Commission Implementing Regulation (EU) 2015/1962 of 28 October 2015 amending Implementing Regulation (EU) No 404/2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy

COMMISSION IMPLEMENTING REGULATION (EU) 2015/1962

of 28 October 2015

amending Implementing Regulation (EU) No 404/2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy

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 Articles 6(5), 8(2), 9(10), 15(9), 21(7), 22(7), 24(8), 33(10), 37(4), 58(9), 60(7), 64(2), 73(9), 74(6), 76(4), 78(2), 92(5), 105(6), 106(4), 111(3), 116(6) and 117(4),

Having regard to 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[(2)], and in particular Article 13(3) thereof,

Whereas:

(1) Regulation (EU) No 1380/2013 of the European Parliament and of the Council[(3)] has repealed Council Regulation (EC) No 2371/2002[(4)]. The relevant references in Commission Implementing Regulation (EU) No 404/2011[(5)] should therefore be modified accordingly.

(2) A new tool for data exchanges has been developed by the Commission and should be used for all electronic data exchanges as referred to in Articles 33, 111 and 116 of Regulation (EC) No 1224/2009 (hereafter referred to as ‘the Control Regulation’) and in Article 13 of Regulation (EC) No 1006/2008.

(3) The International Maritime Organisation (IMO) Ship Identification Number as set out in the Resolution A.1078 (28) adopted by the IMO on 4 December 2013 and in the provisions of Chapter XI-1, Regulation 3 of the 1974 SOLAS Convention should apply to Union fishing vessels wherever they operate and to third country fishing vessels

operating in Union waters. That identification number will allow accurate identification of the vessel, trace and verify their activity over time, irrespective of any change of name, ownership, or flag and will ensure the traceability of fishery products throughout the market chain in particular in the cases in which the vessels may be involved in IUU fishing activities.

(4) A new format for the transmission of vessel monitoring system (VMS) data has been developed by the Commission and should be used for all electronic data exchanges as referred to in Article 111 and 116 of the Control Regulation. Therefore, Articles 24 and 28 of Implementing Regulation (EU) No 404/2011 should be amended and Annex V to Implementing Regulation (EU) No 404/2011 should be deleted.

(5) Article 14(2)(d) of the Control Regulation requires that the fishing logbook contains the date of departure of the vessel from the port. To ensure that all messages related to the same fishing trip can be identified and linked, masters of vessels required to record and sent logbook data by electronic means should transmit a departure message to the competent authorities of the flag Member State as the first message before starting any fishing operation and any subsequent transmission. Article 47 of Implementing Regulation (EU) No 404/2011 should therefore be amended.

(6) The rules for the exchange of data between Member States, and between the Member States and the Commission or the body designated by it, as referred to in Articles 111 and 116 of the Control Regulation and in Article 13 of Regulation (EC) No 1006/2008 need to be modified to take into account new legal requirements, development of new technologies and formats as well as international standards. It is necessary to establish the general principles for the electronic transmission, the procedures for corrections and the standards to be used for exchange of information related to vessel monitoring system, fishing and sales activities, and catch reporting, as well as the procedures for implementing changes to the formats. Therefore, Articles 43, 45, 91 of and Annex XII to Implementing Regulation (EU) No 404/2011 should be adapted and new rules should be established.

(7) The real time and direct electronic exchange of vessel monitoring system data and of electronic recording and reporting system data as referred to in Article 111(1) of the Control Regulation requires further harmonisation. The flag Member State should ensure automatic and real time transmission to the coastal Member State of electronic recording and reporting system data received from its fishing vessels when they are fishing in the waters of that coastal Member State. Article 44 of Implementing Regulation (EU) No 404/2011 should therefore be amended.

(8) Regulation (EU) No 1379/2013 of the European Parliament and of the Council[(6)] has amended the Control Regulation introducing rules on the information to be provided to the consumer of fishery and aquaculture products and on the control of fishery and aquaculture products subject to the storage mechanism. Articles 66, 67 and 112 of Implementing Regulation (EU) No 404/2011 should be aligned to those new rules and Article 68 should be deleted.

(9) Deduction of water or ice should not apply to pelagic species intended for landings for industrial purposes taking into account the specificities of such activities as regards the

storage and handling of the fish. Within the framework of the Fisheries Arrangement between the European Union, the Faroe Islands and Norway on the management of fish stocks in the North-East-Atlantic waters for the period 2014-2018, a similar provision for pelagic species intended for landings for industrial purposes has been adopted as well as new measures concerning the weighing and inspection of herring, mackerel, horse mackerel and blue whiting landings. Articles 74, 78, 79, 80, 82, 83, 85, 88, 89 and 107 of Implementing Regulation (EU) No 404/2011 should therefore be aligned to those new rules.

(10) Regulation (EU) No 508/2014 of the European Parliament and of the Council[(7)] provides measures to support the implementation of a Union control, inspection and enforcement system and to regulate the interruption, suspension and corrections of Union financial measures and has deleted Article 103 of the Control Regulation. Therefore, in Implementing Regulation (EU) No 404/2011, Article 96, Chapter I of Title VIII and Annex XXXI should be deleted.

(11) Article 33(10) of the Control Regulation and Article 13(3) of Regulation (EC) No 1006/2008 empower the Commission to adopt formats for the transmission of data concerning catches and fishing effort. The rules provided in that field by Commission Regulation (EC) No 500/2001[(8)] to ensure an effective transmission of the aggregated catch data as required in Article 33(2) and (4) of the Control Regulation and in Article 13(2) of Regulation (EC) No 1006/2008 are now legally and technically outdated. Therefore, international standards for electronic aggregated catch data reporting should be used and Regulation (EC) No 500/2001 should be repealed.

(12) Regulation (EU) 2015/812 of the European Parliament and of the Council[(9)] has introduced new rules on the separate registration of the undersized catches pursuant to reporting obligations and the assignment of points to a new serious infringement related to the obligation to land undersized catches. Annexes VI, VII, X, XXIII, XXVI, XXVII and XXX to Implementing Regulation (EU) No 404/2011 should be aligned to those new rules.

(13) By Recommendations GFCM/35/2011/1, GFCM/35/2011/2, GFCM/35/2011/3, GFCM/35/2011/4, GFCM/35/2011/5 and GFCM/36/2012/2, the General Fisheries Commission for the Mediterranean (‘GFCM’) has adopted specific provisions on the establishment of a GFCM fishing logbook and on the report of catches of red coral, incidental by-catch and release of seabirds, monk seals, sea turtles and cetaceans in the log-book. Annexes VI, VII and X to Implementing Regulation (EU) No 404/2011 should be aligned with those new rules.

(14) Implementing Regulation (EU) No 404/2011 should therefore be amended accordingly.

(15) Article 90(1), point (c) and Article 92 paragraph 1 of the Control Regulation as amended by Article 7 paragraphs (14) and (15) of Regulation (EU) 2015/812 shall apply from 1 January 2017. The assignment of points for serious infringements related to those provisions should enter into force at the same time.

(16) The measures provided for in this Regulation are in accordance with the opinion of the Committee for Fisheries and Aquaculture,

Changes to legislation: *There are currently no known outstanding effects for the Commission Implementing Regulation (EU) 2015/1962. (See end of Document for details)*

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Implementing Regulation (EU) No 404/2011

Implementing Regulation (EU) No 404/2011 is amended as follows:

(1) throughout the text, the terms ‘EU fishing vessel’, ‘EU fishing vessels’ and ‘EU waters’ are replaced respectively by ‘Union fishing vessel’, ‘Union fishing vessels’ and ‘Union waters’, and any grammatical adjustments needed as a consequence of that replacement shall be made;

(2) Article 2 is amended as follows:

(a) point 1 is replaced by the following:

(1) “Union fishing vessel” means a fishing vessel flying the flag of a Member State and registered in the Union;;

(b) point 2 is replaced by the following:

(2) “Union waters” means waters defined in point (1) of Article 4(1) of Regulation (EU) No 1380/2013 of the European Parliament and of the Council[(10)];;

(3) in Article 3, paragraph 7 is replaced by the following:

7. At any moment the total capacity corresponding to the fishing licences issued by a Member State, in Gross Tonnage (GT) or kilowatt (kW), shall not be higher than the maximum capacity levels for that Member State established in accordance with Article 22(7) of Regulation (EU) No 1380/2013.;

(4) in Article 6, the following paragraph is added:

As from 1 January 2016, the International Maritime Organisation ship identification number scheme, as adopted by Resolution A.1078(28) on 4 December 2013 and as referred to in Chapter XI-1, Regulation 3 of the 1974 SOLAS Convention, shall apply to:

(a) Union fishing vessels or fishing vessels controlled by Union operators under a chartering arrangement, of 100 tons of Gross Tonnage or 100 tons of Gross Registered Tonnage and above, or 24 metres length overall and above, operating exclusively inside Union waters;

(b) all Union fishing vessels or fishing vessels controlled by Union operators under a chartering arrangement, of 15 metres length overall and above, operating outside Union waters;

(c) all third country fishing vessels authorised to carry out fishing activities in Union waters.;

(5) in Article 24, paragraph 1 is replaced by the following:

1. The FMC of each flag Member State shall ensure the automatic transmission to the FMC of a coastal Member State of the data provided in accordance with Article 19 of this Regulation concerning its fishing vessels during the time they are in the

waters of the coastal Member State. Such data shall be forwarded to the FMC of the coastal State immediately after the receipt at the FMC of the flag Member State.;

(6) Article 28 is replaced by the following:

Article 28

Access to data by the Commission

The Commission may request Member States in accordance with Article 111(1)(a) of the Control Regulation to ensure the automatic transmission, to the Commission or to the body designated by it, of the data provided in accordance with Article 19 of this Regulation concerning a specific group of fishing vessels and during a specific time. Such data shall be forwarded to the Commission or to the body designated by it immediately after the receipt at the FMC of the flag Member State.;

(7) Article 30 is replaced by the following:

Article 30

Models for fishing log-books, transhipment declarations and landing declarations in paper format

1 In Union waters, the fishing logbook, transhipment declaration and landing declaration in paper format shall be completed and submitted by masters of Union fishing vessels in accordance with the model in Annex VI.

2 By way of the derogation from paragraph 1, for Union fishing vessels carrying out daily fishing trips in Mediterranean Sea, the fishing logbook, transhipment declaration and landing declaration in paper format may be completed and submitted by masters of Union fishing vessels in accordance with the model in Annex VII.

3 When Union fishing vessels are carrying out fishing activities in the waters of a third country, in waters regulated by a Regional Fisheries Management Organisation or in waters outside Union waters not regulated by a Regional Fisheries Management Organisation, the fishing logbook, transhipment declaration and landing declaration in paper format shall be completed and submitted by masters of Union fishing vessels in accordance with Article 31 of this Regulation and the models in Annexes VI and VII, unless the third country or the rules of the Regional Fisheries Management Organisation concerned specifically require the use of a different kind of fishing logbook, transhipment declaration or landing declaration. If the third country does not specify a particular fishing logbook, transhipment declaration or landing declaration, but does require data elements different from those required by the Union rules, such data elements shall be recorded.

4 Masters of Union fishing vessels not subject to Article 15 of the Control Regulation may continue to use until 31 December 2017, paper format for fishing logbook, transhipment declaration and landing declaration printed prior to 1 January 2016.;

(8) in Article 37, the following paragraph is added: