

COMMISSION REGULATION (EC) No 1042/2006**of 7 July 2006****laying down detailed rules for the implementation of Article 28(3) and (4) of Council Regulation (EC) No 2371/2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy ⁽¹⁾, and in particular Article 28(6) thereof,

Whereas:

- (1) Article 28(6) of Regulation (EC) No 2371/2002 provides that detailed rules are to be adopted for the implementation of Article 28(3) and (4) of that Regulation.
- (2) It is necessary to specify the conditions under which Member States may carry out inspections of fishing vessels in all Community waters outside waters under their sovereignty and in international waters, as provided for in Article 28(3) of Regulation (EC) No 2371/2002.
- (3) Article 28(4) of Regulation (EC) No 2371/2002 provides that the Commission is to establish a list of Community inspectors, inspection vessels and inspection aircraft and other means of inspection authorised to carry out inspections pursuant to Chapter V of that Regulation in Community waters and on Community fishing vessels. It is appropriate that those Community inspectors may be assigned for the implementation of the specific control and inspection programmes adopted in accordance with Article 34c of Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the Common Fisheries Policy ⁽²⁾.
- (4) It is necessary to specify the conditions under which Community inspectors may carry out inspections in Community waters and on Community fishing vessels in accordance with Article 28(4) of Regulation (EC) No 2371/2002.

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

HAS ADOPTED THIS REGULATION:

CHAPTER I

MEMBER STATE INSPECTIONS*Article 1***Inspections of vessels flying the flag of the inspecting Member State**

1. A Member State which intends to inspect Community fishing vessels flying its flag (inspecting Member State) in Community waters under the jurisdiction of another Member State (coastal Member State), in accordance with the first subparagraph of Article 28(3) of Regulation (EC) No 2371/2002, shall notify the coastal Member State concerned of its intention.

2. The prior notification provided for in paragraph 1 shall include the following information:

- (a) the name and call sign of the inspection vessel;
- (b) the estimated point and time of entry into the waters under the jurisdiction of the coastal Member State.

3. Upon the prior notification provided for in paragraph 1, the coastal Member State shall, for the purpose of operational coordination, inform the inspecting Member State of any inspection activity currently carried out in the relevant area.

*Article 2***Inspections of vessels flying the flag of another Member State or a third country**

1. A Member State, which intends to inspect fishing vessels flying the flag of another Member State or of a third country in Community waters under the jurisdiction of another Member State, in accordance with point (a) of the second subparagraph of Article 28(3) of Regulation (EC) No 2371/2002, shall request the coastal Member State concerned for authorisation. That request shall include the information listed in Article 1(2) of this Regulation.

⁽¹⁾ OJ L 358, 31.12.2002, p. 59.

⁽²⁾ OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 768/2005 (OJ L 128, 21.5.2005, p. 1).

2. The coastal Member State concerned shall decide whether to authorise the inspection within 24 hours of the time of the request and inform the inspecting Member State forthwith. Decisions shall also be communicated to the Commission or to the body that the Commission shall have designated for that purpose.

3. The conditions under which a Member State may inspect fishing vessels flying the flag of another Member State or a third country in Community waters under the jurisdiction of another Member State, in accordance with point (b) of the second subparagraph of Article 28(3) of Regulation (EC) No 2371/2002, shall be defined in the rules adopting the specific control and inspection programme concerned.

Article 3

Contact points

1. Member States shall designate the competent authority which shall act as the contact point for the following purposes:

(a) issuing and receiving prior notifications in accordance with Article 1;

(b) issuing and receiving requests and decisions in accordance with Article 2.

2. The contact point referred to in paragraph 1 shall be available 24 hours a day.

3. The contact details of the designated competent authority shall be notified to the Commission and to the other Member States.

4. The Commission shall designate its contact point for the purpose of communication pursuant to this Regulation.

Article 4

Reporting obligation

1. Following inspections carried out by a Member State in Community waters under the jurisdiction of another Member State, in accordance with Articles 1 and 2, the inspecting Member State shall submit a daily report on its activities to the coastal Member State concerned.

2. If an infringement has been detected as a result of an inspection carried out in accordance with Articles 1 and 2,

the inspecting Member State shall immediately submit a summarised inspection report to the coastal Member State. A full inspection report shall be submitted to the coastal and to the flag Member State within seven days from the time of inspection.

3. An inspection report drawn up after the inspection of a Community fishing vessel in international waters in accordance with the third subparagraph of Article 28(3) of Regulation (EC) No 2371/2002, shall be submitted to the flag Member State of that vessel within seven days from the date of the inspection. If an infringement has been detected as a result of the inspection, the inspecting Member State shall immediately submit a summarised inspection report to the flag Member State of the inspected vessel.

4. Paragraph 3 shall be without prejudice to rules laid down by international fisheries agreements.

5. Daily reports referred to in paragraph 1 and inspection reports referred to in paragraphs 2 and 3 shall be submitted, upon request, to the Commission or to the body that the Commission shall have designated for that purpose.

CHAPTER II

COMMUNITY INSPECTORS AND INSPECTION MEANS

Article 5

Nomination of Community inspectors and inspection means

1. Member States shall nominate Community inspectors, inspection vessels and inspection aircraft and other means of inspection to be included in the list established by the Commission in accordance with Article 28(4) of Regulation (EC) No 2371/2002.

2. Member States shall ensure that the Community inspectors nominated:

(a) are fisheries inspectors in the Member State;

(b) have a thorough experience in the field of fisheries control and inspection;

(c) have an in-depth knowledge of Community fisheries legislation;

- (d) have a thorough knowledge of one of the official languages of the Community and a satisfactory knowledge of a second;
- (e) are physically fit to perform their duties;
- (f) have received the necessary training with regard to safety at sea.

Article 6

List of Community inspectors and inspection means

1. Member States shall notify the Commission electronically by 31 October 2006 of the names of the inspectors, inspection vessels, inspection aircraft and other means of inspection which they have nominated.
2. On the basis of the notifications from Member States the Commission shall adopt by 31 December 2006 a list of Community inspectors, inspection vessels, inspection aircraft and other means of inspection authorised to carry out inspections in accordance with Article 28(4) of Regulation (EC) No 2371/2002.
3. After the establishment of the initial list, Member States shall notify to the Commission by 31 October each year any modification to the list which they wish to introduce for the following calendar year. The Commission shall amend the list accordingly by 31 December each year.
4. The list and modifications thereto shall be published on the official website of the Commission or of the body that the Commission shall have designated for that purpose.

Article 7

Tasks of Community inspectors

1. Without prejudice to the primary responsibility of the coastal Member States, Community inspectors shall carry out inspections pursuant to Chapter V of Regulation (EC) No 2371/2002 in Community waters and on Community fishing vessels.
2. The Community inspectors may be assigned for:
 - (a) the implementation of the specific control and inspection programmes adopted in accordance with Article 34c of Regulation (EEC) No 2847/93;

- (b) international fisheries control and inspection programmes, where the Community is under an obligation to provide for inspections and controls; or
- (c) inspection programmes developed between Member States pursuant to Article 34b(2) of Regulation (EEC) No 2847/93.

Article 8

Powers and obligations of Community inspectors

1. For the accomplishment of their tasks and subject to paragraph 2, Community inspectors shall have the same powers as those of the fisheries inspectors of the Member State in which the inspection takes place, in particular as regards access to all areas on board Community fishing vessels and any other vessels carrying out activities relating to the common fisheries policy.
2. Community inspectors shall have no police and enforcement powers beyond the territory or outside the Community waters under the sovereignty and jurisdiction of their Member State of origin.
3. Community inspectors shall produce written authority. For this purpose they shall be provided with an identification document, issued by the Commission or the body that the Commission shall have designated for that purpose, stating their identity and capacity.
4. Member States shall afford the Community inspectors such assistance as they need to fulfil their tasks.

Article 9

Inspection and surveillance reports

1. Community inspectors shall submit a daily report on their activities, including the name and identification number of each vessel inspected and the type of inspection carried out, to the coastal Member State concerned.
2. If Community inspectors detect an infringement as a result of their inspection, they shall immediately submit a summarised inspection report to the coastal Member State or, where the inspection was carried out outside Community waters, to the flag State of the inspected vessel. They shall submit a full inspection report within seven days from the date of inspection.
3. Community inspectors shall submit a copy of the full inspection report to the flag State of the inspected vessel within seven days from the date of inspection.

4. Daily and inspection reports referred to in paragraphs 1 and 2 shall be transmitted, upon request, to the Commission or the body that the Commission shall have designated for that purpose.

Article 10

Follow up of the reports

1. Member States shall consider and act on reports submitted by the Community inspectors in accordance with Article 9(2) in the same way as they consider and act on reports from their own inspectors.

2. The Member State of origin of the Community inspector shall cooperate with the Member State acting on a report submitted by the Community inspector in order to facilitate judicial or administrative proceedings.

3. On request, a Community inspector shall assist and give evidence in infringement proceedings undertaken by any Member State.

CHAPTER III

ACCESS TO INFORMATION

Article 11

Access to information

1. In the framework of inspections carried out under Article 28(3) and (4) of Regulation (EC) No 2371/2002, Member State

inspectors and Community inspectors shall have access without delay to all information and documents, in particular to surveillance data including data generated by the system for satellite-based monitoring, which are needed to fulfil their tasks, to the same extent and under the same conditions as inspectors of the Member State in which the inspection takes place.

2. Access to information as provided for in paragraph 1 shall be limited to the purpose, period and geographic area of the inspection concerned.

3. The data received in the framework of this Article shall be treated in a confidential manner and may be used solely for the purposes for which they are provided.

CHAPTER IV

FINAL PROVISIONS

Article 12

Entry into force

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

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

Done at Brussels, 7 July 2006.

For the Commission

Joe BORG

Member of the Commission