

**COUNCIL REGULATION (EC) No 1006/2008****of 29 September 2008****concerning authorisations for fishing activities of Community fishing vessels outside Community waters and the access of third country vessels to Community waters, amending Regulations (EEC) No 2847/93 and (EC) No 1627/94 and repealing Regulation (EC) No 3317/94**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Whereas:

- (1) Council Regulation (EC) No 3317/94 of 22 December 1994 laying down general provisions concerning the authorisation of fishing in the waters of a third country under a fisheries agreement<sup>1</sup> establishes the procedure for the authorisation of fishing activities of Community fishing vessels in the waters under the jurisdiction of third countries, pursuant to fisheries agreements concluded between the Community and third countries. The procedure established in that Regulation is no longer considered to serve the needs with regard to international obligations deriving from bilateral fisheries agreements and multilateral agreements and conventions adopted in the framework of regional fisheries management organisations (RFMO) or similar arrangements. Moreover, the Regulation no longer suffices to serve the objectives of the Common Fisheries Policy (CFP), in particular with regard to sustainable fisheries and control.
- (2) Following the 2006-2008 Action plan for simplifying and improving the Common Fisheries Policy, presented in the Communication from the Commission to the Council and Parliament of 8 December 2005, and the changed circumstances for fisheries outside Community waters since the adoption of Regulation (EC) No 3317/94, and in order to comply with international obligations, it is necessary to introduce a general Community system for the authorisation of all fishing activities of Community fishing vessels outside Community waters. Moreover, the rules for access of fishing vessels flying the flag of a third country to Community waters, as currently laid down in other different legal instruments, should be redefined and, as far as appropriate, aligned with the rules applicable to Community fishing vessels.
- (3) Community fishing vessels should be allowed to engage in fishing activities outside Community waters only after having been authorised by the competent authority responsible for the authorisation of the fishing activities concerned, such as the competent authority of the third country in whose waters the fishing activities take place, the authority competent for authorising fishing activities in international waters covered by provisions adopted in the framework of an RFMO or similar arrangement, or, where it concerns fishing activities on the high seas not regulated by any agreement, the competent authorities of the Member States without prejudice to specific Community legislation concerning fishing activities on the high-seas.
- (4) It is important to clearly spell out the responsibilities of the Commission and Member States regarding the procedure for the authorisation of fishing activities of Community fishing vessels outside Community waters. In this respect the Commission should be in a position to ensure that international obligations and provisions of the CFP are complied with, that the requests for transmission of applications are complete and that they are transmitted in accordance with the deadlines established under the agreements concerned.
- (5) Community fishing vessels should be considered eligible for authorisation for any fishing activity outside Community waters only in so far as a number of criteria related to the international obligations entered into by the Community as well as to the rules and objectives of the CFP are satisfied.
- (6) Where the Council procedure for adopting a decision on the provisional application of a new protocol to a bilateral fisheries agreement with a third country allocating the fishing opportunities between the Member States cannot be finalised before the date of this provisional application the Commission should be allowed, on a temporary basis, in order to avoid any interruption of fishing activities by Community vessels, to transmit to the third country applications for fishing authorisations in the six months following the expiry of the previous protocol.
- (7) In order to ensure that the fishing opportunities available to the Community under the Fisheries Partnership Agreements are used in full, it is necessary that the Commission

be empowered to temporarily reallocate fishing opportunities not used by one Member State to another Member State, without affecting the allocation or the exchange of fishing opportunities amongst the Member States under the protocol in question.

- (8) Fisheries Partnership Agreements are those agreements as referred to in the Council conclusions of 15 July 2004 and which, at the time of their conclusion or provisional application, were described as such by the Council.
- (9) Provisions on control of utilisation of fishing opportunities allocated to Community fishing vessels outside Community waters and of fishing opportunities allocated to third country fishing vessels within Community waters should be aligned and should allow for timely action to prevent Member States and third countries from exceeding those opportunities.
- (10) For the consistent and effective prosecution of infringements, the possibility should be provided to make full use of inspection and surveillance reports drawn up by Commission inspectors, Community inspectors, inspectors of Member States and of third countries.
- (11) All data relating to the fishing activities of Community fishing vessels outside Community waters pursuant to fisheries agreements, should be up-to-date and, as far as appropriate, accessible to the Member States and third countries concerned. For this purpose, it is necessary to establish a Community fishing authorisation information system.
- (12) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(1)</sup>. Those rules may also provide for exemptions from the obligations laid down in this Regulation where those obligations would create a disproportionate burden compared to the economic importance of the activity and, for the sake of efficiency, such exemptions should be adopted by the management procedure set out in Article 4 of Decision 1999/468/EC.
- (13) Regulation (EC) No 3317/94 as well as the provisions relating to access of third country fishing vessels to Community waters set out in Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing permits <sup>(2)</sup> and Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy <sup>(3)</sup>, should be repealed,

HAS ADOPTED THIS REGULATION:

## CHAPTER I

### GENERAL PROVISIONS

#### Article 1

#### Scope and objectives

This Regulation establishes provisions concerning:

- (a) the authorisation for Community fishing vessels to engage in the following fishing activities:
- (i) in the waters under the sovereignty or jurisdiction of a third country in the framework of a fisheries agreement concluded between the Community and that country; or
- (ii) falling under the scope of conservation and management measures adopted in the framework of a regional fisheries management organisation or similar arrangement to which the Community is a contracting party or non-contracting cooperating Party, hereinafter referred to as 'RFMO'; or
- (iii) outside Community waters not falling under the scope of a fisheries agreement or a RFMO;
- (b) the authorisation for third country fishing vessels to engage in fishing activities in Community waters;

and the reporting obligations relating to the authorised activities.

#### Article 2

#### Definitions

For the purpose of this Regulation:

- (a) 'agreement' means a fisheries agreement concluded or for which a decision of provisional application has been adopted in accordance with Article 300 of the Treaty;
- (b) 'regional fisheries management organisation' or 'RFMO' means a subregional or regional organisation or similar arrangement with competence, as recognised under international law, to establish conservation and management measures for marine living resources placed under its responsibility by virtue of its establishing convention or agreement;
- (c) 'fishing activities' means the catching, retaining on board, processing and transferring of fish;

<sup>(1)</sup> OJ L 184, 17.7.1999, p. 23.

<sup>(2)</sup> OJ L 171, 6.7.1994, p. 7.

<sup>(3)</sup> OJ L 261, 20.10.1993, p. 1.

- (d) 'Community fishing vessel' means a Community fishing vessel as referred to in Article 3(d) of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy <sup>(1)</sup>;
- (e) 'Community fleet register' means the Community fishing fleet register as referred to in Article 15(3) of Regulation (EC) No 2371/2002;
- (f) 'fishing opportunity' means the fishing opportunity as defined in Article 3(q) of Regulation (EC) No 2371/2002;
- (g) 'authorising authority' means the authority responsible for the authorisation of fishing activities of Community fishing vessels under an agreement or the authorisation of third country fishing vessels in Community waters;
- (h) 'fishing authorisation' means the entitlement to engage in fishing activities during a specified period, in a given area or for a given fishery;
- (i) 'fishing effort' means the fishing effort as defined in Article 3(h) of Regulation (EC) No 2371/2002;
- (j) 'electronic transmission' means the transfer of data in electronic format, with the contents, format and protocol established by the Commission or agreed upon by the parties to an agreement;
- (k) 'fishing category' means a subdivision of the fleet based on criteria such as, in particular, the type of vessels, the type of fishing activities and the fishing gear deployed;
- (l) 'serious infringement' means a serious infringement as defined in Council Regulation (EC) No 1447/1999 of 24 June 1999 establishing a list of types of behaviour which seriously infringe the rules of the common fisheries policy <sup>(2)</sup>, or a serious infringement or serious violation under the agreement concerned;
- (m) 'IUU list' means the list of fishing vessels engaged in illegal, unreported and unregulated fishing and identified in the framework of a RFMO or by the Commission under Council Regulation (EC) No .../... of ...2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing <sup>(3)</sup>;
- (n) 'Community fishing authorisation information system' means the information system established by the Commission in accordance with Article 12;
- (o) 'third country fishing vessel' means a vessel:
- which, whatever its dimensions, is used primarily or secondarily to take fishery products,
  - which, even if not used to make catches by its own means, takes fishery products by transshipment from other vessels, or
  - on board of which fishery products are subject to one or more of the following operations prior to packaging: filleting or slicing, skinning, mincing, freezing and/or processing;
- and which flies the flag of, and/or is registered in, a third country.

## CHAPTER II

FISHING ACTIVITIES BY COMMUNITY FISHING VESSELS  
OUTSIDE COMMUNITY WATERS

## SECTION I

**General provisions**

## Article 3

**General provision**

Only Community fishing vessels for which a fishing authorisation has been issued in accordance with this Regulation shall be entitled to engage in fishing activities outside Community waters.

## SECTION II

**Authorisations for fishing activities within the framework of agreements**

## Article 4

**Submission of applications**

1. At the latest five working days before the deadline for the transmission of applications laid down in the agreement concerned or, in the absence of a deadline in the agreement, at the latest in accordance with the arrangement set out in the agreement and without prejudice to specific provisions contained in Community legislation, Member States shall submit to the Commission, through electronic transmission, the applications for fishing authorisations for the fishing vessels concerned.

<sup>(1)</sup> OJ L 358, 31.12.2002, p. 59.

<sup>(2)</sup> OJ L 167, 2.7.1999, p. 5.

<sup>(3)</sup> See page 1 of this Official Journal.

2. The applications referred to in paragraph 1 shall contain the Community fleet register identification number and international radio call sign of the vessel and any other data required under the agreement concerned, or prescribed in accordance with the procedure referred to in Article 27(2).

#### Article 5

##### Eligibility criteria

1. Member States shall only submit to the Commission applications for a fishing authorisation for fishing vessels flying their flag:

- (a) which are already carrying out fishing activities and which during the previous 12 months of fishing activities under the agreement concerned or, in case of a new agreement, under the agreement that preceded it, have, where appropriate, fulfilled the conditions under the agreement for that period;
- (b) which during the 12 months prior to the application for the fishing authorisation, have been subject to sanction proceedings for serious infringements or have been considered suspected of such breaches according to the national law of the Member State and/or where the owner of the vessel has changed and the new owner provides guarantees that the conditions will be fulfilled;
- (c) which are not included in an IUU list;
- (d) for which the data contained in the Community fleet register and the Community fishing authorisation information system is complete and accurate;
- (e) which have a fishing licence as referred to in Commission Regulation (EC) No 1281/2005 of 3 August 2005 on the management of fishing licences and the minimal information to be contained therein <sup>(1)</sup>;
- (f) for which the data required under the agreement concerned is available and accessible for the authorising authority; and
- (g) for which the applications for a fishing authorisation are in accordance with the agreement concerned and this Regulation.

2. Each Member State shall ensure that the applications for fishing authorisations for which it requests transmission are commensurate with the fishing opportunities available to that Member State under the agreement concerned.

#### Article 6

##### Transmission of applications

1. The Commission shall transmit the applications to the authorising authority concerned within five working days after receipt of the request from the Member State and in accordance with this Article.

<sup>(1)</sup> OJ L 203, 4.8.2005, p. 3.

2. The Commission shall examine the requests for transmission of applications, taking into account:

- (a) the fishing opportunities allocated to each Member State by the Council on the basis of Article 20 of Regulation (EC) No 2371/2002 or Article 37 of the Treaty; and
- (b) the conditions laid down in the agreement concerned and in this Regulation.

3. The Commission shall verify that:

- (a) the conditions laid down in Article 5 are complied with; and
- (b) the applications for fishing authorisations for which transmission is requested by the Member State concerned are commensurate with the fishing opportunities available under the agreement concerned, taking into account the applications of all Member States.

#### Article 7

##### Non-transmission of applications

1. The Commission shall not transmit to the authorising authority applications, with regard to which:

- (a) the data provided by the Member State in accordance with Article 4(2) is incomplete for the vessel concerned;
- (b) the fishing opportunities of the Member State concerned are insufficient, taking into consideration the technical specifications of the agreement concerned and the applications submitted by the Member State;
- (c) the conditions laid down in the agreement concerned and in this Regulation are not complied with.

2. In case of non-transmission of one or more applications, the Commission shall without delay inform the Member State concerned thereof, and shall state its reasons.

If the Member State disagrees with the reasons stated by the Commission, it shall transmit to the Commission any information or documents supporting its objection within five working days. The Commission shall review the application in the light of this information.

#### Article 8

##### Information

1. The Commission shall inform the flag Member State without delay, by electronic transmission, of the fishing authorisation granted by the authorising authority, or of the decision by the authorising authority not to issue a fishing authorisation for a particular fishing vessel.

Where required under, or pursuant to, an agreement, the accompanying and original paper documents shall be sent by paper transmission and/or by electronic means.

2. The flag Member States shall immediately inform the owners of the fishing vessels concerned of the information received in accordance with paragraph 1.

3. If an authorising authority informs the Commission that it has decided to suspend or withdraw a fishing authorisation issued for a Community fishing vessel under an agreement, the Commission shall immediately inform, by electronic transmission, the flag Member State of that vessel. The flag Member State shall immediately transmit that information to the owner of that vessel.

4. The Commission shall carry out checks to establish the compatibility of the decision to refuse or suspend a fishing authorisation with the agreement concerned, in consultation with the flag Member State and the relevant authorising authority, and shall inform them both of the outcome.

#### Article 9

##### Continuity of fishing activities

1. Where:

- the protocol to a bilateral fisheries agreement with a third country which sets out the fishing opportunities provided for in that agreement has expired, and
- a new protocol has been initialled by the Commission but a decision has not yet been adopted on its conclusion or on its provisional application;

the Commission may, during a period of six months from the expiration date of the previous protocol and without prejudice to the competence of the Council to decide on the conclusion or provisional application of the new protocol, transmit applications for fishing authorisations to the third country concerned in accordance with this Regulation.

2. In accordance with the rules set out under the fisheries agreement concerned, Community vessels authorised to engage in fishing activities under that agreement may, at the expiration date of the fishing authorisations, continue to fish under the agreement for a maximum period of six months after the expiration date, provided that scientific advice allows for this.

3. In this context, the Commission shall apply the method of allocating fishing opportunities in force in the previous protocol for paragraph 1, and in the existing protocol for paragraph 2.

#### Article 10

##### Underutilisation of fishing opportunities in the context of Fisheries Partnership Agreements

1. In the context of a Fisheries Partnership Agreement if, on the basis of the requests for transmission of applications referred to in Article 4 of this Regulation, it appears that the number of fishing authorisations or the amount of fishing opportunities

allocated to the Community under an agreement are not fully utilised, the Commission shall inform the Member States concerned and shall request them to confirm not making use of those fishing opportunities. The absence of a reply within the deadlines, to be set by the Council upon the conclusion of the Fisheries Partnership Agreement, shall be considered as confirmation that the vessels of the Member State concerned are not making full use of their fishing opportunities in the given period.

2. After confirmation by the Member State concerned, the Commission shall assess the total non-utilised fishing opportunities and shall make that assessment available to the Member States.

3. Member States wishing to make use of the non-utilised fishing opportunities referred to in paragraph 2, shall submit to the Commission a list of all vessels for which they intend to request a fishing authorisation, as well as the request for the transmission of applications for each of those vessels, in accordance with Article 4.

4. The Commission shall decide on the reallocation, in close cooperation with the Member States concerned.

If a Member State concerned objects to this reallocation, the Commission shall, in accordance with the procedure laid down in Article 27(2), decide on the reallocation taking into account the criteria laid down in Annex I, and shall notify the Member States concerned thereof.

5. The transmission of applications in accordance with this Article shall in no way affect the allocation of fishing opportunities or their exchange amongst Member States, in accordance with Article 20 of Regulation (EC) No 2371/2002.

6. The Commission shall not be prevented from applying the mechanism referred to in paragraphs 1 to 4 until the deadlines mentioned in paragraph 1 are finalised.

#### SECTION III

##### Fishing activities not falling within the scope of an agreement

#### Article 11

##### General provisions

1. An operator of a Community fishing vessel, intending to conduct fishing activities on the high seas in waters not falling within the scope of an agreement or a RFMO, shall inform the authorities of the flag Member State about such activities.

Without prejudice to Community legislation concerning fishing activities on the high-seas, Community fishing vessels shall be entitled to engage in fishing activities on the high seas in waters not falling within the scope of an agreement or a RFMO if they have been issued with an authorisation from their flag Member State in accordance with national provisions.

Member States shall inform the Commission ten days before the start of the fishing activities referred to in the first subparagraph of the vessels authorised to fish in accordance with that subparagraph, specifying the species, the fishing gear, the period and area to which the authorisation applies.

2. Member States shall endeavour to obtain information on any arrangements, between their nationals and a third country, which allow fishing vessels flying their flag to engage in fishing activities in waters under the jurisdiction or sovereignty of a third country, and shall inform the Commission thereof by the electronic transmission of a list of the vessels concerned.

3. This section shall only apply to vessels exceeding 24 metres in overall length.

#### SECTION IV

### **Reporting obligations and closure of fishing activities**

#### Article 12

### **Community fishing authorisation information system**

1. The Commission shall set up a Community fishing authorisation information system, containing the data relating to the authorisations issued in accordance with this Regulation. The Commission shall establish a secure website for this purpose.

2. Member States shall ensure that the data required with respect to fishing authorisations in the framework of an agreement or an RFMO are contained in the Community fishing authorisation information system and they shall keep this data up-to-date at all times.

#### Article 13

### **Reporting of catches and fishing effort**

1. Community fishing vessels for which a fishing authorisation has been issued under Section II or III shall, on a weekly basis, transmit to their competent national authority data concerning their catches and, where required, their fishing effort. This data shall be accessible to the Commission upon request.

Notwithstanding the first subparagraph, Community fishing vessels exceeding 24 metres in overall length shall, as from 1 January 2010, transmit on a daily basis to their competent national authority the data concerning their catches and, where required, their fishing effort in accordance with Commission Regulation (EC) No 1566/2007 of 21 December 2007 laying down the detailed rules for the implementation of Council Regulation (EC) No 1966/2006 on electronic recording and reporting of fishing activities and on means of remote sensing <sup>(1)</sup>. As from 1 January 2011, this shall also apply to Community fishing vessels exceeding 15 metres in overall length.

2. Member States shall collect the data referred to in paragraph 1 of this Article and, before the 15th of each calendar month, shall submit by electronic transmission to the Commission, or to a body designated by the Commission, data for each stock, group of stocks or fishing category, on the quantities caught, and, where required under an agreement or regulation implementing that agreement, on the fishing effort deployed during the previous month by vessels flying their flag in the waters falling under the scope of an agreement and in the previous six months for fishing activities outside Community waters not falling under the scope of an agreement.

3. The Commission shall, in accordance with the procedure laid down in Article 27(2), decide on the format in which to transmit the data referred to in paragraph 1 of this Article.

#### Article 14

### **Control of catches and fishing effort**

Without prejudice to the provisions in Chapter V of Regulation (EC) No 2371/2002, Member States shall ensure compliance with the obligations regarding the reporting of catches and, where required, of fishing effort, as laid down in the agreement concerned.

#### Article 15

### **Closure of fisheries**

1. Without prejudice to Article 26(4) of Regulation (EC) No 2371/2002 and Article 21(3) of Regulation (EEC) No 2847/93, when a Member State considers that its available fishing opportunities are deemed to have been exhausted, it shall immediately prohibit fishing activities for the respective area, gear, stock or group of stocks. This provision shall apply without prejudice to specific provisions laid down in the agreement concerned.

2. Where the available fishing opportunities of a Member State are expressed both in terms of catch and effort limits, the Member State shall prohibit fishing activities for the respective area, gear, stock or group of stocks as soon as one of these opportunities is deemed to be exhausted. In order to allow for the continued fishing of non-exhausted fishing opportunities which also targets the exhausted fishing opportunities, Member States shall notify the Commission of technical measures which will have no negative impact on the exhausted fishing opportunities. This provision shall apply without prejudice to specific provisions laid down in the agreement concerned.

3. Member States shall notify the Commission without delay of any prohibition of fishing activities decided in accordance with this Article.

<sup>(1)</sup> OJ L 340, 22.12.2007, p. 46.

4. Where the Commission finds that fishing opportunities available to the Community or to a Member State are deemed to have been exhausted, the Commission shall inform the Member States concerned thereof and shall request that they prohibit fishing activities in accordance with paragraphs 1, 2 and 3.

5. As soon as the fishing activities are prohibited in accordance with paragraphs 1 or 2, the fishing authorisations specified for the stock or group of stocks concerned shall be suspended.

#### Article 16

### Suspension of fishing authorisations

1. Where an authorising authority under a fisheries agreement notifies the Commission of its decision to suspend or withdraw a fishing authorisation in respect of a fishing vessel flying the flag of a Member State, the Commission shall forthwith inform the flag Member State thereof. The Commission shall carry out the relevant checks, in accordance with the procedures laid down under the agreement concerned, where appropriate in consultation with the flag Member State and with the authorising authorities of the third country concerned, and shall inform the flag Member State and, where appropriate, the authorising authorities of the third country of the outcome.

2. Where an authorising authority of a third country suspends a fishing authorisation which it has granted to a Community fishing vessel, the flag Member State shall suspend the fishing permit under the agreement for the entire period of suspension of the fishing authorisation.

Where the fishing authorisation is definitively withdrawn by the authorising authorities of a third country, the flag Member State shall immediately withdraw the fishing permit granted to the vessel concerned under the agreement concerned.

3. Inspection and surveillance reports drawn up by Commission inspectors, Community inspectors, inspectors of Member States or inspectors of a third country, which is party to the agreement concerned, shall constitute admissible evidence in administrative or judicial proceedings of any Member State. For the purpose of establishing facts, those reports shall be treated equally to inspection and surveillance reports of the Member State concerned.

#### SECTION V

### Access to data

#### Article 17

### Access to data

1. Without prejudice to the obligations under Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information<sup>(1)</sup>, the data submitted to the Commission, or to a body

<sup>(1)</sup> OJ L 41, 14.2.2003, p. 26.

designated by the Commission, by Member States in accordance with this Chapter shall be made available on the secure website linked to the Community fishing authorisation information system for all users concerned which are authorised by:

- (a) the Member States;
- (b) the Commission, or a body designated by the Commission, concerning control and inspection.

The data accessible to these persons shall be limited to the data they need in the framework of the fishing authorisation process and/or their inspection activities and shall be subject to the rules on data confidentiality.

2. The owners or agents of the vessels registered in the Community fishing authorisation information system may receive an electronic copy of the data contained in the register by transmitting an official request to the Commission via their national administration.

#### CHAPTER III

### FISHING ACTIVITIES OF THIRD COUNTRY FISHING VESSELS IN COMMUNITY WATERS

#### Article 18

### General provisions

1. Third country fishing vessels are entitled to:

- (a) engage in fishing activities in Community waters provided that they have been issued with a fishing authorisation in accordance with this Chapter;
- (b) land, tranship in ports or process fish provided that they have been issued with a prior authorisation from the Member State in whose waters the operation will take place.

2. Third country fishing vessels authorised to engage in fishing activities under an agreement on 31 December of any given calendar year may continue to fish under that agreement as from 1 January of the following year until the Commission decides to issue those vessels with fishing authorisations for that year, in accordance with Article 20.

#### Article 19

### Transmission of third country applications

1. The third country concerned shall, at the date of entry into force of an agreement granting it fishing opportunities in Community waters, submit to the Commission, by electronic transmission, a list of vessels flying its flag and/or registered in it which intend to make use of those fishing opportunities.

2. Within the deadline established in the agreement concerned or by the Commission, the competent authorities of the third country shall submit to the Commission, by electronic transmission, the applications for fishing authorisations for the fishing vessels flying its flag, containing the international radio call sign of the vessel and any other data required under the agreement or decided in accordance with the procedure referred to in Article 27(2).

#### Article 20

##### Issue of fishing authorisations

1. The Commission shall examine applications for fishing authorisations taking into account the fishing opportunities granted to the third country and shall issue fishing authorisations in accordance with the measures adopted by the Council and the provisions contained in the agreement concerned.

2. The Commission shall inform the competent authorities of the third country and of the Member States of the fishing authorisations issued.

#### Article 21

##### Eligibility criteria

The Commission shall only issue a fishing authorisation for third country fishing vessels:

- (a) which are eligible for a fishing authorisation under the agreement concerned and, where appropriate, are included in the list of vessels notified to carry out fishing activities under that agreement;
- (b) which, during the previous period of 12 months of fishing activities under the agreement concerned or, in case of a new agreement, under the agreement that preceded it, have, where appropriate, fulfilled the conditions under the agreement for that period;
- (c) which during the 12 months prior to the request for the fishing authorisation, have been subject to sanctions proceedings for serious infringements or considered suspected of such breaches according to the national law of the Member State and/or where the owner of the vessel has changed and the new owner provides guarantees that the conditions will be fulfilled;
- (d) which are not included in an IUU list;
- (e) for which the data required under the agreement concerned is available; and
- (f) for which the applications are in accordance with the agreement concerned and this Chapter.

#### Article 22

##### General obligations

Third country fishing vessels for which a fishing authorisation has been issued in accordance with this Chapter shall comply with the provisions of the CFP concerning the conservation and control measures and other provisions governing fishing by Community fishing vessels in the fishing zone in which they operate, and the provisions laid down in the agreement concerned.

#### Article 23

##### Control of catches and fishing effort

1. Third country fishing vessels engaging in fishing activities in Community waters shall, on a weekly basis, transmit to their national authorities and to the Commission, or to a body designated by the Commission, the data:

- (a) required under the agreement concerned;
- (b) established by the Commission in accordance with the procedure laid down in the agreement concerned; or
- (c) established in accordance with the procedure referred to in Article 27(2).

Notwithstanding the first subparagraph, third country fishing vessels exceeding 24 metres in overall length shall, as from 1 January 2010, transmit this data electronically on a daily basis. As from 1 January 2011, this shall also apply to third country fishing vessels exceeding 15 metres in overall length.

2. As far as required under the agreement concerned, third countries shall collect the catch data transmitted by their vessels in accordance with paragraph 1 and, before the 15th of each calendar month, shall submit by electronic transmission to the Commission, or to a body designated by the Commission, the quantities for each stock, group of stocks or fishing category, caught in Community waters in the previous month by all vessels flying their flag.

3. The catch data referred to in paragraph 2 shall be accessible to a Member State upon request and shall be subject to the rules governing data confidentiality.

#### Article 24

##### Closure of fisheries

1. Where fishing opportunities granted to a third country are deemed to have been exhausted, the Commission shall immediately inform the third country concerned and the competent inspection authorities of the Member States thereof. In order to allow for the continued fishing activities of non-



exhausted fishing opportunities, which also targets the exhausted opportunities, the third country shall submit to the Commission technical measures which will have no negative impact on the exhausted fishing opportunities. This provision shall apply without prejudice to specific provisions laid down in the agreement concerned.

2. From the date of the Commission's notification, the fishing authorisations issued to vessels flying the flag of that country shall be considered to be suspended for the fishing activities concerned and the vessels shall no longer be authorised to engage in those fishing activities.

3. Where a suspension of fishing activities applicable in accordance with paragraph 2 concerns all the activities for which the fishing authorisations have been granted, these fishing authorisations shall be considered to be withdrawn.

4. The third country shall ensure that the fishing vessels concerned shall be immediately informed of the application of this Article and that they cease all fishing activities concerned.

5. As soon as the fishing activities are prohibited in accordance with paragraphs 1 or 2, the fishing authorisations specified for the stock or group of stocks concerned shall be suspended.

#### *Article 25*

#### **Failure to comply with relevant rules**

1. Without prejudice to legal proceedings under national legislation, Member States shall immediately notify the Commission of any recorded infringement concerning a third country fishing vessel with regard to the fishing activities in Community waters under the agreement concerned.

2. For a period not exceeding 12 months, no licence or special fishing permit shall be issued to any third country fishing vessel in respect of which the obligations laid down under the agreement concerned have not been fulfilled.

The Commission shall submit to the authorities of the third country concerned the names and characteristics of the third country fishing vessels which will not be authorised to fish in the Community fishing zone during the following month or months as a consequence of an infringement of the relevant rules under the agreement concerned.

3. The Commission shall notify the inspection authorities of the Member States of the measures taken pursuant to paragraph 2.

#### CHAPTER IV

#### **IMPLEMENTING MEASURES**

#### *Article 26*

#### **Detailed rules**

Detailed rules for the application of this Regulation may be adopted in accordance with the procedure referred to in Article 27(2). Those rules may also provide for exemptions from the obligations laid down in this Regulation, where those obligations would create a disproportionate burden compared to the economic importance of the activity.

#### *Article 27*

#### **Committee procedure**

1. The Commission shall be assisted by the Committee for Fisheries and Aquaculture established under Article 30 of Regulation (EC) No 2371/2002.

2. Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply.

The period laid down in Article 4(3) of Decision 1999/468/EC shall be set at 20 working days.

#### CHAPTER V

#### **COMMON AND FINAL PROVISIONS**

#### *Article 28*

#### **International obligations**

This Regulation is without prejudice to provisions established in the agreements concerned and Community provisions implementing those provisions.

#### *Article 29*

#### **Repeal**

1. Articles 18, 28b, 28c and 28d of Regulation (EEC) No 2847/93 shall be deleted.

2. Articles 3(2), 4(2), 9, 10 of Regulation (EC) No 1627/94 shall be deleted.

3. Regulation (EC) No 3317/94 shall be repealed.

4. References to the deleted provisions shall be construed as references to the provisions of this Regulation and shall be read in accordance with the correlation table in Annex II.

*Article 30***Entry into force**

1. This Regulation shall enter into force on the 20th day following its publication in *the Official Journal of the European Union*.
2. Article 18 of Regulation (EEC) 2847/93 shall continue to apply until the regulation establishing the detailed rules in Article 13 of this Regulation has entered into force.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 29 September 2008.

*For the Council*

*The President*

M. BARNIER

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## ANNEX I

Criteria for reallocation referred to in Article 10

For the reallocation of fishing opportunities, the Commission shall take, in particular, the following into account:

- the date of each of the requests received,
  - the fishing opportunities available for reallocation,
  - the number of requests received,
  - the number of requesting Member States,
  - if fishing opportunities are fully or partly based on amounts of fishing effort or catches, the fishing effort expected to be deployed or the catches expected to be made by each of the vessels concerned.
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## ANNEX II

Regulation (EC) No 1627/94	Corresponding provision in this Regulation
Article 3(2)	Chapter III
Article 4(2)	Chapter III
Article 9	Articles 19 to 21
Article 10	Article 25
Regulation (EEC) No 2847/93	Corresponding provision in this Regulation
Article 18	Article 13
Article 28b	Article 18
Article 28c	Article 22
Article 28d	Article 24