

# Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing: alignment of the Regulation with the TFEU (Commission delegated and implementing powers)

2012/0162(COD) - 21/06/2012 - Legislative proposal

**PURPOSE:** to align Council Regulation (EC) No 1005/2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing to the new rules of the TFEU (powers currently defined by that Regulation have been re-classified into delegated and implementing powers).

**PROPOSED ACT:** Regulation of the European Parliament and of the Council.

**BACKGROUND:** the Treaty on the Functioning of the European Union (TFEU) makes a distinction between:

- the powers delegated to the Commission to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of the legislative act as laid down in **Article 290(1) of the TFEU (delegated acts)**,
- and the powers conferred upon the Commission to adopt uniform conditions for implementing legally binding Union acts as laid down in **Article 291(2) of the TFEU (implementing acts)**.

In the context of the alignment of Regulation (EC) No 1005/2008 to the new rules of the TFEU, powers currently defined by that Regulation have been re-classified into delegated and implementing powers. Following this exercise, a draft proposal for amendment of Regulation (EC) No 1005/2008 has been prepared.

**IMPACT ASSESSMENT:** there was no need for consultation of interested parties or for impact assessment.

**LEGAL BASIS:** Article 43(2) of the Treaty on the Functioning of the European Union (TFEU).

**CONTENT:** the aim of the proposal is to identify the powers conferred upon the Commission in Council Regulation (EC) No 1005/2008 and **classify these as delegated or implementing powers** and adapt certain provisions to the decision-making procedures of the Lisbon Treaty.

In order to apply some of the provisions of Regulation (EC) No 1005/2008, **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 following:

- the exemption from certain information requirements imposed on fishing vessels or the establishment of different notification periods for certain categories of fishing vessels,
- the establishment of benchmarks for inspections of landing and transshipment operations by third country fishing vessels,
- the establishment of the list of products excluded from the scope of implementation of the catch certificate,

- the adaptation of the catch certification scheme for some fishery products obtained by small fishing vessels, including the possibility of using a simplified catch certificate,
- the adaptation of the deadline for submitting the catch certificate, on the basis of the type of fishery product, the distance to the place of entry into the territory of the Union or the transport means used,
- the establishment of rules for the granting, amendment or withdrawal of approved economic operators' certificates or for the suspension or revocation of the status of approved economic operator and on the conditions of validity of approved economic operators' certificates, and
- the establishment of Union criteria for verifications in the context of risk management.

In order to ensure uniform conditions for the implementation of Council Regulation (EC) No 1005/2008 **implementing powers should be conferred upon the Commission in accordance with Article 291** of the Treaty on the Functioning of the European Union in respect of the following:

- the establishment of prior notification forms,
- the establishment of landing and transshipment declaration procedures and forms,
- the adoption, in agreement with flag States, of catch certificates established, validated or submitted by electronic means or based on electronic traceability systems ensuring the same level of control by authorities,
- the establishment of the Union IUU vessel list,
- the removal of vessels from the Union IUU vessel list,
- the inclusion of IUU vessel lists adopted by regional fisheries management organisations in the Union IUU vessel list,
- the identification of non-cooperating third countries,
- the inclusion of identified third countries on a list of non-cooperating third countries,
- the removal of third countries from the list of non-cooperating third countries,
- the adoption of emergency measures towards third countries in specific circumstances,
- the determination of the format for submission by Member States of the information regarding sighted fishing vessels, and
- the establishment of rules on mutual assistance.

**BUDGETARY IMPLICATION:** this measure does not involve any additional Union expenditure.