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NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1224/2009, and amending Council Regulations (EC) No 768/2005, (EC) No 1967/2006, (EC) No 1005/2008, and Regulation (EU) No 2016/1139 of the European Parliament and of the Council as regards fisheries control - Additional row from the table on Sequence 10, Annex IV.

Delegations will find attached a table on the criteria related to row 857 as set out in Annex IV pertaining to Sequence 10 ("Enforcement, infringements and sanctions") of the four-column document concerning the abovementioned proposal.

In the table, the Presidency provides suggestions on the way forward with regard to the criteria related to row 857. Delegations are kindly requested to provide input on the highlighted sections.

Delegations are reminded that the institutions work under the premise that "nothing is agreed until everything is agreed". Recitals will be examined once an agreement has been reached on the related articles and are thus currently excluded from the tables.

This document will be discussed in the Working Party on Fisheries Policy on 27 April 2023.

ANNEX IV¹

Criteria to qualify an activity as a serious infringement in accordance with Article 90(3)

Row 857

Infringement:

COM (13.4.2023)

Not fulfilling obligations to accurately record, store and report data relating to fishing activities, including data to be transmitted by vessel monitoring systems, as well as data with regard to prior notifications, catch declarations, fishing logbooks, transshipment declarations, landing declarations, weighing records, takeover declarations, transport documents or sales notes as required under the rules of the common fisheries policy, except for obligations to which the margin of tolerance applies in accordance with Article 14(4), (4a) and (4b) and Article 21(3) of this Regulation;

Criteria	Proposals
A	PSY (22.2.2023) Where fishery products related to the infringement represent 10% or more of the total weight of the products concerned
B	Flexibility to accept the following Presidency proposal: PSY (26.4.2023) failure to record and report catches or quantities of species subject to the landing obligation where the fishery products related to the infringement represent 5% or more of the total weight of the products that are subject to the recording or reporting obligation concerned

¹ When calculating the value of the fishery or aquaculture products obtained **as a result of committing an infringement referred to in this Annex**, Member States shall consider national prices at first sale, prices identified on principal international markets relevant for the species and fishing area concerned or the **prices** of the European Market Observatory for Fisheries and Aquaculture Products (EUMOFA) platform, at the time when the infringement was committed.

C	<p>PSY (28.3.2023)</p> <p>interference with the installation or functioning of the vessel monitoring system, automatic identification system, logbook, REM, weighing system, continuous engine power monitoring device or any other applicable monitoring system of the Member State, including its switch off, except where authorised by the competent authorities; fisheries monitoring centres;</p>
D	<p>PSY (22.2.2023)</p> <p>no data and information recorded and/or sent to the flag Member State's fisheries monitoring centre; or</p>
E	<p>COM (17.11.2022)</p> <p>failing to notify the MS authorities about malfunctioning <u>of the vessel monitoring system, automatic identification system, logbook, REM, or any other monitoring device or system as required under the rules of the CFP;</u></p>
F	<p>COM (17.11.2022)</p> <p>failing to transmit data relating to fishing and fishing operations, including sales notes, when the <u>landing or transhipment or the fishing operation has taken place outside the Union waters;</u></p>
G	<p>PSY (22.2.2023)</p> <p>the competent authority of a Member State has confirmed that the natural person or legal person concerned has committed or was held liable for a serious infringement under point (a) of Article 90(3) in final judgment or decision issued in the last 12 months before the date on which the present infringement was committed.</p>