

COMMISSION IMPLEMENTING DECISION (EU) 2017/10**of 5 January 2017****amending Implementing Decision 2013/328/EU and Implementing Decision 2012/807/EU
establishing specific control and inspection programmes for certain demersal and pelagic fisheries
in the Union waters of the North Sea and in the Union waters of ICES Division IIa**

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) Commission Implementing Decision 2013/328/EU ⁽²⁾ establishes a specific control and inspection programme for fisheries exploiting cod, plaice and sole in the Kattegat, the North Sea, the Skagerrak, the eastern Channel, the waters west of Scotland and the Irish Sea.
- (2) Regulation (EU) No 1380/2013 of the European Parliament and of the Council ⁽³⁾ establishes a landing obligation for pelagic and demersal fisheries in order to reduce the current high levels of unwanted catches and to gradually eliminate discards. Details for the implementation of the landing obligation are laid down in Commission Delegated Regulation (EU) No 1395/2014 ⁽⁴⁾ and Commission Delegated Regulation (EU) 2015/2440 ⁽⁵⁾. Compliance with the landing obligation should be controlled and inspected.
- (3) In addition to the fisheries of sole, plaice and cod in the North Sea covered by Implementing Decision 2013/328/EU, which should continue to be covered by a specific control and inspection programme, the fisheries defined in the annex to the discard plans referred to in Delegated Regulation (EU) No 1395/2014 and Delegated Regulation (EU) 2015/2440 should also be included in the specific control and inspection programme in order to enable Member States concerned to undertake efficiently and effectively joint inspection and surveillance activities.
- (4) On the basis of the results of the Member States' risk assessment carried out in respect of each of the fisheries covered by the discard plans, the overall inspection benchmarks laid down by the present specific control and inspection programme have to be implemented by the Member States.
- (5) In order to take into account the regional specificities and the need to harmonise and increase the effectiveness of the control and inspection procedures, the present specific control and inspection programme covers the Union Waters of the North Sea as defined in Regulation (EU) No 1380/2013 (ICES zone IIIa, i.e. including the Kattegat and the Skagerrak and ICES zone IV), as well as Union waters of ICES Division IIa.
- (6) The present specific control and inspection programme covers certain demersal species and fisheries in the Union waters of the North Sea and in Union waters of ICES Division IIa, and certain pelagic fisheries in the Union

⁽¹⁾ OJ L 343, 22.12.2009, p. 1.

⁽²⁾ Commission Implementing Decision 2013/328/EU of 25 June 2013 establishing a specific control and inspection programme for fisheries exploiting cod, plaice and sole in the Kattegat, the North Sea, the Skagerrak, the eastern Channel, the waters west of Scotland and the Irish Sea (OJ L 175, 27.6.2013, p. 61).

⁽³⁾ Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

⁽⁴⁾ Commission Delegated Regulation (EU) No 1395/2014 of 20 October 2014 establishing a discard plan for certain small pelagic fisheries and fisheries for industrial purposes in the North Sea (OJ L 370, 30.12.2014, p. 35).

⁽⁵⁾ Commission Delegated Regulation (EU) 2015/2440 of 22 October 2015 establishing a discard plan for certain demersal fisheries in the North Sea and in Union waters of ICES Division IIa (OJ L 336, 23.12.2015, p. 42).

waters of the North Sea (ICES Area IIIa and IV) and in Union waters of ICES Division IIa. Commission Implementing Decision 2012/807/EU ⁽¹⁾, as amended by Implementing Decision 2015/1944/EU ⁽²⁾, establishes a specific control and inspection programme for pelagic fisheries in the western waters of the north-east Atlantic and in the northern North Sea (ICES Area IVa). It is therefore appropriate to align the scope of Implementing Decision 2012/807/EU with the present Decision.

- (7) Council Regulation (EC) No 850/98 ⁽³⁾ and in particular Title IIIa thereof establishes measures to reduce discarding. The specific control and inspection programme should ensure compliance with the prohibition of highgrading, the moving-on provisions and the prohibition on slipping.
- (8) The measures provided for in this Decision are in accordance with the opinion of the Committee for Fisheries and Aquaculture,

HAS ADOPTED THIS DECISION:

Article 1

Amendments to Implementing Decision 2013/328/EU

Implementing Decision 2013/328/EU is amended as follows:

- (1) The title is replaced by the following:

‘Commission Implementing Decision of 25 June 2013 establishing a specific control and inspection programme for certain demersal and pelagic fisheries in the Union waters of the North Sea and in the Union waters of ICES Division IIa’.

- (2) Article 1 is replaced by the following:

‘Article 1

Subject matter

This Decision establishes a single specific control and inspection programme applicable to the fisheries exploiting cod, sole, plaice in the Union waters of ICES zones IIIa and IV, and certain fisheries exploiting mackerel, herring, horse mackerel, blue whiting, argentine, sprat; sand eel, and Norway pout; cod, haddock, whiting, saithe, Norway lobster, common sole, plaice, hake, Northern prawn, in the Union waters of ICES zones IIIa and IV and in the Union waters of ICES Division IIa (“Areas concerned”).

- (3) In Article 2, the following paragraph 1a is inserted:

‘1a. The specific control and inspection programme shall apply to:

- (a) the fisheries defined in the Annex to Commission Delegated Regulation (EU) No 1395/2014 (*);
- (b) the fisheries defined in the Annex to Commission Delegated Regulation (EU) 2015/2440 (**);
- (c) the stocks covered by Regulations (EC) No 1342/2008 and (EC) No 676/2007.

(*) Commission Delegated Regulation (EU) No 1395/2014 of 20 October 2014 establishing a discard plan for certain small pelagic fisheries and fisheries for industrial purposes in the North Sea (OJ L 370, 30.12.2014, p. 35).

(**) Commission Delegated Regulation (EU) 2015/2440 of 22 October 2015 establishing a discard plan for certain demersal fisheries in the North Sea and in Union waters of ICES Division IIa (OJ L 336, 23.12.2015, p. 42).’

⁽¹⁾ Commission Implementing Decision 2012/807/EU of 19 December 2012 establishing a specific control and inspection programme for pelagic fisheries in Western waters of the North East Atlantic (OJ L 350, 20.12.2012, p. 99).

⁽²⁾ Commission Implementing Decision (EU) 2015/1944 of 28 October 2015 amending Implementing Decision 2012/807/EU establishing a specific control and inspection programme for pelagic fisheries in Western Waters of the North East Atlantic (OJ L 283, 29.10.2015, p. 13).

⁽³⁾ Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (OJ L 125, 27.4.1998, p. 1).

(4) Article 3 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. The specific control and inspection programme shall ensure the uniform and effective implementation of conservation and control measures applicable to the fisheries and stocks referred to in Article 2(1a);’

(b) in paragraph 2, point (c) is replaced by the following:

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

(*) Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy, amending Council Regulations (EC) No 1954/2003 and (EC) No 1224/2009 and repealing Council Regulations (EC) No 2371/2002 and (EC) No 639/2004 and Council Decision 2004/585/EC (OJ L 354, 28.12.2013, p. 22).

(**) Council Regulation (EC) No 850/98 of 30 March 1998 for the conservation of fishery resources through technical measures for the protection of juveniles of marine organisms (OJ L 125, 27.4.1998, p. 1).’

(5) In Article 4, paragraph 2 is replaced by the following:

‘2. Each fishing vessel, group of fishing vessels, fishing gear category, operator, and/or fishing-related activity, for each fishery and stocks referred to in Article 2(1a), shall be subject to control and inspection according to the level of priority attributed pursuant to paragraph 3.’

(6) Article 5 is replaced by the following:

‘Article 5

Procedures for risk assessment

1. Member States concerned shall assess risks with regard to the stocks and area(s) listed in Article 1 according to the methodology established in cooperation with the European Fisheries Control Agency (EFCA).

2. The risk assessment methodology referred to in paragraph 1 shall provide that the Member State concerned:

(a) considers, on the basis of past experience and using all available and relevant information, how likely a non-compliance is to happen and, if it were to happen, the potential consequence(s);

(b) establishes the level of risk — by fisheries and stocks, area covered, time of the year — based on occurrence (frequent, medium, seldom, not) and potential consequences (serious, significant, acceptable or marginal). The estimated risk level shall be expressed as “very low”, “low”, “medium”, “high” or “very high”.

3. Member States concerned shall establish and regularly update a list of their vessels indicating, at least the high and very high risk vessels. The up-to date list of vessels graded by risks shall be used during the relevant joint deployment plan campaigns.

4. In cases where a fishing vessel flying the flag of a Member State which is not a Member State concerned, or a third country fishing vessel, operates in the area(s) referred to in Article 1, it shall be attributed a level of risk in accordance with paragraph 2. In the absence of information and unless its flag authorities provide, in the framework of Article 9, the results of their own risk assessment performed according to Article 4(2) and to paragraph 3 leading to a different risk level, it shall be considered as a “very high” risk level fishing vessel.’

(7) Article 7(1) is replaced by the following:

‘1. In the framework of a joint deployment plan, where applicable, each Member State concerned shall communicate to the EFCA the results of its risk assessment carried out in accordance with Article 5(2) and, in particular, a list of estimated levels of risk with corresponding targets for inspection.’

(8) Article 8 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Without prejudice to target benchmarks defined in Annex I to Regulation (EC) No 1224/2009 and in Article 9(1) of Council Regulation (EC) No 1005/2008 (*), for the stocks referred to in Article 2(1a)(c), the target benchmarks defined in Annex II shall apply for “high” and “very high” risk level fishing vessels and/or other operators.

(*) Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999 (OJ L 286, 29.10.2008, p. 1).’

(b) paragraph 2 is replaced by the following:

‘2. For the fisheries referred to in Article 2(1a)(a) and (b), the target benchmarks defined in Annex II shall apply for “high” and “very high” risk level fishing vessels and/or other operators.’

(9) Annex I is deleted.

(10) Annex II is replaced by the text in Annex I to this Decision.

(11) Annex IV is replaced by the text in Annex II to this Decision.

Article 2

Amendments to Implementing Decision 2012/807/EU

Implementing Decision 2012/807/EU is amended as follows:

(1) The title is replaced by the following:

‘Commission Implementing Decision of 19 December 2012 establishing a specific control and inspection programme for pelagic fisheries in western waters of the north-east Atlantic’.

(2) Article 1 is replaced by the following:

‘Article 1

Subject matter

This Decision establishes a specific control and inspection programme applicable to the stocks of mackerel, herring, horse mackerel, blue whiting, boarfish, anchovy, argentine, sardine and sprat in EU waters of ICES sub-areas V, VI, VII, VIII and IX and in EU waters of CECAF 34.1.11 (hereafter referred to as “Western Waters”).’

(3) In Article 3(2), point (b) is replaced by the following:

‘(b) reporting obligations applicable to fishing activities in Western Waters, in particular the reliability of the information recorded and reported;’

(4) Article 5 is replaced by the following:

‘Article 5

Procedures for risk assessment

1. Member States concerned shall assess risks with regard to the stocks and area(s) listed in Article 1 according to the methodology established in cooperation with the European Fisheries Control Agency (EFCA).

2. The risk assessment methodology referred to in paragraph 1 shall provide that the Member State concerned:
 - (a) considers, on the basis of past experience and using all available and relevant information, how likely a non-compliance is to happen and, if it were to happen, the potential consequence(s);
 - (b) establishes the level of risk — by fisheries and stocks, area covered, time of the year — based on occurrence (frequent, medium, seldom, not) and potential consequences (serious, significant, acceptable or marginal). The estimated risk level shall be expressed as “very low”, “low”, “medium”, “high” or “very high”.
3. Member States concerned shall establish and regularly update a list of their vessels indicating, at least the high and very high risk vessels. The up-to date list of vessels graded by risks shall be used during the relevant joint deployment plan campaigns.
4. In cases where a fishing vessel flying the flag of a Member State which is not a Member State concerned, or a third country fishing vessel, operates in the area(s) referred to in Article 1, it shall be attributed a level of risk in accordance with paragraph 2. In the absence of information and unless its flag authorities provide, in the framework of Article 9, the results of their own risk assessment performed according to Article 4(2) and to paragraph 3 leading to a different risk level, it shall be considered as a “very high” risk level fishing vessel.’
- (5) Article 7(1) is replaced by the following:
 - ‘1. In the framework of a joint deployment plan, where applicable, each Member State concerned shall communicate to the EFCA the results of its risk assessment carried out in accordance with Article 5(2) and, in particular, a list of estimated levels of risk with corresponding targets for inspection.’

Article 3

Entry into force

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

It shall apply from 1 January 2017.

Done at Brussels, 5 January 2017.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX I

ANNEX II

TARGET BENCHMARKS FOR DEMERSAL SPECIES

1. Level of inspections at sea (including aerial surveillance, where applicable)

On a yearly basis, the following target benchmarks ⁽¹⁾ shall be reached for the inspections at sea of fishing vessels engaged in the fisheries and stocks referred to in Article 2(1a)(b) and (c), in the case that inspections at sea are relevant in relation to the step in the fishery chain and are part of the risk management strategy:

Benchmarks per year (*)	Level of estimated risk for fishing vessels in accordance with Article 5(2)	
	High	very high
Fishery	Inspection at sea of at least 2,5 % of fishing trips by “high risk” level fishing vessels targeting the fishery in question	Inspection at sea of at least 5 % of fishing trips by “very high risk” level fishing vessels targeting the fishery in question

(*) expressed in a % of fishing trips in the area by high/very high risk fishing vessels/per year.

2. Level of inspections on land (including document-based controls and inspections in ports or at first sale)

On a yearly basis, the following target benchmarks ⁽²⁾ shall be reached for the inspections on land (including document-based controls and inspections in ports or at first sale) of fishing vessels and other operators engaged in the fisheries and stocks referred to in Article 2(1a)(b) and (c), in the case that inspections on land are relevant in relation to the step in the fishery/marketing chain and are part of the risk management strategy.

Benchmarks per year (*)	Level of risk for fishing vessels and/or other operators (first buyer)	
	high	very high
Fishery	Inspection in port of at least 10 % of overall landed quantities by “high risk” level fishing vessels	Inspection in port of at least 15 % of overall landed quantities by “very high risk” level fishing vessels

(*) expressed in a % of quantities landed by high/very high risk fishing vessels/per year

Inspections made after landing or transshipment shall in particular be used as a complementary cross-checking mechanism to verify the reliability of the information recorded and reported on catches and landings.

⁽¹⁾ For vessels spending less than 24 hours at sea per fishing trip, and according to the risk management strategy, the target benchmarks may be reduced by half.

⁽²⁾ For vessels landing less than 10 tonnes per landing, and according to the risk management strategy, the target benchmarks may be reduced by half.

TARGET BENCHMARKS FOR PELAGIC SPECIES

1. Level of inspections at sea (including aerial surveillance, where applicable)

On a yearly basis, the following target benchmarks ⁽³⁾ shall be reached for the inspections at sea of fishing vessels engaged in the fishery of herring, mackerel, horse mackerel, blue whiting, Norway pout, sprat, sand eel in the fisheries, referred to in Article 2(1a)(a), in the case that inspections at sea are relevant in relation to the step in the fishery chain and are part of the risk management strategy:

Benchmarks per year (*)	Level of estimated risk for fishing vessels in accordance with Article 5(2)	
	high	very high
Herring, mackerel and horse mackerel	Inspection at sea of at least 5 % of fishing trips by “high risk” level fishing vessels targeting the fishery in question	Inspection at sea of at least 7,5 % of fishing trips by “very high risk” level fishing vessels targeting the fishery in question
Norway pout, sprat and sand eel	Inspection at sea of at least 2,5 % of fishing trips by “high risk” level fishing vessels targeting the fishery in question	Inspection at sea of at least 5 % of fishing trips by “very high risk” level fishing vessels targeting the fishery in question
Blue whiting	Inspection at sea of at least 5 % of fishing trips by “high risk” level fishing vessels targeting the fishery in question	Inspection at sea of at least 7,5 % of fishing trips by “very high risk” level fishing vessels targeting the fishery in question

(*) expressed in a % of fishing trips in the area (when fishing with gears with mesh sizes for which the species is a target species) by high/very high risk fishing vessels/per year.

2. Level of inspections on land (including document-based controls and inspections in ports or at first sale)

On a yearly basis, the following target benchmarks ⁽⁴⁾ shall be reached for the inspections on land (including document-based controls and inspections in ports or at first sale) of fishing vessels and other operators engaged in the fishery of herring, mackerel, horse mackerel, blue whiting, Norway pout, sprat, sand eel in the fisheries, referred to in Article 2(1a)(a), in the case that inspections on land are relevant in relation to the step in the fishery/marketing chain and are part of the risk management strategy.

Benchmarks per year (*)	Level of risk for fishing vessels and/or other operators (first buyer)	
	high	very high
Herring, mackerel and horse mackerel	Inspection in port of at least 5 % of overall landed quantities by “high risk” level fishing vessels	Inspection in port of at least 7,5 % of overall landed quantities by “very high risk” level fishing vessels
Norway pout, sprat and sand eel	Inspection in port of at least 2,5 % of overall landed quantities by “high risk” level fishing vessels	Inspection in port of at least 5 % of overall landed quantities by “very high risk” level fishing vessels
Blue whiting	Inspection in port of at least 5 % of overall landed quantities by “high risk” level fishing vessels	Inspection in port of at least 7,5 % of overall landed quantities by “very high risk” level fishing vessels

(*) expressed in a % of quantities landed by high/very high risk fishing vessels/per year

Inspections made after landing or transshipment shall in particular be used as a complementary cross-checking mechanism to verify the reliability of the information recorded and reported on catches and landings.’

⁽³⁾ See footnote 1.

⁽⁴⁾ See footnote 2.

ANNEX II

ANNEX IV

CONTENT OF THE EVALUATION REPORT

I. Data on the control, inspection and enforcement activities carried out by [Member State concerned] at sea and on land

Table 1

Analysis of inspection activities at sea

Patrol days		No of inspections (total/very high/high risk)	No of confirmed serious infringements detected (total/very high/high risk)	Serious infringement rate average (confirmed infringements/inspections)	Serious infringement rate on low and medium risk vessels (infringements/inspections)	Serious infringement rate on high and very high risk vessels (infringements/inspections)
Provided	Committed					
30 (*)	30	100/70/30	4/3/1	4:100 = 4 %	3:70 = 4,3 %	1/30 = 3,3 %

Table 2

Analysis of inspection activities on land

Inspection men/days on land		No of inspections (total/very high/high risk)	No of confirmed serious infringements detected (total/very high/high risk)	Serious infringement rate average (confirmed infringements/inspections)	Serious infringement rate on low and medium risk vessels (infringements/inspections)	Serious infringement rate on high and very high risk vessels (infringements/inspections)
Provided	Committed					
200 (*)	200	400/350/50	40/30/10	40:400 = 10 %	30:350 = 8,6 %	10:50 = 20 %

(*) 2nd row in Tables 1 and 2 give an example aiming to facilitate completing the table.

II. Analysis of target benchmarks expressed in terms of improved compliance levels

If the Member State applies alternative target benchmarks, referred to in Article 8(3) of this Decision, the following information shall be reported:

Table 3

Achievement of improved compliance levels.

Description of the activity threat/risk/vessel segment	<p>Very high risk/high risk/medium risk/low risk/very low risk</p> <p>— Level of the threat/risk at the beginning of the year, expressed in compliance level</p> <p>— Target improvement of the compliance level</p> <p>— Level of the threat/risk at the end of the year, expressed in compliance level</p> <p>— No of inspections</p> <p>— No of serious infringements detected</p> <p>— <i>ex post</i> analysis, explanation in case the target compliance level has not been reached</p>
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III. Analysis of other inspection and control activities: transshipment, aerial surveillance, importation/exportation, as well as other actions such as training or information sessions designed to have an impact on compliance by fishing vessels and other operators

IV. Proposal(s) for improving effectiveness of control, inspection and enforcement activities (for each Member State concerned)'
