



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 3 May 2012**

**9503/12**

**PECHE 148  
DELECT 26**

**COVER NOTE**

---

from: Secretary-General of the European Commission,  
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 2 May 2012

to: Mr Uwe CORSEPIUS, Secretary-General of the Council of the European  
Union

---

No Cion doc.: C(2012) 2576 final

---

Subject: Commission Delegated Regulation (EU) No .../. of 30.4.2012 amending  
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

---

Delegations will find attached Commission document C(2012) 2576 final.

Encl.: C(2012) 2576 final



EUROPEAN COMMISSION

Brussels, 30.4.2012  
C(2012) 2576 final

**COMMISSION DELEGATED REGULATION (EU) No .../..**

**of 30.4.2012**

**amending 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**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE DELEGATED ACT

#### • Grounds for and objectives of the act

This delegated act seeks to amend the EU rules transposing the Scheme of control and enforcement adopted by the North East Atlantic Fisheries Commission (NEAFC).

#### • General context

The Convention on Future Multilateral Cooperation in North East Atlantic Fisheries to which the European Union 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 contains such measures and applies to all vessels used or intended for use for fishing activities conducted on fishery resources in areas defined in the Convention.

Regulation (EU) No 1236/2010 lays down certain specific control measures to monitor fishing activities in the area covered by the Convention on Future Multilateral Cooperation in North East Atlantic Fisheries and supplements the control measures provided for in 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,<sup>1</sup> and in Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing<sup>2</sup>.

Article 51 of Regulation (EU) No 1236/2010 provides that, as far as necessary, in order to incorporate into Union law amendments to the existing provisions of the Scheme which become obligatory for the Union, certain provisions of this regulation may be amended by means of a delegated act. In particular, since an amendment to the Scheme concerning cooperation and communication of information to the NEAFC Secretary as referred to in Article 12 of Regulation (EU) No 1236/2010, has become obligatory to the Union, this amendment should be incorporated into Union law.

### 2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

The draft regulation has been transmitted to Member States on 5 March 2012. The Expert Group Fisheries Control has been consulted on the draft regulation during its meeting of 27 March 2012.

---

<sup>1</sup> OJ L 343 22.12.2009, p.1

<sup>2</sup> OJ L 286, 29.10.2008, p.1

### **3. LEGAL ELEMENTS OF THE DELEGATED ACT**

#### **• Summary of the action**

Incorporate into Union law an amendment to the Scheme concerning cooperation and communication of information to the NEAFC Secretary as referred to in Article 12 of Regulation (EU) No 1236/2010, in accordance with Article 51 of the same Regulation.

#### **• Legal basis**

Article 51(d) of Regulation (EU) No 1236/2010.

#### **• Subsidiarity principle**

The act falls under exclusive competence of the European Union.

#### **• Proportionality principle**

The act incorporates into Union law an amendment to the Scheme as adopted in NEAFC Recommendation 9/2012. This recommendation is binding for the Contracting Parties to NEAFC and consequently for the EU. Therefore no concern on the principle of proportionality arises.

#### **• Choice of instrument**

Instrument: Commission delegated regulation.

Other means would not be adequate for the following reason: the powers to adopt the act were delegated to the Commission in Regulation (EU) No 1236/2010.

**COMMISSION DELEGATED REGULATION (EU) No .../..**

**of 30.4.2012**

**amending 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**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1236/2010 of the European Parliament and of the Council of 15 December 2010 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<sup>3</sup>, and in particular Article 51(d) thereof,

Whereas:

- (1) Regulation (EU) No 1236/2010 incorporates into Union law the provisions of the Scheme of control and enforcement (the Scheme) established by a recommendation adopted by the North-East Atlantic Fisheries Commission (NEAFC) at its Annual Meeting on 15 November 2006, and subsequently amended by several recommendations at the Annual Meetings in November 2007, 2008 and 2009.
- (2) At its Annual Meeting in November 2011, NEAFC adopted Recommendation 9: 2012 amending Article 14 of the Scheme on the communication of reports and messages to the NEAFC Secretary.
- (3) Under Articles 12 and 15 of the Convention on future multilateral cooperation in the North-East Atlantic fisheries approved by Council Decision 81/608/EEC<sup>4</sup>, that recommendation came into force on 3 February 2012.

HAS ADOPTED THIS REGULATION:

*Article 1*

In Article 12 of Regulation (EU) No 1236/2010, the following paragraph 1a is inserted after paragraph 1:

"1a. The reports referred to in Article 9 may be cancelled by means of a cancellation report.

---

<sup>3</sup> OJ L 348, 31.12.2010, p. 17.

<sup>4</sup> OJ L 227, 12.8.1981, p. 21.

If a report requires a correction, it shall be cancelled by way of a cancellation report. A new, corrected report shall be sent after the cancellation report and within the time limits set out in Article 9.

If the Fisheries Monitoring Centre of the flag Member State accepts the cancellation of a report, it shall communicate it to the NEAFC Secretary."

#### *Article 2*

This Regulation shall enter into force on the day following that of 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, 30.4.2012

*For the Commission*  
*The President*  
*José Manuel BARROSO*