Commission Implementing Decision (EU) 2018/1986 of 13 December 2018 establishing specific control and inspection programmes for certain fisheries and repealing Implementing Decisions 2012/807/EU, 2013/328/EU, 2013/305/EU and 2014/156/EU

COMMISSION IMPLEMENTING DECISION (EU) 2018/1986

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THE EUROPEAN COMMISSION,

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

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

Whereas:

(1) Regulation (EC) No 1224/2009 establishes rules for the control of all activities covered by the common fisheries policy carried out on the territory of Member States or in Union waters or by Union fishing vessels or, without prejudice to the primary responsibility of the flag Member State, by nationals of Member States, and provides, in particular, that Member States shall ensure that control, inspection and enforcement are carried out on a non-discriminatory basis as regards sectors, vessels or persons, and on the basis of risk management.

(2) In accordance with Article 95 of Regulation (EC) No 1224/2009, the Commission may, in concert with the Member States concerned, adopt specific control and inspection programmes for specific fisheries and sea basins.

(3) Specific control and inspection programmes have been adopted by the Commission for several sea basins and have been implemented by Members States through joint deployment plans, with the European Fisheries Control Agency (‘EFCA’) assuring operational coordination of inspection activities in this frame.

(4) The recent Commission REFIT evaluation[(2)] found that specific control and inspection programmes are an efficient and effective tool for improving cooperation and exchange of information among Member States.

(5) The specific control and inspection programmes established under Commission Implementing Decisions 2012/807/EU[(3)], 2013/328/EU[(4)], 2013/305/EU[(5)] expire on

31 December 2018. Such programmes should also be provided for after that date to continue fostering cooperation and exchange of data among Member States, as well as to promote level playing field in inspection and control activities across the Union.

(6) In order to simplify the adoption and ensure consistent implementation of the specific control and inspection programmes at Union level, those specific control and inspections programmes should be gathered in one single decision. The reporting obligation of the Member States should be revised, with the objective to align them to the new benchmarks and to reduce as much as possible the administrative burden.

(7) In order to ensure coherence across sea basins, the specific control and inspection programme established under Commission Implementing Decision 2014/156/EU[(6)] should be also revised, including the benchmarks and reporting obligations.

(8) In accordance with Article 95(2) of Regulation (EC) No 1224/2009 the specific control and inspection programmes should state the scope, objectives and priorities as well as benchmarks for inspection activities.

(9) In order to reflect recently adopted Union fisheries conservation and management measures, the scope of the specific control and inspections programmes should be extended to certain additional stocks and fisheries. The scope should also include recreational fisheries for stocks covered by Union conservation measures and fisheries managed by Regional Fisheries Management Organisations. It is also necessary to align the priorities of the specific control and inspection programmes with those of the common fisheries policy, in particular as regards the implementation of the landing obligation.

(10) This decision should therefore cover certain fisheries in the Baltic Sea, the North Sea, the Western Waters of North Eastern Atlantic, the Eastern Atlantic, the Mediterranean Sea and the Black Sea.

(11) Article 95(2) of Regulation (EC) No 1224/2009 provides that the specific control and inspection programme benchmarks for inspections activities are to be established on the basis of risk management. For this purpose, and in order to provide for a coherent approach to controls and inspections within a sea basin and a level playing field for fisheries of different Member States, a harmonised methodology for the risk assessment should be used. The harmonised methodology should be established by the Member States in cooperation with EFCA and should be based on possible threats of non-compliance with the rules of the common fishery policy.

(12) Member States should communicate the results of their risk assessment to EFCA. EFCA should use this information when coordinating the risk assessment at regional level.

(13) EFCA should establish a regional risk management strategy which shall be implemented through a joint deployment plan as defined in Article 2(c) of Council Regulation (EC) No 768/2005[(7)].

(14) In accordance with Article 95(4) of Regulation (EC) No 1224/2009 Member States should adopt the necessary measures to ensure the implementation of the specific

control and inspection programme, particularly as regards the required human and material resources and the periods and zones where these are to be deployed.

(15) Joint inspection and surveillance activities between the Member States concerned should be carried out, where applicable, in accordance with joint deployment plans established by the EFCA so as to enhance uniformity of control, inspection and surveillance practices and to coordinate control, inspection and surveillance activities between the competent authorities of those Member States.

(16) The target benchmarks determining the intensity of control and inspection activities should be set for the fishing vessels in the high and very high risk fleet segments in all concerned Member States. All target benchmarks should be assessed taking into account the yearly evaluation performed by Member States. Member States should be entitled to use alternative target benchmarks expressed in terms of improved compliance levels.

(17) Exchange of information between competent authorities of Member States and with EFCA concerning vessel monitoring system data, data from the electronic reporting system including fishing activity reports, prior notifications, landing and transhipment declarations and sales notes, inspection and surveillance data, including inspection and observer reports and infringement reports and the processing of personal data is necessary for implementation of the specific control and inspection programmes, joint deployment plans and joint inspection and surveillance activities. It should be ensured at all times and at all levels that the obligations on personal data protection laid down in Regulations (EU) 2016/679[(8)] and (EU) 2018/1725 of the European Parliament and of the Council[(9)], and, where applicable, the provisions of the Member States transposing Directive (EU) 2016/680 of the European Parliament and of the Council[(10)] are respected.

(18) Personal data processed for the purpose of implementing the specific control and inspection programmes should not be stored for a period exceeding 10 years. This period will allow the Member States competent authorities and EFCA to complete their duties concerning the follow-up, the reporting and evaluation of the specific control and inspection programmes. As regards the data necessary for the follow-up of inspections such as enquiries, infringements, judicial or administrative proceedings, a specific longer retention period of 20 years is necessary due to the length of such processes and the need for those data to be used until the end of such processes. In addition, where the data is used for scientific purposes and for providing scientific advice, the retention period should be extended to allow for the long-term scientific monitoring and assessment of marine biological resources.

(19) Member States should prepare and send to the Commission yearly reports on the implementation of the specific control and inspection programmes. The Commission should use these reports to assess the implementation of the specific control and inspection programmes and to evaluate, their adequacy and effectiveness. Such assessment may serve as the basis for the review of the specific inspection and control programmes.

(20) The measures provided for in this Decision 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 Decision (EU) 2018/1986. (See end of Document for details)*

HAS ADOPTED THIS DECISION:

Article 1

Subject matter

1 This Decision establishes specific control and inspection programmes for:

a fisheries exploiting stocks or species covered by multiannual plans referred to in Articles 9 and 10 of Regulation (EU) No 1380/2013 of the European Parliament and of the Council[11] and plans adopted in accordance with Article 18 of that Regulation as well as by other Union measures adopted pursuant to Article 43(3) of the Treaty and providing for quantitative limitations and allocation of fishing opportunities;

b fisheries exploiting species under the landing obligation pursuant to Article 15 of the Regulation (EU) No 1380/2013;

c certain fisheries exploiting stocks or species subject to conservation and management measures adopted by Regional Fisheries Management Organizations,

as set out in Annexes I to V.

2 The specific control and inspection programmes are set out in Annexes I to V and shall be implemented by the Member States referred to in those Annexes ('Member States concerned').

Article 2

Scope

The specific control and inspection programmes shall cover the following activities:

(a) fishing activities within the meaning of Article 4(1) of Regulation (EC) No 1224/2009 in the areas referred to in Annexes I to V of this Decision ('areas concerned');

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

(c) importation and indirect importation as defined in Article 2(11) and Article 2(12) of Council Regulation (EC) No 1005/2008[12], for fisheries covered in Annex I;

(d) exportation and re-exportation as defined in Article 2(13) and Article 2(14) of Regulation (EC) No 1005/2008, for fisheries covered in Annex I;

(e) recreational fisheries as defined in Article 4(28) of Regulation (EC) No 1224/2009, when subject to Union conservation measures and when specified in the relevant Annex;

(f) emergency measures pursuant to Article 108 of Regulation (EC) No 1224/2009 and Commission measures in case of a serious threat to marine biological resources in accordance with Article 12 of Regulation (EU) No 1380/2013.

***Changes to legislation:** There are currently no known outstanding effects for the Commission Implementing Decision (EU) 2018/1986. (See end of Document for details)*

Article 3

Objectives

1 The specific control and inspection programmes shall ensure a uniform and effective implementation of the conservation and control measures applicable to stocks and fisheries referred to in Annexes I to V.

2 Control and inspection activities carried out under each 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, effort regime and technical measures applied in the areas concerned;

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

c the obligation to land all catches of species subject to the landing obligation pursuant to Regulation (EU) No 1380/2013, and the measures to reduce discarding provided for in Title IIIa of Council Regulation (EC) No 850/98[(13)];

d the special rules for weighing of certain pelagic species provided for in Articles 78 to 89 of Commission Implementing Regulation (EU) No 404/2011[(14)];

e specific provisions approved by Regional Fisheries Management Organizations regarding the stocks and the areas concerned by this Decision.

Article 4

Priorities

1 The Member States concerned shall carry out control and inspection with respect to fishing activities and fishing related activities regarding the different stocks and area(s) referred to in Annexes I to V to this Decision on the basis of risk management, in accordance with Article 5(4) of Regulation (EC) No 1224/2009 and Article 98 of Implementing Regulation (EU) No 404/2011.

2 Each Member State concerned shall attribute a level of priority for control and inspections on the basis of the results of the risk assessment carried out in accordance with the procedures laid down in Article 5.

3 Each fishing vessel and/or fleet segment as referred to in Article 5(2)b shall be subject to control and inspections according to the level of priority attributed pursuant to paragraph 2, ensuring that all the stocks of the fisheries listed in Annexes I to V are adequately covered.

4 Inspections ashore of operators engaged in fishing related activities shall be conducted when relevant in relation to the step in the fishery/marketing chain and when part of the risk management strategy as referred in Article 6.

Article 5

Procedures for risk assessment and relation with joint deployment plans

1 The Member States concerned shall assess, at least once a year, risks with regard to the fisheries listed in Annexes I to V in accordance with the harmonised methodology established