

# Procedure file

Basic information	
<p>COD - Ordinary legislative procedure (ex-codecision procedure) <a href="#">2009/0051(COD)</a> Regulation</p>	Procedure completed
<p>Scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries</p> <p>Repealing Regulation (EC) No 2791/1999 <a href="#">1999/0138(CNS)</a> Amended by <a href="#">2015/0063(COD)</a></p> <p>Subject 3.15.01 Fish stocks, conservation of fishery resources 3.15.07 Fisheries inspectorate, surveillance of fishing vessels and areas 3.15.15 Fisheries agreements and cooperation</p>	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<a href="#">PECH</a> Fisheries	PPE <a href="#">FRAGA ESTÉVEZ Carmen</a>	01/09/2009
European Parliament	Former committee responsible		
	<a href="#">PECH</a> Fisheries		
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Agriculture and Fisheries</a>	<a href="#">3050</a>	29/11/2010
	<a href="#">General Affairs</a>	<a href="#">2970</a>	26/10/2009
European Commission	Commission DG	Commissioner	
	<a href="#">Maritime Affairs and Fisheries</a>	DAMANAKI Maria	

Key events			
02/04/2009	Legislative proposal published	<a href="#">COM(2009)0151</a>	Summary
14/07/2009	Committee referral announced in Parliament, 1st reading		
26/10/2009	Debate in Council	<a href="#">2970</a>	
02/12/2009	Additional information		Summary
29/09/2010	Vote in committee, 1st reading		Summary
30/09/2010	Committee report tabled for plenary, 1st reading	<a href="#">A7-0260/2010</a>	
18/10/2010	Debate in Parliament		

19/10/2010	Results of vote in Parliament		
19/10/2010	Decision by Parliament, 1st reading	<a href="#">T7-0363/2010</a>	Summary
29/11/2010	Act adopted by Council after Parliament's 1st reading		
15/12/2010	Final act signed		
15/12/2010	End of procedure in Parliament		
31/12/2010	Final act published in Official Journal		

### Technical information

Procedure reference	2009/0051(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Repealing Regulation (EC) No 2791/1999 <a href="#">1999/0138(CNS)</a> Amended by <a href="#">2015/0063(COD)</a>
Legal basis	Treaty on the Functioning of the EU TFEU 043-p2
Other legal basis	Rules of Procedure EP 159
Stage reached in procedure	Procedure completed
Committee dossier	PECH/7/00288

### Documentation gateway

Legislative proposal	<a href="#">COM(2009)0151</a>	02/04/2009	EC	Summary
Amendments tabled in committee	<a href="#">PE430.354</a>	06/11/2009	EP	
Economic and Social Committee: opinion, report	<a href="#">CES0454/2010</a>	17/03/2010	ESC	
Economic and Social Committee: opinion, report	<a href="#">CES0455/2010</a>	17/03/2010	ESC	
Amendments tabled in committee	<a href="#">PE448.897</a>	17/09/2010	EP	
Committee draft report	<a href="#">PE428.009</a>	22/09/2010	EP	
Committee report tabled for plenary, 1st reading/single reading	<a href="#">A7-0260/2010</a>	30/09/2010	EP	
Text adopted by Parliament, 1st reading/single reading	<a href="#">T7-0363/2010</a>	19/10/2010	EP	Summary
Commission response to text adopted in plenary	SP(2010)8657/2	09/12/2010	EC	
Draft final act	<a href="#">00048/2010/LEX</a>	15/12/2010	CSL	
Follow-up document	COM(2013)0287	17/05/2013	EC	

### Additional information

National parliaments	<a href="#">IPEX</a>
European Commission	<a href="#">EUR-Lex</a>

## Final act

[Regulation 2010/1236](#)

[OJ L 348 31.12.2010, p. 0017](#) Summary

Final legislative act with provisions for delegated acts

## Delegated acts

[2013/2857\(DEA\)](#)

Examination of delegated act

[2013/2764\(DEA\)](#)

Examination of delegated act

[2015/2623\(DEA\)](#)

Examination of delegated act

## Scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries

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**PURPOSE:** to establish a Scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries.

**PROPOSED ACT:** Council Regulation.

**CONTENT:** the Convention on Future Multilateral co-operation in North East Atlantic Fisheries to which European Community is a Contracting Party aims to ensure the long term conservation and optimum utilisation of the fishery resources of the North East Atlantic area, providing sustainable, environmental and social benefits.

For the purpose of ensuring the application of this Convention and recommendations adopted by the North East Atlantic Commission (NEAFC), measures concerning control and enforcement relating to fisheries concerned may be adopted. The Scheme of control and enforcement applies to all vessels used or intended for use for fishing activities conducted on fishery resources in areas defined in the Convention.

NEAFC adopted during its 25th annual meeting in 2006 a new Scheme to improve the control and enforcement of its recommendations. The main change is the merge of the former Scheme and the Program to promote compliance by non contracting Party vessels.

The other change is the inclusion of a new Port State Control system which effectively closes European ports to landings of frozen fish, which have not been verified to be legal by the flag State of the foreign vessel. It provides new measures considering control of vessels engaged in illegal, unreported and unregulated (IUU) fisheries. The new Port State Control Measures were last amended by a recommendation adopted by NEAFC at the 26th annual meeting.

These Recommendations came into force in May 2007, February 2008 and January 2009. They are binding on the Contracting Parties under the terms of the NEAFC Convention. The Community, as a Contracting Party, should consequently apply them.

Therefore, this proposal seeks to update the Community rules transposing the Scheme of control and enforcement adopted by the North East Atlantic Fisheries Commission (NEAFC). It lays down the general rules and conditions for the application by the Community of the Scheme of control and enforcement adopted by the North-East Atlantic Fisheries Commission.

Unless otherwise stated, the proposed Regulation shall apply to all Community vessels used or intended for use for fishing activities conducted on fishery resources in the Regulatory Area of the Convention on Future Multilateral Cooperation in North-East Atlantic Fisheries.

**IMPACT ASSESSMENT:** no formal impact assessment.

**BUDGETARY IMPLICATION:** the proposal has no implication for the Community budget.

## Scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries

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The Lisbon Treaty, which entered into force on 1 December 2009, amended the EU's two core treaties, the Treaty on European Union (TEU) and the Treaty establishing the European Community (EC Treaty). The latter was renamed the Treaty on the Functioning of the European Union (TFEU).

These changes had various consequences for many ongoing procedures. First of all, the articles of the TEU and of the old EC Treaty that constitute the legal basis of all the proposals founded on those Treaties were renumbered in accordance with the table of equivalences mentioned in Article 5 of the Lisbon Treaty.

In addition, some proposals underwent a change to their legal basis going beyond a mere change to their numbering, and this resulted in changes to the type of procedure.

The Lisbon Treaty also introduced new concepts of decision-making procedure. The old "codecision procedure" was extended to new areas and renamed the "ordinary legislative procedure". A new "consent procedure" replaced the old "assent procedure". New interinstitutional procedures were also set up for the adoption of certain non-legislative acts, for example the conclusion of some international agreements.

The ongoing proposals concerned by these changes were formally modified by the Commission in a Communication published on 2 December 2009 ([COM\(2009\)0665](#)).

In the case of the proposal for a Council Regulation laying down a Scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries, the entry into force of the Lisbon Treaty had the following impacts:

- the old legal basis - Treaty/EC/Art.37 ? became Art. 43 (2) of the TFEU. Please note that the numbering of the old legal basis corresponds to the consolidated version of the Treaty that was applicable immediately before the entry into force of the Lisbon Treaty, and may differ from the references in the original Commission proposal;
- the proposal, which had previously fallen under the old consultation procedure (CNS), was classified as an ordinary legislative procedure (COD).

## Scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries

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The Committee on Fisheries adopted the report drafted by Carmen FRAGA ESTÉVEZ (EPP, ES) on the proposal for a regulation of the European Parliament and of the Council laying down a Scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries (NEAFC Convention).

It recommended that the European Parliament's position at first reading under the ordinary legislative procedure (formerly known as the codecision procedure) should be to amend the Commission proposal as follows:

**Recording of catches:** the report specifies that the masters of EU fishing vessels shall record either in a bound paginated fishing logbook or by electronic means the following: (a) the date and time of transmission (UTC) of a report, unless this is recorded by electronic means - in case of radio transmission, name of radio station through which the report is transmitted; (b) the fishing depth (where appropriate).

**Reporting of catches of regulated resources:** the masters of EU fishing vessels engaged in fishing activities conducted on regulated resources shall draw up a report on the quantities on-loaded and off-loaded for each transshipment of fish during the vessel's stay in the Regulatory Area. Donor vessels shall make this report at least 24 hours in advance, and concerning receiving vessels this report shall be made no later than one hour after transshipment. The report shall include date, time, geographical position of the planned transshipment and total round weight by species to be offloaded or which have been on-loaded in kilograms and the call signs of vessels transhipped to or from respectively. The receiving vessel shall report total catch on board, total weight to be landed, name of the port and date and time of landing at least 24 hours in advance of any landing.

The reports on catches referred to in this Article shall be given in kilograms (rounded to the nearest 100 Kg) total round weight by species using the FAO codes.

**Global reporting of catches and fishing effort:** without prejudice to Article 33(2) of Regulation (EC) No 1224/2009, Member States shall also inform the Commission, by computer transmission before the fifteenth day of each month, of the quantities of regulated resources taken in areas under the national fisheries jurisdiction of third countries and in EU waters of the Convention Area by vessels flying their flag, which have been landed or transhipped during the preceding month.

**Inspection and surveillance:** a joint deployment plan shall, inter alia, determine the number of inspections to be carried out. Member States shall ensure that inspections carried out by their inspectors shall be carried out in a non-discriminatory manner and in accordance with the Scheme. Inspectors shall avoid the use of force except in cases of legitimate self-defence.

**Confidentiality:** Member States shall ensure confidential treatment of electronic reports and messages transmitted to and received from the NEAFC Secretariat.

**Delegation of powers:** the Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union:

- § in respect of detailed rules on lists of fishery resources to be notified, notification and cancellation procedures for prior notice of entry into port as well as authorisation to land or tranship;
- § in order to transpose into EU law amendments to the existing provisions of the Scheme which become obligatory for the Union, the Commission may amend the provisions of this Regulation concerning: (i) the participation of Contracting parties in the fishery in the Regulatory area; (ii) the removal and disposal of fixed gear and the retrieval of lost gear; (iii) the use of VMS; (iv) cooperation and communication of information to the NEAFC Secretary; (v) the requirements for separate stowage and labelling of frozen fishery resources; (vi) the assignment of NEAFC inspectors; (vii) measures to promote compliance by non-Contracting Party fishing vessels set out in Chapter VI; (viii) the list of regulated resources set out in the Annex.

When adopting such delegated acts, the Commission shall act in accordance with the provisions of this Regulation.

**Implementing measures:** the amended text highlights that the measures necessary for the implementation of this Regulation should be adopted by means of implementing acts in accordance with Article 291 of the Treaty. According to that Article, rules and general principles concerning mechanisms for the control by Member States of the Commission's exercise of its implementing powers shall be laid down in advance by a regulation adopted in accordance with the ordinary legislative procedure.

## Scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries

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The European Parliament adopted by 636 votes to 21, with 5 abstentions a legislative resolution on the proposal for a regulation of the

European Parliament and of the Council laying down a Scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries (NEAFC Convention).

The Parliament adopted its position at first reading under the ordinary legislative procedure (formerly known as the codecision procedure). The amendments adopted in plenary are the result of a compromise reached between the European Parliament and the Council. They amend the Commission's proposal as follows:

**Transshipment operation:** this definition has been clarified. The term means the unloading of all or any fishery products on board a fishing vessel onto another fishing vessel.

**Marking of gear:** Member States may remove and dispose of fixed gear that is not marked in accordance with Regulation (EC) No 356/2005 or that contravenes in any other way recommendations adopted by NEAFC, as well as fish that are found in the gear.

**Retrieval of lost gear:** the competent authority of the flag Member State shall send without delay the information provided to it pursuant to Article 48(3) of Regulation (EC) No 1224/2009 as well as the call sign of the vessel that has lost the gear to the NEAFC Secretariat.

**Recording of catches:** the amended text specifies that the masters of EU fishing vessels shall record either in a bound paginated fishing logbook or by electronic means the following: a) immediately after each communication pursuant to Article 9 (Reporting of catches of regulated resources), the date and time, according to Universal Coordinated Time (?UTC?), of transmission of a report and, in the case of radio transmission, the name of the radio station through which the report was transmitted; b) the fishing depth, where appropriate.

**Reporting of catches of regulated resources:** the masters of EU fishing vessels engaged in fishing activities conducted on regulated resources shall draw up a report on the quantities on-loaded and off-loaded for each transshipment of fish during the vessel's stay in the Regulatory Area, no later than 24 hours before the transshipment, and receiving vessels no later than one hour after the transshipment.

The report shall include the date, time and geographical position of the planned transshipment as well as the total round weight by species which are to be off-loaded or which have been on-loaded in kilograms and the call signs of the donor and receiving vessels. At least 24 hours before any landing, the receiving vessel shall report the total catch on board, the total weight to be landed, the name of the port and the date and time of landing.

The reports on catches referred to in this Article shall be expressed in kilograms (rounded to the nearest 100 kg). The total round weight shall be reported by species, using the FAO codes. The total quantity of species for which the total round weight by species is less than one tonne may be reported under the 3-alpha code MZZ (marine fish not specified).

**Global reporting of catches and fishing effort:** without prejudice to Article 33(2) of Regulation (EC) No 1224/2009, Member States shall also inform the Commission, by computer transmission before the fifteenth day of each month, of the quantities of regulated resources taken in areas under the national fisheries jurisdiction of third countries and in EU waters of the Convention Area by vessels flying their flag, which have been landed or transhipped during the preceding month.

**Inspection and surveillance:** a joint deployment plan shall, inter alia, determine the number of inspections to be carried out. Member States shall ensure that inspections carried out by their inspectors shall be carried out in a non-discriminatory manner and in accordance with the Scheme. Inspectors shall avoid the use of force except in cases of legitimate self-defence.

As far as the surveillance procedure is concerned, NEAFC inspectors shall record their sightings in a surveillance report.

**Designated ports:** Member States shall designate and notify the Commission of ports where the landing or transshipment of fishery resources frozen after being caught in the Convention Area by fishing vessels flying the flag of another Contracting Party are permitted.

**Confidentiality:** Member States shall ensure confidential treatment of electronic reports and messages transmitted to and received from the NEAFC Secretariat.

**Delegation of powers:** the Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union:

- in respect of detailed rules on lists of fishery resources to be notified, notification and cancellation procedures for prior notice of entry into port as well as authorisation to land or tranship;
- in order to transpose into EU law amendments to the existing provisions of the Scheme which become obligatory for the Union, the Commission may amend the provisions of this Regulation concerning: (i) the participation of Contracting parties in the fishery in the Regulatory area; (ii) the removal and disposal of fixed gear and the retrieval of lost gear; (iii) the use of VMS; (iv) cooperation and communication of information to the NEAFC Secretary; (v) the requirements for separate stowage and labelling of frozen fishery resources; (vi) the assignment of NEAFC inspectors; (vii) measures to promote compliance by non-Contracting Party fishing vessels set out in Chapter VI; (viii) the list of regulated resources.

The amended text contains provisions concerning the exercise of delegation, revocation of delegation and objections to delegated acts.

**Implementing measures:** the amended text highlights that the measures necessary for the implementation of this Regulation should be adopted by means of implementing acts in accordance with Article 291 of the Treaty. According to that Article, rules and general principles concerning mechanisms for the control by Member States of the Commission's exercise of its implementing powers shall be laid down in advance by a regulation adopted in accordance with the ordinary legislative procedure. In the period prior to the adoption of this new Regulation, Council Decision 1999/468/EC (comitology) will continue to be applied (with the exception of the regulatory procedure with scrutiny, which is not applicable).

## Scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries

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**PURPOSE:** to establish a Scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries.

**LEGISLATIVE ACT:** Regulation (EU) No 1236/2010 of the European Parliament and of the Council laying down a scheme of control and

enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries and repealing Council Regulation (EC) No 2791/1999.

CONTENT: following a first-reading agreement reached with the European Parliament, the Council adopted a regulation laying down a Scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries. The Swedish delegation abstained.

The convention which entered into force in 1982 provides an appropriate framework for multilateral cooperation on the rational conservation and management of fishery resources in the North-East Atlantic area.

The North-East Atlantic Fisheries Commission (NEAFC), at its Annual Meeting on 15 November 2006, adopted a recommendation establishing a scheme of control and enforcement (the Scheme) applicable to fishing vessels operating in the waters of the Convention Area which lie beyond the waters under the fisheries jurisdiction of the Contracting Parties. The Scheme, which came into force on 1 May 2007, was amended by several recommendations which came into force on 9 February 2008, 6 and 8 January 2009, and 6 February 2010 respectively.

The Scheme:

- provides for control and enforcement measures applicable to vessels flying the flag of Contracting Parties and operating in the Regulatory Area, and arrangements for inspection at sea which include inspection and surveillance procedures and infringement procedures which must be implemented by the Contracting Parties;
- provides for a new Port State Control system which will effectively close European ports to landings and transshipments of frozen fish which have not been verified to be legal by the flag state of fishing vessels flying the flag of a Contracting Party other than the port state.

The Scheme also comprises provisions to promote compliance by vessels flying the flag of a non- Contracting Party with the control and enforcement measures in order to ensure full respect of conservation and management measures adopted by NEAFC. NEAFC recommended removing a number of vessels from the list of vessels that have been confirmed to have engaged in illegal, unreported and unregulated fisheries. The incorporation of those recommendations into Union law should be ensured.

Therefore, this Regulation seeks to update the Community rules transposing the Scheme of control and enforcement adopted by the North East Atlantic Fisheries Commission (NEAFC). It lays down the general rules and conditions for the application by the Community of the Scheme of control and enforcement adopted by the North-East Atlantic Fisheries Commission.

ENTRY INTO FORCE: 01/01/2011.