risk management as defined in Article 4(18) of Regulation (EC) No 1224/2009:

Place of inspection	Benchmark
Inspection at sea	<p>Benchmark to be set after a detailed analysis of the fishing activity in each area. Benchmarks at sea shall refer to the number of patrol days at sea in Western Waters, with possibly a separate benchmark for days patrolling specific areas.</p> <p>Based on risk management, specific inspections shall be programmed concerning:</p> <ul style="list-style-type: none"> — the ban on high grading; — slipping; — the provisions for third-country vessels intending to fish for blue whiting or mackerel in EU waters laid down in Annex IV to Commission Regulation (EU) No 201/2010 of 10 March 2010 laying down detailed rules for the implementation of Council Regulation (EC) No 1006/2008 concerning authorisations for fishing activities of Community fishing vessels outside Community waters and the access of third country vessels to Community waters ⁽¹⁾.

⁽¹⁾ OJ L 347, 24.12.2009, p. 6.

Place of inspection	Benchmark
Landings	<p>At least 10 % of the number of landings exceeding 10 tonnes of herring, mackerel and horse mackerel in designated ports shall be subject to full inspection.</p> <p>At least 15 % of the quantities of herring, mackerel and horse mackerel landed in designated ports shall be subject to full inspection.</p> <p>The choice of the landings to be inspected shall be based on risk analysis.</p> <p>Based on risk management, specific inspections shall be programmed for:</p> <ul style="list-style-type: none"> — not designated ports and landing places; — landings of quantities of herring, mackerel and horse mackerel of less than 10 tonnes; — possible landings of mackerel under other denominations, such as <i>Scomber japonicus</i> (MAS). <p>Benchmarks in respect of landings of anchovy and blue whiting to be set on the basis of a detailed analysis of the landing activity in each area.</p>
Transhipments	Based on risk management, at least 5 % of the number of transhipments shall be subject to inspection.
First sale	<p>At least 10 % of the first sales of herring, mackerel and horse mackerel in designated ports shall be subject to full inspection, the benchmark should be based on risk analysis.</p> <p>At least 15 % of the quantities sold of herring, mackerel and horse mackerel in designated ports shall be subject to full inspection, the benchmark should be based on a risk analysis.</p>
Import/Export	Based on risk management, in case where information is available to Member States on import/export flows, at least 5 % of the quantities imported/exported shall be subject to inspection.
Aerial surveillance	Benchmarks to be set after a detailed analysis of the fishing activity conducted in each area and taking into consideration the available resources at the Member State's disposal.

(¹) OJ L 61, 11.3.2010, p. 10.

6. PROCEDURES

6.1. General inspection tasks

Inspectors shall verify and note in their report the following information:

- (a) the details of the identity of the responsible persons involved in the activities inspected;
- (b) the fishing licenses and authorisations;
- (c) all relevant documentation;
- (d) detailed verification of species and quantities caught in compliance with the applicable EU legislation.

All relevant findings from the inspections done at sea, in ports or in any other economical operator concerned shall be noted in the inspection reports.

Those findings shall be duly cross-checked with the information made available to the inspectors by other competent authorities, including Vessel Monitoring System (VMS) information, electronic recording and reporting system (ERS) information and lists of authorised vessels.

6.2. Inspection tasks for aerial surveillance

Inspectors shall report on surveillance data for cross-checking purposes, and in particular verify sightings of fishing vessels against VMS and ERS information and authorised lists.

6.3. Inspection tasks at sea

Where one or more pelagic species is onboard the fishing vessel or is present aboard a processing or a transport vessel, inspectors shall always verify the species and quantities of fish retained on board and compare them with the quantities recorded in the relevant documentation on board.

Inspectors shall systematically verify:

- that the fishing vessels are authorised to operate in the relevant pelagic fishery,
- that the fishing vessels are equipped with an operational Vessel Monitoring System (VMS),
- that the relevant information is duly recorded in the logbook,
- the compliance of the fishing gear on board with the relevant requirements,
- the drawings of the vessel and in particular the possibility to discharge fish under the waterline,
- the presence of equipment allowing automatic grading,
- the physical quantities of pelagic species on board, and their presentation.

6.4. Inspection tasks at landing

Inspectors shall systematically verify:

- that the fishing vessels are authorised to operate in the relevant pelagic fishery,
- that the pre-notification of arrival for landing was sent and contained the correct information concerning the catch on board,
- That the landing of pelagic species has been authorised by the competent authorities, where appropriate,
- that the fishing vessels are equipped with an operational VMS and ERS,
- that the relevant information is duly recorded in the logbook and that the logbook sheets are transmitted in due course,
- for the fishing vessels participating in the transport and processing of pelagic species, that the relevant documentation on board is present and duly completed,
- the species and the physical quantities of pelagic species on board,
- that the weighing obligations are applied where appropriate,
- that the fishing gear on board corresponds to the fishing authorisation and complies with applicable technical measures.

6.5. Inspection tasks during transhipment

Inspectors shall systematically verify:

- that the fishing vessel is authorised to operate in the relevant pelagic fishery,
- for transhipments in port, that the pre-notification of arrival in port was sent and contained the correct information concerning the transhipment,
- that vessels wishing to tranship have received prior authorisation,
- that the species and quantities pre-notified to be transhipped are verified,
- that the relevant documentation on board is present and duly completed, including the transhipment declaration.

6.6. Inspection tasks concerning transports, marketing and takeover

Inspectors shall systematically verify the species and the quantity and the vessel that caught the fish and cross-check this information with the landing declaration and the logbook and verify:

- as regards transport, in particular the relevant documentation is present and duly completed,
 - as regards marketing, that the relevant documentation is present and duly completed,
 - a regards takeover, that the relevant documentation is present and duly completed.
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ANNEX II

MINIMUM CONTENTS OF MEASURES ADOPTED BY MEMBER STATES AS REFERRED TO IN ARTICLE 4(2)

National measures shall, inter alia, specify the following:

(1) MEANS OF CONTROL:

— Human means

The number of shore-based and seagoing inspectors, as well as the periods and zones where these are to be deployed.

— Technical means

The number of patrol vessels and aircraft, as well as the periods and zones where these are to be deployed.

— Financial means

The budgetary allocation for deployment of human resources, patrol vessels and aircraft.

(2) DESIGNATION OF PORTS:

The list of the designated ports required under Regulation (EC) No 1542/2007.

(3) WEIGHING PROCEDURES:

The systems applied to comply with the rules established, in particular by Regulation (EC) No 1542/2007 regarding weighing procedures and facilities.

(4) FISHING PLANS:

The details of any system in place for the allocation of quotas and for the monitoring and control of quota uptake.

(5) MONITORING:

The details of the monitoring system for fishing activities, landings, transshipments, marketing and import/export of pelagic species.

(6) INSPECTION PROTOCOLS:

Detailed Protocols for all inspection activities.

(7) GUIDELINES:

Explanatory guidelines for inspectors, producer organisations and fishermen.

(8) COMMUNICATION PROTOCOLS:

Protocols for communication with the competent authorities designated by other Member States as being responsible for the specific control and inspection programme.
