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►**B** ►**M2** **COMMISSION IMPLEMENTING DECISION**

of 19 December 2012

establishing a specific control and inspection programme for pelagic fisheries in western waters of the north-east Atlantic

(2012/807/EU) ◄

(OJ L 350, 20.12.2012, p. 99)

Amended by:

		Official Journal		
		No	page	date
►**M1**	Commission Implementing Decision (EU) 2015/1944 of 28 October 2015	L 283	13	29.10.2015
►**M2**	Commission Implementing Decision (EU) 2017/10 of 5 January 2017	L 3	34	6.1.2017

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▼M2

COMMISSION IMPLEMENTING DECISION

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▼B

CHAPTER I

GENERAL PROVISIONS

▼M2

Article 1

Subject matter

This Decision establishes a specific control and inspection programme applicable to the stocks of mackerel, herring, horse mackerel, blue whiting, boarfish, anchovy, argentine, sardine and sprat in EU waters of ICES sub-areas V, VI, VII, VIII and IX and in EU waters of CECAF 34.1.11 (hereafter referred to as 'Western Waters').

▼B

Article 2

Scope

1. The specific control and inspection programme shall in particular cover the following activities:

(a) fishing activities within the meaning of Article 4(1) of Regulation (EC) No 1224/2009 in the area(s) referred to in Article 1;

(b) fishing related activities, including the weighing, processing, marketing, transport and storage of fisheries products;

(c) importation as defined in Article 2(11) of Council Regulation (EC) No 1005/2008 ([1]);

(d) exportation as defined in Article 2(13) of Regulation (EC) No 1005/2008.

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2. The specific control and inspection programme shall apply until 31 December 2018.

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3. The specific control and inspection programme shall be implemented by Denmark, Estonia, France, Germany, Ireland, Latvia, Lithuania, the Netherlands, Poland, Portugal, Spain and the United Kingdom (hereafter referred to as 'Member States concerned').

([1]) OJ L 286, 29.10.2008, p. 1.

▼B

CHAPTER II

OBJECTIVES, PRIORITIES, PROCEDURES AND BENCHMARKS

Article 3

Objectives

1. The specific control and inspection programme shall ensure the uniform and effective implementation of conservation and control measures applicable to stocks referred to in Article 1.

2. Control and inspection activities carried out under the specific control and inspection programme shall in particular aim at ensuring compliance with the following provisions:

(a) fishing opportunities management and any specific conditions associated therewith, including the monitoring of quota uptake and effort regime in areas referred to in Article 1;

▼M2

(b) reporting obligations applicable to fishing activities in Western Waters, in particular the reliability of the information recorded and reported;

▼M1

(c) the obligation to land all catches of species subject to the landing obligation pursuant to Regulation (EU) No 1380/2013 of the European Parliament and of the Council ([1]), and the measures to reduce discarding provided for in Title IIIa of Council Regulation (EC) No 850/98 ([2]);

▼B

(d) the special rules for weighing of certain pelagic species provided for in Articles 78 through 89 of Implementing Regulation (EU) No 404/2011.

Article 4

Priorities

1. Member States concerned shall carry out control and inspection activities with respect to fishing activities by fishing vessels and fishing related activities by other operators on the basis of a risk management strategy, in conformity with Article 4, point (18), of Regulation (EC) No 1224/2009 and Article 98 of Implementing Regulation (EU) No 404/2011.

2. Each fishing vessel, group of fishing vessels, fishing gear category, operator, and/or fishing related activity, for each stock referred to in Article 1, shall be subject to control and inspections according to the level of priority attributed pursuant to paragraph 3.

([1]) Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

([2]) Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (OJ L 125, 27.4.1998, p. 1);

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3. Each Member State concerned shall attribute the level of priority on the basis of the results of the risk assessment carried out in accordance with the procedures laid down in Article 5.

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Article 5

Procedures for risk assessment

1. Member States concerned shall assess risks with regard to the stocks and area(s) listed in Article 1 according to the methodology established in cooperation with the European Fisheries Control Agency (EFCA).

2. The risk assessment methodology referred to in paragraph 1 shall provide that the Member State concerned:

(a) considers, on the basis of past experience and using all available and relevant information, how likely a non-compliance is to happen and, if it were to happen, the potential consequence(s);

(b) establishes the level of risk — by fisheries and stocks, area covered, time of the year — based on occurrence (frequent, medium, seldom, not) and potential consequences (serious, significant, acceptable or marginal). The estimated risk level shall be expressed as ‘very low’, ‘low’, ‘medium’, ‘high’ or ‘very high’.

3. Member States concerned shall establish and regularly update a list of their vessels indicating, at least the high and very high risk vessels. The up-to date list of vessels graded by risks shall be used during the relevant joint deployment plan campaigns.

4. In cases where a fishing vessel flying the flag of a Member State which is not a Member State concerned, or a third country fishing vessel, operates in the area(s) referred to in Article 1, it shall be attributed a level of risk in accordance with paragraph 2. In the absence of information and unless its flag authorities provide, in the framework of Article 9, the results of their own risk assessment performed according to Article 4(2) and to paragraph 3 leading to a different risk level, it shall be considered as a ‘very high’ risk level fishing vessel.

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Article 6

Risk management strategy

1. On the basis of its risk assessment, each Member State concerned shall define a risk management strategy focused on ensuring compliance. Such strategy shall encompass the identification, description and allocation of appropriate cost-effective control instruments and inspection means, in relation to the nature and the estimated level of each risk, and the achievement of target benchmarks.

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2. The risk management strategy referred to in paragraph 1 shall be coordinated at regional level through a joint deployment plan as defined in Article 2(c) of Regulation (EC) No 768/2005.

Article 7

Relation with joint deployment plans procedures

▼M2

1. In the framework of a joint deployment plan, where applicable, each Member State concerned shall communicate to the EFCA the results of its risk assessment carried out in accordance with Article 5(2) and, in particular, a list of estimated levels of risk with corresponding targets for inspection.

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2. Where appropriate, the risk levels and targets lists referred to in paragraph 1 shall be updated by using information collected during joint inspection and surveillance activities. The EFCA shall be informed immediately following completion of each update.

3. The EFCA shall use information received from Member States concerned to coordinate the risk management strategy at regional level, in accordance with Article 6(2).

Article 8

Target benchmarks

1. Without prejudice to target benchmarks defined in Annex I of Regulation (EC) No 1224/2009 and in Article 9(1) of Regulation (EC) No 1005/2008, the target benchmarks at Union level for ‘high’ and ‘very high’ risk level fishing vessels and/or other operators are set out in Annex II.

2. The target benchmarks for ‘very low’, ‘low’, and ‘medium’ risk level fishing vessels and/or other operators shall be determined by Member States concerned through the national control action programmes referred to in Article 46 of Regulation (EC) No 1224/2009 and the national measures referred to in Article 95(4) of Regulation (EC) No 1224/2009.

3. By way of derogation from paragraphs 1 and 2, Member States may apply alternatively different target benchmarks, expressed in terms of improved compliance levels, provided that:

(a) a detailed analysis of the fishing activities or fishing related activities and enforcement related issues justifies the need for setting target benchmarks in the form of improved compliance levels;

(b) the benchmarks expressed in terms of improved compliance levels are notified to the Commission, and this latter does not object to them within 90 days, are not discriminatory, and do not affect objectives, priorities and risk-based procedures defined by the specific control and inspection programme.

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4. All target benchmarks shall be assessed annually on the basis of the evaluation reports referred to in Article 13(1) and, where appropriate, be revised accordingly in the framework of the evaluation referred to in Article 13(4).

5. Where applicable, a joint deployment plan shall give effect to target benchmarks referred to in this Article.

CHAPTER III

IMPLEMENTATION

Article 9

Cooperation between Member States and with third countries

1. Member States concerned shall cooperate in the implementation of the specific control and inspection programme.

2. Where appropriate, all other Member States shall cooperate with the Member States concerned.

3. Member States may cooperate with the competent authorities of third countries for the implementation of the specific control and inspection programme.

Article 10

Joint inspection and surveillance activities

1. For the purpose of increasing the efficiency and effectiveness of their national fisheries control systems, Member States concerned shall undertake joint inspection and surveillance activities in waters under their jurisdiction and, where appropriate, on their territory. Where applicable, such activities shall be carried out in the framework of joint deployment plans referred to in Article 9(1) of Regulation (EC) No 768/2005.

2. For the purpose of joint inspection and surveillance activities, each Member State concerned shall:

(a) ensure that officials 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;

(c) designate contact points referred to in Article 80(5) of Regulation (EC) No 1224/2009, where appropriate.

3. Officials and Union inspectors may participate in joint inspection and surveillance activities.

Article 11

Exchange of data

1. For the purpose of implementing the specific control and inspection programme, each Member State concerned shall ensure the direct electronic exchange of data referred to in Article 111 of Regulation (EC) No 1224/2009 and Annex XII of Implementing Regulation (EU) No 404/2011 with other concerned Member States and the EFCA.

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2. Data referred to in paragraph 1 shall be related to fishing activities and fishing related activities carried out in the area(s) covered by the specific control and inspection programme.

Article 12

Information

1. Pending the full implementation of Title XII, Chapter III of Regulation (EC) No 1224/2009, and in accordance with the format set out in Annex III of this Decision, each Member State concerned shall communicate by electronic means to the Commission and to the EFCA, by the 10th day after each quarter, the following information concerning the preceding quarter:

(a) the identification, date, and type of each control and/or inspection operation carried out during the preceding quarter;

(b) the identification of each fishing vessel (Union fleet register number), vehicle and/or operator (company name) subject to a control and/or inspection;

(c) where appropriate, the type of fishing gear inspected; and

(d) in case where one or several serious infringements were detected:

(i) the type(s) of serious infringement(s);

(ii) the state of play concerning the follow-up of serious infringement(s) (e.g. case under investigation, pending, under appeal); and

(iii) the sanction(s) imposed as follow-up of serious infringement(s): level of fines, value of forfeited fish and/or gear, points assigned in accordance with Article 126(1) of Implementing Regulation (EU) No 404/2011, and/or other type of sanctions.

2. Information referred to in paragraph 1 shall be communicated for each control and/or inspection and shall continue to be listed and updated in each report until the action is concluded under the laws of the Member State concerned. Where no action is taken following the detection of a serious infringement, an explanation shall be included.

▼M1

3. As from 2016 onwards, Member States shall communicate the information referred to in paragraph 1 on an annual basis, by the 31 January after each calendar year.

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Article 13

Evaluation

1. Each Member State concerned shall, by 31 March of the year following the relevant calendar year, send to the Commission and the EFCA an evaluation report concerning the effectiveness of the control and inspection activities carried out under this specific control and inspection programme.

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2. The evaluation report referred to in paragraph 1 shall at least include the information listed in Annex IV. Member States concerned may also include in their evaluation report other actions such as training or information sessions designed to have an impact on compliance by fishing vessels and other operators.

3. The EFCA, for its annual assessment of the effectiveness of joint deployment plans referred to in Article 14 of Regulation (EC) No 768/2005, shall take into consideration evaluation reports referred to in paragraph 1.

4. The Commission shall convene once a year a meeting of the Committee for fisheries and aquaculture to evaluate the suitability, adequacy and effectiveness of the specific control and inspection programme and its overall impact on compliance by fishing vessels and other operators, on the basis of evaluation reports referred to in paragraph 1. Target benchmarks set out in Annex II may be reviewed accordingly.

Article 14

This Decision shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

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ANNEX I

PROCEDURES FOR RISK ASSESSMENT

Each fishing vessel, group of fishing vessels, fishing gear category, operator, and/or fishing related activity, in different stocks and area(s) referred to in Article 1, shall be subject to control and inspections according to the level of priority attributed. The level of priority shall be attributed depending on the results of the risk assessment carried out by each Member State concerned, or by any other Member State for the sole purposes of application of Article 5(4), on the basis of the following procedure:

Risk description [depending on the risk/fishery/area and data available]	Indicator [depending on the risk/ fishery/area and data available]	Step in the fishery/ marketing chain (When and where does the risk appear)	Points to be considered [depending on the risk/fishery/ area and data available]	Occurrence in the fishery (*)	Potential conse-quence(s) (*)	Level of risk (*)
[*Note*: risks identified by Member States should be in line with objectives defined in Article 3]			Levels of catches/landings distributed by fishing vessels, stocks, and gears, Availability of quota to fishing vessels, distributed by fishing vessels, stocks and gears, Use of standardised boxes, Level and fluctuation of market price for the landed fisheries products (first sale), Number of inspections previously carried out and number of detected infringements for the fishing vessel and/or other operator concerned, Background, and/or potential danger, of fraud linked to port/location/ area, and metier, Any other relevant information or intelligence.	*Frequent/ Medium/ Seldom cases/or Not significant*	*Serious/ Significant/ Acceptable/ or Marginal*	*very low/low/ medium/high/ or very high*

(*) *Note*: To be assessed by Member States. The risk assessment shall consider, on the basis of past experience and using all available information, how likely a non-compliance is to happen and, if it were to happen, the potential consequence.

▼M1

ANNEX II

TARGET BENCHMARKS

1. **Level of inspections at sea (including aerial surveillance, where applicable)**

On a yearly basis, the following target benchmarks ([1]) shall be reached for the inspections at sea of fishing vessels engaged in the fishery of herring, mackerel, horse mackerel, anchovy and blue whiting in the area, in the case that inspections at sea are relevant in relation to the step in the fishery chain and are part of the risk management strategy:

Benchmarks per year (*)	Level of estimated risk for fishing vessels in accordance with Article 5(2)	
	high	very high
Fishery No 1 Herring, mackerel and horse mackerel	Inspection at sea of at least 5 % of fishing trips by 'high risk' level fishing vessels targeting the fishery in question	Inspection at sea of at least 7,5 % of fishing trips by 'very high risk' level fishing vessels targeting the fishery in question
Fishery No 2 Anchovy	Inspection at sea of at least 2,5 % of fishing trips by 'high risk' level fishing vessels targeting the fishery in question	Inspection at sea of at least 5 % of fishing trips by 'very high risk' level fishing vessels targeting the fishery in question
Fishery No 3 Blue whiting	Inspection at sea of at least 5 % of fishing trips by 'high risk' level fishing vessels targeting the fishery in question	Inspection at sea of at least 7,5 % of fishing trips by 'very high risk' level fishing vessels targeting the fishery in question

(*) expressed in a % of fishing trips in the area (when fishing with gears with mesh sizes for which the species is a target species) by high/very high risk fishing vessels/per year

2. **Level of inspections ashore (including document based controls and inspections in ports or at first sale)**

On a yearly basis, the following target benchmarks ([2]) shall be reached for the inspections ashore (including document based controls and inspections in ports or at first sale) of fishing vessels and other operators engaged in the fishery of herring, mackerel, horse mackerel, anchovy and blue whiting in the area, in the case that inspections ashore are relevant in relation to the step in the fishery/marketing chain and are part of the risk management strategy.

Benchmarks per year (*)	Level of risk for fishing vessels and/or other operators (first buyer)	
	high	very high
Fishery No 1 Herring, mackerel and horse mackerel	Inspection in port of at least 7,5 % of overall landed quantities by 'high risk' level fishing vessels	Inspection in port of at least 7,5 % of overall landed quantities by 'very high risk' level fishing vessels
Fishery No 2 Anchovy	Inspection in port of at least 2,5 % of overall landed quantities by 'high risk' level fishing vessels	Inspection in port of at least 5 % of overall landed quantities by 'very high risk' level fishing vessels

([1]) For vessels spending less than 24 hours at sea per fishing trip, and according to the risk management strategy, the target benchmarks may be reduced by half.

([2]) For vessels landing less than 10 tons per landing, and according to the risk management strategy, the target benchmarks may be reduced by half.

▼**M1**

Benchmarks per year (*)	Level of risk for fishing vessels and/or other operators (first buyer)	
	high	very high
Fishery No 3 Blue whiting	Inspection in port of at least 7,5 % of overall landed quantities by ‘high risk’ level fishing vessels	Inspection in port of at least 7,5 % of overall landed quantities by ‘very high risk’ level fishing vessels

(*) expressed in a % of quantities landed by high/very high risk fishing vessels/per year

Inspections made after landing or transhipment 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.

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ANNEX III

PERIODICAL INFORMATION ON THE IMPLEMENTATION OF THE SPECIFIC CONTROL AND INSPECTION PROGRAMME

Format for the communication of the information to be provided according to Article 12 for each inspection to be included in the report:

Element name	Code	Description and content
Identification of inspection	II	ISO alpha2 country code + 9 digits, e.g. DK201200000.
Date of inspection	DA	YYYY-MM-DD
Type of inspection or control	IT	Sea, shore, transport, document (to be indicated).
Identification of each fishing vessel, vehicle or operator	ID	Union fleet register number of the fishing vessel, vehicle identification, and/or company name of the operator.
Fishing gear type	GE	Gear code based on FAO's International Standard Statistical Classification of the Fishing Gear.
Serious infringement	SI	Y = yes, N = no
Type of serious infringement detected	TS	Indicate type of serious infringement detected, in reference to the number (left column) in the Annex XXX of Implementing Regulation (EU) No 404/2011. In addition, the serious infringements referred to in Article 90(1)(a), (b) and (c) of the Control Regulation shall be respectively identified by the numbers '13', '14' and '15'.
State of play follow up	FU	Indicate state of play: PENDING, APPEAL or CLOSED.
Fine	SF	Fine in EUR, e.g. 500.
Confiscation	SC	CATCH/GEAR for physical confiscation. Amount confiscated in case of value of catch/gear in EUR, e.g. 10 000.
Other	SO	In case of withdrawal of license/authorisation, indicate LI or AU + number of days, e.g. AU30.
Points	SP	Number of points assigned, e.g. 12.
Remarks	RM	In case of no action taken following detection of a serious infringement, explanation why in free text.

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ANNEX IV

CONTENT OF EVALUATION REPORTS

Evaluation reports shall at least contain the following information:

I. **General analysis of control, inspection and enforcement activities carried out (for each Member State concerned)**

— Description of risks identified by the concerned Member State and detailed content of its risk management strategy, including a description of the review and revision process.

— Comparison of type of control and inspection tools used and number of inspection means committed/number of means provided in the execution of the specific control and inspection programme, including duration and areas of deployment.

— Comparison of type of control and inspection tools used and number of control activities and inspections carried out (complete on the basis of information sent in accordance with Annex III)/number of serious infringements detected and, where possible, analysis on the motives for committing such infringements.

— Sanctions imposed for serious infringements (complete on the basis on information sent in accordance with Annex III).

— Analysis of other actions (distinct from control, inspection and enforcement activities e.g. training or information sessions) designed to have an impact on compliance by fishing vessels and/or other operators [EXAMPLE: number of selective gear improvements deployed, numbers of cod/juvenile samples, etc.].

II. **Detailed analysis of control, inspection and enforcement activities carried out (for each Member State concerned)**

1. Analysis of inspection activities at sea (including aerial surveillance, where appropriate), in particular:

— comparison of patrol vessels provided/committed,

— serious infringements rate at sea,

— proportion of inspections at sea on fishing vessels with a ‘very low’, ‘low’, or ‘medium’ level of risk resulting in one or more serious infringement,

— proportion of inspections at sea on fishing vessels with a ‘high’ or ‘very high’ level of risk resulting in one or more serious infringement,

— type and level of sanctions/evaluation of the deterrent effect.

2. Analysis of ashore inspection activities (including document based controls and inspections in ports or at first sale, or transhipments), in particular:

— comparison of ashore-based inspection units provided/committed,

— ashore serious infringements rate,

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— proportion of inspections ashore on fishing vessels and/or operators with a ‘very low’, ‘low’, or ‘medium’ level of risk resulting in one or more serious infringement,

— proportion of inspections ashore on fishing vessels and/or operators with a ‘high’ or ‘very high’ level of risk resulting in one or more serious infringement,

— type and level of sanctions/evaluation of the deterrent effect.

3. Analysis of target benchmarks expressed in terms of compliance levels (where applicable), in particular:

— comparison of inspection means provided/committed,

— serious infringement rate and trend (by comparison with two previous years),

— proportion of inspections on fishing vessels/operators resulting in one or more serious infringements,

— type and level of sanctions/evaluation of the deterrent effect.

4. Analysis of other inspection and control activities: transhipment, aerial surveillance, importation/exportation, etc., as well as other actions such as training or information sessions designed to have an impact on compliance by fishing vessels and other operators

III. **Proposal(s) for improving effectiveness of control, inspection and enforcement activities carried out (for each Member State concerned)**