Regulation (EU) 2017/1130 of the European Parliament and of the Council of 14 June 2017 defining characteristics for fishing vessels (recast)

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(recast)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[(1)],

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) Council Regulation (EEC) No 2930/86[(3)] has been substantially amended[(4)]. Since further amendments are to be made, that Regulation should be recast in the interests of clarity.

(2) In the framework of the Common Fisheries Policy, reference is made to the characteristics of fishing vessels, such as length, breadth, tonnage, date of entry into service and engine power.

(3) It is essential that identical rules for determining the characteristics of fishing vessels be used in order to unify the conditions for the pursuit of the activity in the Union. Those rules should be in line with the standards of the Common Fisheries Policy.

(4) The definitions laid down in this Regulation should be based upon initiatives already taken by specialist international organisations.

(5) Therefore, account should be taken of the United Nations Convention on Fishing and Conservation of the Living Resources of the High Seas, signed in Geneva on 29 April 1958, the International Convention on Tonnage Measurement of Ships, signed in London on 23 June 1969 (the ‘1969 Convention’) and the International Convention for the Safety of Fishing Vessels, signed in Torremolinos on 2 April 1977.

(6) For fishing vessels with a length overall of less than 15 metres, the methodology laid down in Annex I to the 1969 Convention is in certain cases inappropriate. Therefore, for those vessels a simpler definition of gross tonnage is desirable.

Changes to legislation: *Regulation (EU) 2017/1130 of the European Parliament and of the Council is up to date with all changes known to be in force on or before 16 December 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(7) The International Organisation for Standardisation (ISO) has drawn up standards on internal combustion engines which are widely applied in Member States.

(8) In order to adapt the reference to the relevant ISO International Standard setting out the requirements for the determination of the continuous engine power to technical progress, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the adoption of the necessary amendments to the reference to the relevant ISO International Standard. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[(5)]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts,

HAVE ADOPTED THIS REGULATION:

Article 1

General provision

The definitions of characteristics of fishing vessels laid down in this Regulation shall apply to all Union rules concerning fisheries.

Article 2

Length

1 The length of a vessel shall be the length overall, defined as the distance in a straight line between the foremost point of the bow and the aftermost point of the stern.

For the purposes of this definition:

a the bow shall be taken to include the watertight hull structure, forecastle, stem and forward bulwark, if fitted, but shall exclude bowsprits and safety rails;

b the stern shall be taken to include the watertight hull structure, transom, poop, trawl ramp and bulwark, but shall exclude safety rails, bumkins, propulsion machinery, rudders and steering gear, and divers' ladders and platforms.

The length overall shall be measured in metres with an accuracy of two decimals.

2 When the length between perpendiculars is referred to in Union legislation, it shall be defined as the distance measured between the forward and the after perpendiculars as defined by the International Convention for the Safety of Fishing Vessels.

The length between perpendiculars shall be measured in metres with an accuracy of two decimals.

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Article 3

Breadth

The breadth of a vessel shall be the maximum breadth as defined in Annex I to the International Convention on Tonnage Measurement of Ships (the '1969 Convention').

The overall breadth shall be measured in metres with an accuracy of two decimals.

Article 4

Tonnage

1 The gross tonnage of fishing vessels with a length overall equal to, or greater than, 15 metres shall be measured as specified in Annex I to the 1969 Convention.

2 The gross tonnage of fishing vessels with a length overall of less than 15 metres shall be measured in accordance with the formula set out in Annex I to this Regulation.

3 When net tonnage is referred to in Union rules, it shall be defined as specified in Annex I to the 1969 Convention.

Article 5

Engine power

1 The engine power shall be the total of the maximum continuous power which can be obtained at the flywheel of each engine and which can, by mechanical, electrical, hydraulic or other means, be applied to vessel propulsion. However, where a gearbox is incorporated into the engine, the power shall be measured at the gearbox output flange.

No deduction shall be made in respect of auxiliary machines driven by the engine.

The unit in which engine power is expressed shall be the kilowatt (kW).

2 The continuous engine power shall be determined in accordance with the requirements adopted by the International Organisation for Standardisation in its recommended International Standard ISO 3046/1, second edition, October 1981.

3 The Commission is empowered to adopt delegated acts in accordance with Article 7 concerning the amendment of paragraph 2 of this Article in order to adapt the reference to the relevant ISO International Standard to technical progress.

Article 6

Date of entry into service

The date of entry into service shall be the date of the first issue of an official safety certificate.

Notwithstanding the first paragraph, the date of entry into service shall be the date of the first entry in an official register of fishing vessels:

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(a) if an official safety certificate is not issued; or

(b) in the case of fishing vessels which entered into service before 1 December 1986.

Article 7

Exercise of the delegation

1 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2 The power to adopt delegated acts referred to in Article 5(3) shall be conferred on the Commission for a period of five years from 20 July 2017. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

3 The delegation of power referred to in Article 5(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4 Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6 A delegated act adopted pursuant to Article 5(3) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 8

Repeal

Regulation (EEC) No 2930/86 is repealed.

References to the repealed Regulation shall be construed as references to this Regulation and shall be read in accordance with the correlation table set out in Annex III.

Article 9

Final provisions

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