



Council of the  
European Union

Brussels, 9 August 2018  
(OR. en)

11594/18

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**Interinstitutional File:**  
**2018/0304(COD)**

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PECHE 314

## PROPOSAL

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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	7 August 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2018) 577 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL laying down conservation and control measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation and repealing Council Regulation (EC) No 2115/2005 and Council Regulation (EC) No 1386/2007

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Delegations will find attached document COM(2018) 577 final.

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Encl.: COM(2018) 577 final



Brussels, 7.8.2018  
COM(2018) 577 final

2018/0304 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**laying down conservation and control measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation and repealing Council Regulation (EC) No 2115/2005 and Council Regulation (EC) No 1386/2007**

## EXPLANATORY MEMORANDUM

### 1. 1. CONTEXT OF THE PROPOSAL

#### • **Reasons for and objectives of the proposal**

The purpose of the proposal is to transpose into EU law the conservation and enforcement measures (CEMs) adopted by the Northwest Atlantic Fisheries Organisation (NAFO), to which the European Union (EU) has been a contracting party since 1979. NAFO is the regional fisheries management organisation (RFMO) responsible for managing fishery resources in the Northwest Atlantic. NAFO's conservation and management measures apply exclusively to the NAFO Regulatory Area, the high seas, defined as the area beyond those in which coastal states exercise fisheries jurisdiction. In 2018, the EU has 35 fishing vessels authorised to operate in NAFO's Regulatory Area. All of these land catches in two EU ports, Vigo and Aveiro.

All NAFO contracting parties are members of the NAFO Commission. The NAFO Commission adopts NAFO's conservation and enforcement measures by consensus, in accordance with Article XIII of the NAFO Convention (or, exceptionally by a two-thirds majority). Before each NAFO Commission meeting, the Commission, on behalf of the EU, draws up negotiating guidelines based on a five-year mandate set by Council decision and on scientific advice. In accordance with the mandate, these guidelines are presented, discussed and endorsed at the Council working party, and further adjusted, to take account of real-time developments, at coordination meetings with Member States held at NAFO annual meetings. The annual meetings of the EU Delegation to NAFO bring together the Commission, the Council, and representatives of stakeholders.

The NAFO Convention states that the conservation measures adopted by the NAFO Commission are binding (Articles XIV, VI.8 and VI.9) and that the contracting parties are obliged to implement them. It emphasises flag state duties under Article XI.1.a. and port state duties under Article XII.

At its annual meetings, the NAFO Commission adopts new measures which NAFO's Executive Secretary notifies to the contracting parties after the meeting, as NAFO Commission decisions. After receiving a notification, the Commission informs the Council about the adoption of new measures, along with the planned date for their entry into force.

Any contracting party can raise an objection to decisions taken by the NAFO Commission. This must be done within 60 days of the date on which a measure is notified by the NAFO Executive Secretary. All measures are binding unless an objection is raised under Article XIV.2 of the NAFO Convention. The objection can subsequently be withdrawn by a contracting party, then a measure is binding. The objection procedure also falls under Article 218(9) TFEU, as NAFO conservation and enforcement measures have a legal effect, meaning that they become binding on contracting parties. Before deciding to raise an objection to a measure, the Commission asks the Council relevant bodies to endorse the decision to object.

Article 3(5) of the Treaty on European Union stipulates that the EU must abide strictly by international law; this includes compliance with NAFO's conservation and enforcement measures.

This proposal relates to the measures adopted by NAFO since 2008 and to the entry into force on 18 May 2017 of the amended NAFO Convention.

NAFO's CEMs, though aimed mainly at NAFO contracting parties, also impose obligations on operators (e.g. the vessel master). This proposal is not covered by the Regulatory Fitness Programme (REFIT).

NAFO's CEMs are amended annually. A historical overview of NAFO meetings shows that any part of the CEMs may be amended. It is incumbent on the EU to ensure compliance with these measures, as international obligations, as soon as they enter into force. This proposal is therefore designed to transpose the most recent version of the NAFO measures; it also includes a mechanism to facilitate swift transpositions and NAFO measures implementation in future.

This proposal provides for delegated powers granted to the Commission under Article 290 of the Treaty on the Functioning of the European Union (TFEU), to cater for amendments to measures, which are expected to be frequent. The parts of CEMs selected for delegation cover the kind of provisions typically amended by contracting parties between 2008 and 2017, and which are expected to be changed in the coming years. Delegated powers have therefore been laid down for the rules on:

- deadlines for reporting and submission of documents;
- definitions;
- list of prohibited activities of research vessels;
- certain limitations on catches and fishing efforts;
- duties related to closures of fisheries;
- situations in which species listed in the fishing opportunities are to be classified as bycatch;
- specified maxima for keeping species classified as bycatch on board ship;
- certain obligations applicable if bycatch limits are exceeded in any one haul;
- measures concerning skate fishing;
- measures concerning Northern prawn fishing;
- preconditions for beginning to fish Greenland halibut;
- geographical coordinates and time periods for Northern prawn fishing closures;
- shark conservation measures, including reporting, a ban on removing shark fins on board ship, retention, transshipment and landing;
- technical characteristics of mesh sizes;
- use of sorting grids and grates for Northern prawn;
- references to map of existing bottom fishing activities;
- references to area restrictions for bottom fishing activities;
- provision in case of encounter, duties of an observer deployed;
- electronic transmission, list of valid documents to be carried on board the vessel, the content of capacity plan;
- documentation to be carried on board vessels on chartering arrangements;
- fishing logbook, production logbook, stowage plan;
- the Vessel Monitoring System data;

- electronic reporting of the content of notifications;
- duties of inspectors and of inspecting Member States;
- list of violations constituting serious infringements;
- duties of the flag Member State and of the port Member State;
- obligations of the master of a fishing vessel;
- port entry requirements and inspection of non-contracting parties;
- list of Member States' measures against Illegal Unreported and Unregulated - listed vessels; and
- annual reporting.

The reporting deadlines set out in this proposal were established on the basis of the NAFO timetable. The aim is to enable the EU to make timely submissions of reports to the NAFO Secretariat.

To ensure that purely technical measures, such as document format or geographical coordinates and maps, are consistently and swiftly implemented, the Regulation provides for a direct reference to the relevant official NAFO documents. These documents (and any subsequent amendments to them) will be published in the Official Journal of the European Union (L series) so measures can be enforced against natural and legal persons in Member States. The autonomy of EU decision-making remains safeguarded by the fact that the EU's positions in NAFO are based on a mandate agreed by the Council before the NAFO meetings, and the EU retains the right to object to any measures adopted by the NAFO Commission that are not in line with this mandate.

The draft closely follows the structure and wording of NAFO measures, to avoid deviating from the EU's international obligations as the contracting party, and to make the text easier to use for control personnel and operators.

- **Consistency with existing policy provisions in the policy area**

The NAFO Conservation and Enforcement Measures were last transposed through Council Regulation (EC) No 1386/2007 of 22 October 2007, as amended by Council Regulation (EC) No 538/2008 of 29 May 2008 and Council Regulation (EC) No 679/2009 of 7 July 2009.

The NAFO CEMs adopted between 2008 and 2017 (i.e. after the last main transposition) amended previously adopted measures and established new ones (e.g. conservation and management measures for certain species, bycatch requirements, rules on bottom trawling in relation to vulnerable marine ecosystems, inspection procedures at sea and in port, vessel requirements, monitoring of fishing activities and additional port state measures). The proposal also legislates on the existing practice of notifications by the Commission and the European Fisheries Control Agency to the NAFO Executive Secretary containing information on EU-flagged fishing vessels.

For reasons of clarity, simplification and legal certainty, it is therefore preferable to repeal Council Regulation (EC) No 1386/2007 to take account of the changes adopted since 2008 and not yet covered by EU law. For reasons of simplification, Council Regulation (EC) No 2115/2005 establishing a recovery plan for Greenland halibut in NAFO must also be repealed and the provisions of the NAFO CEMs that relate specifically to Greenland halibut transposed, together with the other provisions of the NAFO Conservation and Enforcement Measures.

The proposal is fully aligned with Part VI (External Policy) of Regulation (EU) No 1380/2013 on the Common Fisheries Policy CFP providing that the Union shall conduct its external fisheries in accordance with its international obligations, basing EU fishing activities on regional fisheries co-operation, and engaging the European Fisheries Control Agency into the compliance.

The proposal complements Regulation (EU) 2017/2403 concerning external fleet management, providing that Union fishing vessels are subject to list of RFMO fishing authorisations under conditions and rules of particular RFMO and Council Regulation (EC) No 1005/2008 concerning Illegal Unreported and Unregulated fishing providing for inclusion of the NAFO IUU list into the EU IUU vessels list.

This proposal does not cover fishing opportunities for the EU decided by NAFO. Under Article 43(3) of the Treaty on the Functioning of the European Union (TFEU), it is the Council's prerogative to adopt measures on fixing prices, levies, aid and quantitative limitations and on the fixing and allocation of fishing opportunities.

- **Consistency with other Union policies**

Not applicable.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

The proposal is based on Article 43(2) TFEU which is an area of EU exclusive competence pursuant to Article 3(d) of the Treaty. The provisions it sets out are necessary to pursue the objectives of the Common Fisheries Policy.

- **Subsidiarity (for non-exclusive competence)**

The subsidiarity principle is not applicable here, as the proposal concerns the sustainable exploitation, management and conservation of marine biological resources in the context of the external component of the Common Fisheries Policy.

- **Proportionality**

The proposal will ensure that the EU's NAFO obligations are met, without going beyond what is necessary to achieve this objective.

- **Choice of the instrument**

As a Regulation is directly applicable and binding on the Member States, it is designed to help ensure the uniform application throughout the EU of the rules proposed, thereby creating equal operating conditions for all EU operators fishing in the NAFO Regulatory Area.

## **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable.

- **Stakeholder consultations**

The purpose of this proposal is to transpose and implement existing NAFO measures which are binding upon the contracting parties. National experts, and industry representatives from

the EU countries are consulted both during the run-up to the NAFO meetings at which these recommendations are adopted and throughout negotiations at the NAFO Annual Meeting. Consequently, it was not considered necessary to hold a stakeholder consultation on this regulation.

- **Collection and use of expertise**

Not applicable.

- **Impact assessment**

This legislative initiative does not define any new policy aspects; it concerns existing international obligations that are already binding upon the EU. There is thus no need for an impact assessment.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

Not applicable.

#### **4. BUDGETARY IMPLICATIONS**

Not applicable.

#### **5. OTHER ELEMENTS**

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Not applicable.

- **Explanatory documents (for directives)**

Not applicable.

- **Detailed explanation of the specific provisions of the proposal**

Chapter I contains general provisions on the proposal's subject matter, scope and objective. It also sets out definitions. This Regulation is applicable to EU vessels fishing in the NAFO Regulatory Area.

Chapter II deals with conservation and management measures, including provisions on catch limitations, closure of fisheries, transfer of quotas and bycatch rules. It also lays down provisions on mesh size, marking of gear, minimum size of fish, and management measures for Northern prawns, skate, Greenland halibut and sharks.

Chapter III sets out measures designed to protect vulnerable marine ecosystems in the NAFO Regulatory Area, including area restrictions on bottom fishing activities and conditions for bottom fishing in new areas.

Chapter IV lays down provisions on lists of vessels, vessel markings, and chartering arrangements.

Chapter V sets out the rules on monitoring and reporting catches, product labelling, vessel monitoring systems and transhipments.

Chapter VI contains provisions on the observer scheme, including rules on the observer programme and on electronic reporting.

Chapter VII lays down provisions on inspection and surveillance at sea in the NAFO Regulatory Area. It lays down general rules for inspection and surveillance, sets out provisions for inspections and surveillance procedures and covers the provisions on infringements and serious infringements.

Chapter VIII contains provisions on port state control, including reporting obligations with regard to designated ports and points of contact, provisions on notification for entry into port and authorisations to land or tranship. It also lays down reporting obligations with regard to port inspections.

Chapter IX lays down provisions on fishing vessels from countries that are not contracting parties to NAFO, including provisions on presumption of illegal, unreported and unregulated (IUU) activities, sighting and inspection at sea and in port, provisional IUU vessels list and actions against vessels IUU listed vessels.

Chapter X contains final provisions on matters including the confidentiality of electronic reports and messages, the procedure for tabling amendments, delegated powers and amendments to existing EU legislation.



Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**laying down conservation and control measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation and repealing Council Regulation (EC) No 2115/2005 and Council Regulation (EC) No 1386/2007**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,

Having regard to the proposal from the European Commission,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The objective of the Common Fisheries Policy (CFP), as set out in Regulation (EU) No 1380/2013 of the European Parliament and of the Council<sup>2</sup> is to ensure exploitation of living aquatic resources that provides sustainable economic, environmental and social conditions.
- (2) With Council Decision 98/392/EC<sup>3</sup>, the Union has approved the United Nations Convention on the Law of the Sea and the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, which contain principles and rules with regard to the conservation and management of the living resources of the sea. In the framework of its wider international obligations, the Union takes part in efforts made in international waters to conserve fish stocks.
- (3) The Union is party to the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries ('the NAFO Convention'), approved by Council

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> 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).

<sup>3</sup> Council Decision of 23 March 1998 concerning the conclusion by the European Community of the United Nations Convention of 10 December 1982 on the Law of the Sea and the Agreement of 28 July 1994 relating to the implementation of Part XI thereof (OJ L 179, 23.6.1998, p. 1).

Regulation (EEC) N° 3179/78<sup>4</sup>. An Amendment to the NAFO Convention was adopted on 28 September 2007 and approved by Council Decision (EU) 2010/717.<sup>5</sup>

- (4) NAFO has the authority to adopt legally-binding decisions for the conservation of fisheries resources under its purview. These acts are essentially addressed to the NAFO Contracting Parties, but also contain obligations for the operators (e.g. vessel masters). Upon their entry into force, the NAFO Conservation and Enforcement Measures are binding on all NAFO Contracting Parties and, in the case of the Union, are to be incorporated into Union law to the extent to which they are not already covered by Union law.
- (5) The Council Regulation (EC) No 1386/2007<sup>6</sup> transposed the NAFO Conservation and Enforcement Measures into Union law.
- (6) The NAFO Conservation and Enforcement Measures were amended by every annual meeting of NAFO Contracting Parties from 2008 onwards. These new provisions need to be incorporated in the Union law; including for conservation measures for certain species, protection of vulnerable marine ecosystems, inspection procedures at sea and in port, vessels requirements, monitoring of fishing activities and additional Port State measures.
- (7) Considering that certain provisions of the NAFO Conservation and Enforcement Measures are being amended more frequently by NAFO Contracting Parties and are foreseen likely to be amended more in the future, in order to swiftly incorporate into Union law future amendments to the NAFO Conservation and Enforcement Measures, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should therefore be delegated to the Commission in respect of the following aspects: reporting time limits, deadlines for submission of reports; definitions; list of prohibited activities of research vessels; certain catch and efforts limitations; duties related to closures of fisheries; situations where species listed in the fishing opportunities shall be classified as bycatch, specified maxima for the retention on board for species classified as bycatch; certain obligations in case bycatch limits are exceeded in any one haul; measures related to skate fishing; measures related to Northern prawn fishing; change of fishery depths and references to restricted or closed areas; procedures concerning authorised vessels with more than 50 tonnes live weight total catch on board taken outside the Regulatory Area entering the area to fish for Greenland halibut, preconditions for beginning to fishing for Greenland halibut; geographical and time closures for Northern prawn; shark conservation measures, including reporting, prohibition of removal of shark fins on board, retention, transshipment and landing; technical characteristics of mesh sizes; references to Map of Footprint; and references to area restrictions for bottom fishing activities; provisions concerning definition of encounter with Vulnerable Marine Ecosystems (VME) indicator species and duties of an observer deployed; content of the electronic

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<sup>4</sup> Council Regulation (EEC) No 3179/78 of 28 December 1978 concerning the conclusion by the European Economic Community of the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (OJ L 378, 30.12.1978, p. 1).

<sup>5</sup> Council Decision 2010/717/EU, Council Decision of 8 November 2010 on the approval, on behalf of the European Union, of the Amendment to the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (OJ L 321, 7.12.2010, p. 1).

<sup>6</sup> Council Regulation (EC) No 1386/2007 of 22 October 2007 laying down conservation and enforcement measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation (OJ L 318, 5.12.2007, p. 1).

transmission, list of valid documents to be carried on board the vessels, the content of capacity plans; documentation to be carried on board of vessels on chartering arrangements; obligations concerning the utilization of fishing logbooks, production logbooks, stowage plans, including reporting and transmission duties; the VMS (Vessel Monitoring System) data; provisions on electronic reporting on the content of notifications; obligations of the master of a fishing vessel during inspection; duties of inspectors and of inspecting Member States; list of violations constituting a serious infringement; duties of the flag Member State and of the port Member State; obligations of the master of a fishing vessel; port entry requirements and inspections of non-contracting party parties; list of measures to be taken by Member State against IUU listed vessels; and annual reporting obligations.

- (8) It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making<sup>7</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (9) The Commission representing the Union at the NAFO meetings agrees annually to a number of purely technical provisions of the Conservation and Enforcement Measures of NAFO, in particular concerning format and content of information exchange, scientific terminology or closures of vulnerable areas. Those technical provisions and changes thereto should be incorporated into Union law without changes, as they are binding upon the Union and on its Member States, and in order to ensure uniform application across all NAFO Contracting Parties and enforceability against natural and legal persons. In order to ensure uniform conditions for the implementation of the relevant provisions, the Commission should publish those measures in *the Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

## CHAPTER I GENERAL PROVISIONS

### *Article 1*

#### *Scope*

1. This Regulation, unless otherwise provided, applies to Union fishing vessels used or intended for use for the purposes of commercial fishing activities conducted on fisheries resources in the Northwest Atlantic Fisheries Organisation (NAFO) Regulatory Area, as defined in the Annex I to the Convention<sup>8</sup>.

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<sup>7</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making, Interinstitutional Agreement of 13 April 2016 on Better Law-Making (OJ L 123, 12.5.2016, p. 1).

<sup>8</sup> Council Decision 2010/717/EU, Council Decision of 8 November 2010 on the approval, on behalf of the European Union, of the Amendment to the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (OJ L 321, 7.12.2010, p.1).

2. This Regulation applies without prejudice to the obligations in existing Regulations in the fisheries sector, in particular the provisions laid down in a Regulation (EU) 2017/2403<sup>9</sup> and the Council Regulation (EC) No 1005/2008<sup>10</sup>.
3. Unless otherwise provided in the Regulation, Union research vessels shall not be restricted by conservation and management measures pertaining to the taking of fish, in particular, concerning mesh size, size limits, closed areas and seasons.

## *Article 2*

### *Subject matter*

This Regulation lays down the rules for the transposition of the NAFO Conservation and Enforcement Measures for their uniform and effective implementation within the Union.

## *Article 3*

### *Definitions*

For the purposes of this Regulation, the following definitions shall apply:

- (1) ‘Convention’ means the 1979 Convention on Cooperation in the Northwest Atlantic Fisheries, as amended from time to time;
- (2) ‘Convention Area’ means the area to which the Convention applies as described in its Article IV paragraph 1. The Convention Area is divided into scientific and statistical Subareas, Divisions and Subdivisions listed in the Annex I to the Convention, referred to in this Regulation;
- (3) ‘Regulatory Area’ means that part of the Convention Area beyond national jurisdiction;
- (4) ‘Fishery resources’ means all fish, molluscs and crustaceans within the Convention Area excluding: (i) sedentary species over which coastal States may exercise sovereign rights consistent with Article 77 of the United Nations Convention on the Law of the Sea; and (ii) in so far as they are managed under other international treaties, anadromous and catadromous stocks and highly migratory species listed in Annex I of the United Nations Convention on the Law of the Sea;
- (5) ‘Fishing activities’ means harvesting or processing fishery resources, landing or transshipping of fishery resources or products derived from fishery resources, or any other activity in preparation for, in support of, or related to the harvesting of fisheries resources in the Regulatory Area, including:
  - (a) the actual or attempted searching for, catching or taking of fishery resources;
  - (b) any activity that can reasonably be expected to result in locating, catching, taking, or harvesting of fishery resources for any purpose; and

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<sup>9</sup> Regulation (EU) 2017/2403 of the European Parliament and of the Council of 12 December 2017 on the sustainable management of external fishing fleets (OJ L 347, 28.12.2017, p. 81).

<sup>10</sup> Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing (OJ L 286, 29.10.2008, p. 1).

- (c) any operation at sea in support of, or in preparation for, any activity described in this definition but does not include any operations related to emergencies involving the health and safety of the crew members or the safety of a vessel;
- (6) ‘Fishing vessel’ means any Union vessel that is or has been engaged in fishing activities, and includes fish processing vessels, and vessels engaged in transshipment or any other activity in preparation for or related to fishing activities, or in experimental or exploratory fishing activities;
- (7) ‘Research vessel’ means a vessel permanently used for research or a vessel normally used for fishing activities or fisheries support activity that is for the time being used for fisheries research;
- (8) ‘CEM’ means Conservation and Enforcement Measures in force as adopted by the Commission of NAFO<sup>11</sup>;
- (9) ‘Fishing opportunities’ means fishing quotas allocated to a Member State by a Union act in force for the Regulatory Area;
- (10) ‘EFCA’ is the European Fisheries Control Agency as established by Council Regulation (EC) 768/2005<sup>12</sup>;
- (11) ‘Fishing day’ means any calendar day or any fraction of a calendar day in which a fishing vessel is present in any Division in the Regulatory Area;
- (12) ‘Port’ includes offshore terminals and other installations for landing, transshipping, packaging, processing, refuelling or resupplying;
- (13) ‘Non-Contracting Party vessel’ means a vessel entitled to fly the flag of a State that is not a Contracting Party to NAFO, is not a Member State or a vessel suspected to be without nationality;
- (14) ‘Transshipment’ means transfer, over the side, from one fishing vessel to another, of fisheries resources or products;
- (15) ‘Mid-water trawl’ means trawl gear that is designed to fish for pelagic species, no portion of which is designed to be or is operated in contact with the bottom at any time. The gear shall not include discs, bobbins or rollers on its footrope or any other attachments designed to make contact with the bottom, but it may have chafing gear attached;
- (16) ‘Vulnerable marine ecosystems (VMEs)’ means the VMEs referred to in paragraphs 42 and 43 of the FAO International Guidelines for the Management of Deep-Sea Fisheries in the High Seas;
- (17) ‘Footprint’, otherwise known as ‘Existing bottom fishing areas’, means that portion of the Regulatory Area where bottom fishing has historically occurred, and is defined by the coordinates shown in Table 4 and illustrated in Figure 2 of the CEM;
- (18) ‘Bottom fishing activities’ means any activity where the fishing gear contacts or is likely to contact the seafloor during the normal course of fishing operations;

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<sup>11</sup> Available at: <<https://www.nafo.int>>.

<sup>12</sup> Council Regulation (EC) No 768/2005 of 26 April 2005 establishing a Community Fisheries Control Agency and amending Regulation (EEC) No 2847/93 establishing a control system applicable to the common fisheries policy (OJ L 128, 21.5.2005, p.1).

- (19) ‘Processed fish’ means any marine organism that has been physically altered since capture, including fish that has been filleted, gutted, packaged, canned, frozen, smoked, salted, cooked, pickled, dried or prepared for market in any other manner;
- (20) ‘Exploratory bottom fishing activities’ means bottom fishing activities conducted outside the footprint, or within the footprint with significant changes to the conduct or in the technology used in the fishery;
- (21) ‘VME indicator species’ means the species that signal the occurrence of vulnerable marine ecosystems, as specified in Part VI of Annex I.E of the CEM;
- (22) ‘IMO Number’ means a 7-digit number, which is assigned under the authority of the International Maritime Organization;
- (23) ‘Inspector’, unless otherwise specified, means an inspector of the fishery control services of a NAFO Contracting Party assigned to the Joint Inspection and Surveillance Scheme of Chapter VII;
- (24) ‘IUU fishing’ refers to the activities described in the International Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing adopted by the Food and Agriculture Organization of the United Nations;
- (25) ‘Fishing trip’ for a fishing vessel includes the time spent inside the Regulatory Area and continues until all catch on board from the Regulatory Area has been landed or transhipped;
- (26) ‘FMC’ means a land-based fisheries monitoring centre of the flag Member State;
- (27) ‘IUU Vessel List’ means the list established in accordance with Articles 52 and 53 of the CEM;
- (28) ‘Significant adverse impacts’ means the significant adverse impacts referred to in paragraphs 17 to 20 of the FAO International Guidelines for the Management of Deep Sea Fisheries in the High Seas;
- (29) ‘VME indicator element’ means the VME indicator element referred to in topographical, hydrophysical or geological features which potentially support VMEs, as specified in Part VII of Annex I.E of the CEM.

## **CHAPTER II**

### **CONSERVATION AND MANAGEMENT MEASURES**

#### *Article 4*

##### *Research vessels*

1. Unless otherwise provided, research vessels shall not be restricted by conservation and management measures pertaining to the taking of fish in the Regulatory Area, in particular, mesh size, size limits, closed areas and seasons.
2. A research vessel shall not:
  - (a) conduct fishing activities inconsistent with its research plan; or
  - (b) take 3L Northern prawn in excess of the allocation of the Member State.
3. No less than fourteen days prior to the commencement of a fishery research period, the flag Member State shall:

- (a) by electronic transmission in the format prescribed in Annex II.C of the CEM, notify the Commission of all research vessels entitled to fly its flag it has authorized to conduct research activities in the Regulatory Area; and
  - (b) provide to the Commission a Research Plan for all vessels entitled to fly its flag authorized to conduct research, including the purpose, location and, for vessels temporarily engaged in research, the dates during which the vessel will be engaged as a research vessel.
4. The flag Member State shall immediately notify the Commission of the termination of research activities by any research vessel.
  5. The flag Member State shall notify the Commission of any changes to the Research Plan not less than fourteen days before the date these changes become effective. The research vessel shall maintain a record of the changes on board.
  6. Vessels engaged in research shall at all times keep on board a copy of the Research Plan in the English language.
  7. The Commission shall forward the information notified by flag Member States in accordance with paragraphs 3, 4, and 5 to the NAFO Executive Secretary no later than seven days before the commencement of the fishery period or, in the case of changes to the Research Plan, seven days before the date any change to the Research Plan becomes effective.

## *Article 5*

### *Catch and effort limitations*

1. Each Member State shall ensure that all catch and effort limitations shall apply to stocks identified in fishing opportunities in force, and unless otherwise stated, all quotas shall be expressed as live weight, in metric tonnes.
2. For stocks identified in the fishing opportunities in force caught within the Regulatory Area by vessels entitled to fly its flag, each flag Member State shall:
  - (a) limit the catch by its vessels so that the quota allocated to that Member State in accordance with fishing opportunities in force is not exceeded;
  - (b) ensure that all species from stocks listed in fishing opportunities in force caught by its vessels are counted against the quota allocated to that Member State, including the bycatch of 3M redfish taken between the estimated date when 50% of the 3M redfish TAC is taken and 1 July;
  - (c) ensure that no more 3M redfish is retained onboard its vessels after the estimated date when 100% of the 3M redfish TAC is taken;
  - (d) be permitted to fish for stocks in which it has not been allocated a quota in accordance with the fishing opportunities in force, hereafter referred to as 'Others' quota, if such quota exists and notification of closure has not been given by the NAFO Executive Secretary;
  - (e) notify the Commission and the EFCA about the names of EU vessels that intend to fish the 'Others' quota at least 48 hours in advance of each entry, and after a minimum of 48 hours of absence from the Regulatory Area. This notification shall, if

possible, be accompanied with an estimate of the projected catch. This notification shall be posted to the NAFO Monitor, Control and Surveillance (MCS) website<sup>13</sup>;

- (f) limit its fishing activities for Northern prawns in Division 3M in accordance with the fishing effort in the fishing opportunities in force under the Regulation.
3. For any one haul, the species which comprises the largest percentage, by weight, of the total catch in the haul shall be considered as being taken in a directed fishery for the stock concerned.

## *Article 6*

### *Closures of fisheries*

1. Each Member State shall:
- (a) close its fishery for stocks listed in the fishing opportunities in force in the Regulatory Area on the date on which the available data indicates that the total quota allocated to that Member State for the stocks concerned will be taken, including the estimated quantity to be taken prior to the closure of the fishery, discards, and estimated unreported catch by all vessels entitled to fly the flag of that Member State;
  - (b) ensure its vessels immediately cease fishing activities that may result in catch when notified by the Commission in accordance with paragraph 3 that the quota allocated to that Member State has been fully taken. If the Member State can demonstrate that it still has quota available for that stock in accordance with paragraph 2, the vessels of that Member State may resume fishing on that stock;
  - (c) close its Northern prawn fishery in Division 3M when the number of fishing days allocated to that Member State is reached. The number of fishing days in respect of each vessel shall be determined using VMS positional data within Division 3M, with any part of a day being considered a full day;
  - (d) close its directed fishery for 3M redfish between the date the accumulated reported catch is estimated to reach 50% of the 3M redfish total allowable catch (TAC), as notified in accordance with paragraph 3 and 1 July;
  - (e) close its directed fishery for redfish in 3M on the date the accumulated reported catch is estimated to reach 100% of the 3M redfish TAC, as notified in accordance with paragraph 3;
  - (f) promptly notify the Commission of the date of closure provided for in points (a) to (e);
  - (g) prohibit vessels entitled to fly its flag from continuing a directed fishery in the Regulatory Area for a particular stock under an “Others” quota beyond 5 days of notification by the NAFO Executive Secretary, as transmitted by the Commission that that particular “Others” quota is projected to be taken, in accordance with paragraph 3;
  - (h) ensure that no vessel entitled to fly its flag commences a directed fishery in the Regulated Area for a particular stock under the ‘Others’ quota following notification

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<sup>13</sup> <https://mcs.nafo.int/>



by the NAFO Executive Secretary that that particular quota is projected to be taken, in accordance with paragraph 3;

- (i) after a closure of its fishery in accordance with this paragraph, ensure that no more fish of the stock concerned is retained on board the vessels entitled to fly its flag unless otherwise authorized by this Regulation.
2. A fishery that has been closed in accordance with paragraph 1 may be re-opened within 15 days of notification by the Commission following communication with NAFO Executive Secretary:
  - (a) if the NAFO Executive Secretary confirms that the Commission has demonstrated that there is remaining quota available from its original allocation; or
  - (b) if a quota transfer from another NAFO Contracting Party, in accordance with fishing opportunities, results in additional quota for the particular stock subject to closure.
3. The Commission shall promptly notify the Member States of the date of closure referred to in paragraph 1.

## *Article 7*

### *Bycatch retained on board*

1. Member States shall ensure that their vessels, including vessels chartered in accordance with Article 23, minimize bycatch of species from stock identified in their respective fishing opportunities in force while operating in the Regulatory Area.
2. A species listed in the fishing opportunities in force shall be classified as bycatch when it is taken in a Division where any of the following situations exist:
  - (a) no quota has been allocated to that Member State for that stock in that Division, in accordance with the fishing opportunities in force;
  - (b) a ban on fishing for that particular stock is in force (moratoria); or
  - (c) the 'Others' quota for a particular stock has been fully utilized, following notification by the Commission in accordance with Article 6.
3. Each Member State shall ensure that its vessels, including vessels chartered in accordance with Article 23, limit the retention of on board species classified as bycatch to the maxima specified below:
  - (a) for cod in Division 3M, redfish in 3LN and witch flounder in 3NO: 1250 kg or 5%, whichever is the greater;
  - (b) for cod in Division 3NO: 1000 kg or 4%, whichever is the greater;
  - (c) for all other stocks listed in fishing opportunities where no specific quota has been allocated to the Member State: 2500 kg or 10%, whichever is the greater;
  - (d) where a ban on fishing applies (moratoria), or when the 'Others' quota opened for that stock has been fully utilized: 1250 kg or 5%, whichever is the greater; and
  - (e) once the directed fishery for redfish in Division 3M is closed in accordance with Article 6(1)(d): 1250 kg or 5%, whichever is the greater.
4. The limits and percentages provided for in paragraph 3 are calculated by Division as the percentage, by weight, for each stock of the total catch of stocks listed in fishing

opportunities retained on board for that Division at the time of inspection, on the basis of the fishing logbook figures.

5. The calculation of groundfish bycatch levels in paragraph 3 shall not include the catches of Northern prawn in the total catch on board.

## *Article 8*

### *Exceeding bycatch limits in any one haul*

1. Each Member State shall ensure that its vessels:
  - (a) do not conduct directed fisheries for species referred to in Article 7(2);
  - (b) comply with the following requirements, where, with the exception of directed fishery for Northern prawn, the weight of any species subject to the bycatch limits exceeds the greater of the limits specified in Article 7(3) in any one haul:
    - i. immediately move a minimum of 10 nautical miles from any position of the previous tow/set throughout the subsequent tow/set;
    - ii. leave the Division and not return for at least 60 hours if the bycatch limits specified in Article 7(3) are again exceeded following the first tow/set after moving in accordance with point (b)(i);
    - iii. undertake a trial tow for a maximum duration of 3 hours before starting a new fishery following an absence of at least 60 hours. If the stocks subjected to bycatch limits form the largest percentage, by weight, of the total resultant catch in the haul, this is not considered as a directed fishery for those stocks, and the vessel must immediately change position in accordance with points (b)(i) and (ii); and
    - iv. identify any trial tow conducted in accordance with point (b) and record in the fishing logbook the coordinates pertaining to the start and end locations of any trial tow conducted.
2. In a directed fishery for Northern prawn, the move referred to in paragraph 1 shall apply when, for any one haul, the quantity of the total groundfish stock listed in fishing opportunities in force exceeds 5% in Division 3M or 2.5% in Division 3L.
3. When a vessel is conducting a directed fishery for skate with a legal mesh size appropriate for that fishery, the first time that catches of stocks for which bycatch limits apply, as specified in Article 7(2), comprise the largest percentage by weight of the total catch in a haul, such catches shall be considered as incidental catch, but the vessel shall immediately move as specified in paragraph 1.
4. The percentage of bycatch in any one haul is calculated as the percentage, by weight, for each stock listed in the fishing opportunities in force of the total catch from that haul.

## Article 9

### *Northern prawn*

1. For the purpose of this Article, Division 3M includes that portion of Division 3L enclosed by lines joining the points described in Table 1 and depicted in Figure 1(1) of the CEM.
2. A vessel fishing for Northern Prawn and other species on the same trip shall transmit a report to the Commission signalling the change of fishery. The number of fishing days shall be calculated accordingly.
3. Fishing days referred to in this Article are not transferable between NAFO Contracting Parties. Fishing days of one NAFO Contracting Party may be utilized by a vessel entitled to fly the flag of another NAFO Contracting Party only in accordance with Article 23.
4. No vessel shall fish for Northern prawn in Division 3M between 00:01 Coordinated Universal Time (UTC) on 1 June and 24:00 UTC on 31 December in the area as described in the Table 2 and depicted in Figure 1(2) of the CEM.
5. All fishing for Northern prawn in Division 3L shall take place in depths greater than 200 m. Fishing in the Regulatory Area shall be restricted to an area east of a line bound by the coordinates described in Table 3 and depicted in Figure 1(3) of the CEM.
6. Each vessel that has fished for Northern prawn in Division 3L, or its representatives on its behalf, shall provide to the competent port authority at least 24 hours prior notice of its estimated time of arrival and the estimated quantities on board of Northern prawn by Division.

## Article 10

### *Greenland halibut*

1. The following measures apply to vessels 24 meters or greater in overall length engaged in the Greenland halibut fishery in Subarea 2 and Divisions 3KLMNO:
  - (a) each Member State shall allocate its quota for Greenland halibut among its authorized vessels;
  - (b) an authorized vessel shall land its Greenland halibut catch only in a designated port. To this end, each Member State shall designate one or more ports in its territory where authorized vessels may land Greenland halibut;
  - (c) each Member State shall send to the Commission the name of every port it has so designated. Any subsequent changes to the list shall be sent in replacement of the previous one no less than twenty days before the change comes into effect. The Commission shall post the information to the NAFO MCS Website;
  - (d) at least 48 hours before its estimated time of arrival in port, an authorized vessel or its representative on its behalf, shall advise the competent port authority of its estimated time of arrival, the estimated quantity of Greenland halibut retained onboard, and information on the division or divisions where the catches were taken;

- (e) each Member State shall inspect each landing of Greenland halibut in its ports and prepare an inspection report in the format prescribed in Annex IV.C of the CEM, and send it to the Commission with the EFCA in copy, within 10 working days from the date on which the inspection was completed. The PSC-3 report shall identify and provide details of any infringement of the Regulation detected during the port inspection. It shall include all relevant information available in reference to infringements detected at sea during the current trip of the inspected fishing vessel. The Commission shall post the information to the NAFO MCS Website.
2. The following procedures apply with respect to authorized vessels with more than 50 tonnes live weight total catch on board taken outside the Regulatory Area entering the Regulatory Area to fish for Greenland halibut:
- (a) the master shall notify the NAFO Executive Secretary by e-mail or fax, at the latest 72 hours prior to the vessel's entry into the Regulatory Area, of the amount of catch on board, the position by latitude and longitude where the master intends to commence fishing, the estimated time of arrival at the position, and contact information for the fishing vessel (e.g., radio, satellite phone or email);
- (b) an inspection vessel that intends to inspect a fishing vessel before it begins fishing for Greenland halibut shall notify that fishing vessel and the NAFO Executive Secretary of the coordinates of a designated inspection point that is no more than 60 nautical miles from the position where the master estimates that the vessel will commence fishing and shall inform other inspection vessels that may be operating in the Regulatory Area accordingly;
- (c) a fishing vessel notified in accordance with paragraph (b) shall proceed to the designated inspection point;
- (d) a fishing vessel may not begin fishing before being inspected in accordance with this Article, unless:
- i. it receives no notification within 72 hours of the notification it has transmitted in accordance with subparagraph 2(a); or
- ii. within 3 hours of its arrival at the designated inspection point, the inspection vessel has not begun the intended inspection.
3. The landings of Greenland halibut from non-Contracting Party vessels that have engaged in fishing activities in the Regulatory Area are prohibited.

### *Article 11*

#### *Squid*

No vessel may fish for squid between 00:01 UTC on 1 January to 24:00 UTC on 30 June in Subareas 3 and 4.

### *Article 12*

#### *Conservation and management of sharks*

1. Member States shall:

- (a) report all catches of sharks, including available historical data, in accordance with the catch and fishing effort reporting procedures set out in Article 25;
  - (b) prohibit the removal of shark fins on-board vessels;
  - (c) prohibit the retention on-board, transshipment and landing of shark fins fully detached from a carcass.
2. Without prejudice to paragraph 1, in order to facilitate on-board storage, shark fins may be partially sliced through and folded against the carcass.
  3. No fishing vessel shall retain on board, tranship or land any fins harvested in contravention of these provisions.
  4. In fisheries that are not directed at sharks, each Member State shall encourage every vessel entitled to fly its flag to release sharks alive, and especially juveniles, that are not intended for use as food or subsistence.
  5. Member States shall, where possible:
    - (a) undertake research to identify ways to make fishing gear more selective for the protection of sharks;
    - (b) conduct research on key biological and ecological parameters, life-history, behavioural traits and migration patterns, as well as on the identification of potential mapping, pupping and nursery grounds of key shark species.
  6. Member States shall provide the results of such research to the Commission, for transmission to the NAFO secretariat.

### *Article 13*

#### *Mesh sizes*

1. For the purpose of this Article, mesh size is measured in accordance with the Annex III.A of the CEM.
2. No vessel shall fish with a net having a mesh size smaller than prescribed for each of the following species:
  - (a) 40 mm for Northern prawns and prawns (PRA);
  - (b) 60 mm for short finned squid (SQI);
  - (c) 280 mm in the codend and 220 mm in all other parts of the trawl for skate (SKA);
  - (d) 130 mm for all other groundfish, as defined in Annex I.C of CEM;
  - (e) 100 mm for pelagic *Sebastes mentella* (REB) in Subarea 2 and Divisions 1F and 3K; and
  - (f) 90 mm for redfish (RED) in the fishery using mid-water trawls in Division 3O, 3M and 3LN.
3. A vessel conducting a fishery for a species referred to in paragraph 2 that has on board nets having a mesh size smaller than that specified in that paragraph, shall ensure such nets are securely lashed and stowed and are not available for immediate use during that fishery.

4. A vessel conducting a directed fishery for species other than those identified in paragraph 2 is, however, permitted to take regulated species with nets having a mesh size less than that specified in paragraph 2, provided that the bycatch requirements in Article 7 (3) are complied with.

#### *Article 14*

##### *Use of attachments and marking of gear*

1. Strengthening ropes, splitting straps and codend floats may be used on trawls, as long as these attachments do not in any way restrict the authorized mesh or obstruct the mesh opening.
2. No vessel shall use any means or device that obstructs or diminishes the size of the meshes. However, vessels may attach devices described in the Annex III.B Authorized Topside Chafers/Shrimp Toggle Chains of the CEM to the upper side of the codend in a manner that does not obstruct the meshes of the codend including any lengthener(s). Canvas, netting or other material may be attached to the underside of the codend of a net only to the extent required to prevent or minimize damage to the codend.
3. Vessels fishing for Northern prawn in Divisions 3L or 3M shall use sorting grids or grates with a maximum bar spacing of 22 mm. Vessels fishing for Northern prawn in Division 3L shall also be equipped with toggle chains with a minimum length of 72 cm as measured in accordance with Annex III.B of the CEM.
4. When fishing in the seamount closures defined in Article 18(1), only mid-water trawl gear is allowed.
5. No fishing vessel shall:
  - (a) use gear that is not marked in accordance with generally accepted international standards, in particular, the Convention on Conduct of Fishing Operations in the North Atlantic; or
  - (b) deploy any marker buoy or similar object floating on the surface and intended to indicate the location of fixed fishing gear without displaying the vessel's registration number.

#### *Article 15*

##### *Lost or abandoned fishing gears, retrieval of fishing gears*

1. Each Member State shall ensure that:
  - (a) vessels fishing in the Regulatory Area entitled to fly its flag have equipment on board to retrieve lost gear;
  - (b) the master of a vessel that has lost gear or part of it shall make every reasonable attempt to retrieve it as soon as possible; and
  - (c) no master shall deliberately abandon fishing gear, except for safety reasons.
2. If the lost gear cannot be retrieved, the master of the vessel shall notify the flag Member State within 24 hours of the following:

- (a) the name and call sign of the vessel;
  - (b) the type of lost gear;
  - (c) the quantity of gear lost;
  - (d) the time when the gear was lost;
  - (e) the position where the gear was lost; and
  - (f) the measures taken by the vessel to retrieve the lost gear.
3. Following retrieval of lost gear, the master of the vessel shall notify the flag Member State within 24 hours of the following:
- (a) the name and call sign of the vessel that has retrieved the gear;
  - (b) the name and call sign of the vessel that lost the gear (if known);
  - (c) the type of gear retrieved;
  - (d) the quantity of gear retrieved;
  - (e) the time when the gear was retrieved; and
  - (f) the position where the gear was retrieved.
4. The Member State shall without delay notify the Commission of the information referred to in paragraphs 2 and 3, for transmission to the NAFO Executive Secretary.

#### *Article 16*

##### *Minimum fish size requirements*

1. No vessel shall retain on board any fish smaller than the minimum size established in accordance with Annex I.D of the CEM, which it shall immediately return to the sea.
2. Processed fish which is below a length equivalent prescribed for that species in Annex I.D of the CEM is considered to derive from fish that is smaller than the minimum fish size prescribed for that species.
3. Where the number of undersized fish in a single haul exceeds 10% of the total by number of fish in that haul, the vessel shall for its next tow maintain a minimum distance of 5 nautical miles from any position of the previous tow.

### **CHAPTER III PROTECTION OF VULNERABLE MARINE ECOSYSTEMS (VMEs) IN THE REGULATORY AREA FROM BOTTOM FISHING ACTIVITIES**

#### *Article 17*

##### *Map of footprint (existing bottom fishing areas)*

The map of existing bottom fishing areas in the Regulatory Area illustrated in the Figure 2 of the CEM is delimited on the western side by the Canadian Exclusive Economic Zone boundary and the eastern side by the coordinates shown in Table 4 of the CEM.

## Article 18

### *Area restrictions for bottom fishing activities*

1. Until 31 December 2020, no vessel shall engage in bottom fishing activities in any of the areas illustrated in Figure 3 of the CEM and defined by connecting the coordinates specified in Table 5 of the CEM in their numerical order and back to coordinate 1.
2. Until 31 December 2020, no vessel shall engage in bottom fishing activities in the area of Division 3O illustrated in Figure 4 of the CEM and defined by connecting the coordinates specified in Table 6 of the CEM in their numerical order and back to coordinate 1.
3. Until 31 December 2020, no vessel shall engage in bottom fishing activities in areas 1-13 illustrated in Figure 5 of the CEM and defined by connecting the coordinates specified in Table 7 of the CEM in numerical order and back to coordinate 1.
4. Until 31 December 2018, no vessel shall engage in bottom fishing activities in area 14 illustrated in Figure 5 and defined by connecting the coordinates specified in Table 7 of the CEM in their numerical order and back to coordinate 1.

## Article 19

### *Exploratory bottom fishing activities*

1. Exploratory bottom fishing activities shall be subject to a prior exploration conducted in accordance with the exploratory protocol set out in Annex I.E of the CEM.
2. Member States whose vessels wish to engage in exploratory bottom fishing activities shall, for the purpose of the evaluation:
  - (a) communicate to the Commission the 'Notice of Intent to Undertake Exploratory Bottom Fishing' in accordance with Annex I.E of the CEM together with the assessment required under Article 20(1);
  - (b) require vessels entitled to fly their flag to start exploratory bottom fishing activities only after they have been authorized by the conservation and management measures to prevent significant adverse impacts of the exploratory fishing activities on VMEs issued by NAFO Commission;
  - (c) have an observer with sufficient scientific expertise on board for the duration of the exploratory bottom fishing activity; and
  - (d) provide to the Commission an 'Exploratory Bottom Fishing Trip Report' in accordance with Annex I.E of the CEM within 2 months of the completion of the exploratory bottom fishing activities.

## Article 20

### *Preliminary assessment of proposed exploratory bottom fishing activities*

1. Any Member State proposing to participate in exploratory bottom fishing activities shall submit, in support of their proposal, a preliminary assessment of the known and anticipated impacts of the bottom fishing activity, which will be exercised by the vessels entitled to fly its flag, on VMEs.
2. The preliminary assessment referred to in paragraph 1 shall:



- (a) be sent to the Commission no less than one week in advance of the opening of the June meeting of the NAFO Scientific Council;
- (b) address the elements in accordance with Annex I.E of the CEM.

### *Article 21*

#### *Encounter with VME indicator species*

1. An encounter with VME indicator species is defined as catch per set (e.g. trawl tow, longline set, or gill net set) of more than 7 kg of sea pens and/or 60 kg of other live coral and/or 300 kg of sponges.
2. Each Member State shall require that masters of vessels entitled to fly its flag and conducting bottom fishing activities in the Regulatory Area quantify the catch of VME indicator species, where evidence of VME indicator species, in accordance Annex I.E of the CEM, are encountered during the course of fishing operations.
3. If the quantity of VME indicator species caught in the fishing operation referred to in paragraph 2 (such as trawl tow or set of a gill net or longline) is beyond the threshold defined by the paragraph 1, the master of the vessel shall:
  - (a) report the encounter without delay to the competent authority of the flag State Contracting Party including the position that is provided by the vessel, either the end point of the tow or set or another position that is closest to the exact encounter location, the VME indicator species encountered, the quantity (kg) of VME indicator species encountered; and
  - (b) cease fishing and move away at least 2 nautical miles from the endpoint of the tow/set in the direction least likely to result in further encounters. The captain shall use his best judgment based on all available sources of information.
4. Each Member State shall require that an observer with sufficient scientific expertise be deployed in accordance with Article 19(2)(c) for the areas outside the footprint who shall:
  - (a) identifies corals, sponges and other organisms to the lowest possible taxonomical level, using the 'Exploratory Fishery Data Collection Form' in accordance with Annex I.E of the CEM; and
  - (b) delivers the results of such identification to the master of the vessel to facilitate quantification referred to in paragraph 2 of this Article.
5. Each Member State shall:
  - (a) forward, without delay, the encounter information reported by the master to the Commission if the quantity of the VME indicator species caught in a fishing operation (such as trawl, tow, set, of a gill net or longline) is beyond the threshold defined in paragraph 1 of this Article;
  - (b) issue an immediate alert of the encounter to all fishing vessels entitled to fly its flag; and,
  - (c) temporarily close, where possible a two mile radius around any reported VME encounter location outside of footprint upon notification by the Commission. Commission may reopen temporarily closed areas upon notification from the NAFO.

## CHAPTER IV

### VESSEL REQUIREMENTS AND CHARTERING

#### *Article 22*

##### *Vessel requirements*

1. Each Member State shall notify the Commission of the following by electronic means:
  - (a) a list of its vessels entitled to fly its flag which it may authorize to conduct fishing activities, in the Regulatory Area, hereinafter referred to as a ‘notified vessel’, in the format prescribed in Annex II.C1 of the CEM;
  - (b) from time to time, any deletion from the list of notified vessels, without delay, in the format prescribed Annex II.C2 of the CEM.
2. No fishing vessel shall conduct fishing activities in the Regulatory Area unless:
  - (a) it is listed as a notified vessel; and
  - (b) eligible vessels have been issued an IMO number.
3. No Member State shall:
  - (a) permit a vessel entitled to fly its flag to conduct fishing activities in the Regulatory Area unless it has authorized it to do so; nor
  - (b) authorize a fishing vessel entitled to fly its flag to conduct fishing activities in the Regulatory Area unless it is able to exercise effectively its flag State duties in respect of such vessel.
4. Each Member State shall manage the number of authorized fishing vessels and their fishing effort in a manner that takes due account of the fishing opportunities available to that Member State in the Regulatory Area.
5. Each Member State shall transmit to the Commission by electronic means:
  - (a) the individual authorization for each vessel from the list of notified vessels it has authorized to conduct fishing activities in the Regulatory Area, hereinafter referred to as an ‘authorized vessel’, in the format specified in Annex II.C3 the CEM and no later than 20 days before the start of the fishing activities for the calendar year;

Each authorization shall in particular identify the start and end dates of validity and, the species for which directed fishery is allowed, unless exempted in Annex II.C3 of CEM. If the vessel intends to fish for regulated species referred to in fishing opportunities, the identification shall refer to the stock, where the regulated species is associated to the area concerned;

- (b) the suspension of the authorization, in the format prescribed in Annex II.C4 of the CEM, without delay, in case of removal of the authorization concerned or of any modification to its content, where the removal or the modification occurs during the period of validity;
- (c) the resumption of a suspended authorization, transmitted in accordance with the procedure described in point (a).

6. Each Member State shall ensure that the period of validity of the authorization matches with the certification period concerning the certification of the capacity plan referred to in paragraphs 10 and 11.
7. Every fishing vessel shall bear markings that are readily identified in accordance with internationally accepted standards, such as the FAO Standard Specifications for the Marking and Identification of Fishing Vessels.
8. No fishing vessel shall operate in the Regulatory Area without carrying on board current valid documents issued by the competent authority of the flag Member State at a minimum establishing the following particulars concerning the vessel:
  - (a) its name, if any;
  - (b) the letter(s) of the port or district in which it is registered, if any;
  - (c) the number(s) under which it is registered;
  - (d) the IMO number;
  - (e) its international radio call sign, if any;
  - (f) the names and addresses of the owner(s) and, where applicable, the charterers;
  - (g) its length overall;
  - (h) its engine power;
  - (i) the capacity plan referred to in paragraph 10; and
  - (j) estimation of freezing capacity or certification of refrigeration system.
9. No fishing vessel shall conduct fishing activities in the Regulatory Area without carrying on board an accurate up-to-date capacity plan, certified by a competent authority or recognized by its flag Member State.
10. The capacity plan shall:
  - (a) take the form of a drawing or description of its fish storage place, including the storage capacity of each fish storage place in cubic meters and the drawing shall consist of longitudinal section of the vessel, including a plan for each deck on which a fish storage place is located and the locations of freezers;
  - (b) show in particular the positions of any door, hatch and any other access to each fish storage place, with reference to the bulkheads;
  - (c) indicate the main dimensions of the fish storage tanks (refrigerated sea water tanks) and, for each one, indicating the calibration in cubic meters at intervals of 10 cm; and
  - (d) have the true scale clearly indicated on the drawing.
11. Each Member State shall ensure that, every two years, the capacity plan of its authorized vessels is certified correct by the competent authority.

### *Article 23*

#### *Chartering arrangements*

1. For the purpose of this Chapter, "chartering Contracting Party" refers to the Contracting Party that holds an allocation as indicated in Annex I.A and Annex I.B

of the CEM, or Member State that holds fishing opportunities allocation and 'flag Member State' refers to the Member State in which the chartered vessel is registered.

2. All or part of the fishing allocation of a chartering NAFO Contracting Party can be harvested using a chartered authorized vessel ('chartered vessel') entitled to fly the flag of a Member State, subject to the following conditions:
  - (a) the Member State has consented in writing to the chartering arrangement;
  - (b) the chartering arrangement is limited to one fishing vessel per Member State in any calendar year;
  - (c) the duration of the fishing operations under the chartering arrangement does not exceed six months cumulatively in any calendar year; and
  - (d) the chartered vessel is not a vessel that has previously been identified as having engaged in IUU fishing.
3. All catch and bycatch taken by the chartered vessel in accordance with the chartering arrangement shall be attributed to the chartering NAFO Contracting Party.
4. The flag Member State shall not authorize the chartered vessel, when conducting fishing operations under the chartering arrangement, to fish any of the flag Member State's allocations or under another charter at the same time.
5. No transshipment at sea may be carried out without the prior authorization of the chartering NAFO Contracting Party, which shall ensure that it is carried out under the supervision of an observer on board.
6. The flag Member State shall notify the Commission in writing prior to the start of the chartering arrangement of its consent to the chartering arrangement.
7. The flag Member State shall notify the Commission immediately upon the occurrence of the following events:
  - (a) start of fishing operations under the chartering arrangement;
  - (b) suspension of fishing operations under the chartering arrangement;
  - (c) resumption of fishing operations under a chartering arrangement that has been suspended;
  - (d) end of fishing operations under the chartering arrangement.
8. The flag Member State shall maintain a separate record of catch and bycatch data from fishing operations in accordance with every charter of a vessel entitled to fly its flag and report them to the chartering NAFO Contracting Party and the Commission.
9. The chartered vessel shall at all times carry a copy of the following documentation:
  - (a) the name, flag State registration, IMO number and flag State of the vessel;
  - (b) previous name(s) and flag State(s) of the vessel, if any;
  - (c) the name and address of the owner(s) and operators of the vessel;
  - (d) a copy of the chartering arrangement and any fishing authorization or licence the chartering Contracting Party has issued to the chartered vessel; and
  - (e) the allocation assigned to the vessel.

## CHAPTER V

### MONITORING OF FISHERIES

#### *Article 24*

##### *Product labelling requirements*

1. When processed, all species harvested in the Regulatory Area shall be labelled in such a way that each species and product category is identifiable. All species must be labelled using the following data:
  - (a) the name of the capture vessel;
  - (b) the 3-Alpha Code for each species as listed in Annex I.C of the CEM;
  - (c) in the case of Northern prawns the date of capture;
  - (d) the Regulatory Area and Division of fishing; and
  - (e) the product form presentation code as listed in Annex II.K of the CEM.
2. Labels shall be securely affixed, stamped or written on packaging at the time of stowage and be of a size that can be read by inspectors in the normal course of their duties.
3. Labels shall be marked in ink on a contrasting background.
4. Each package shall contain only:
  - (a) one product form category;
  - (b) one division of capture;
  - (c) one date of capture (in the case of Northern prawns); and
  - (d) one species.

#### *Article 25*

##### *Monitoring of catch*

1. For the purposes of monitoring catch, each fishing vessel shall utilize a fishing logbook, a production logbook and a stowage plan to record fishing activities in the Regulatory Area:
2. Each fishing vessel shall maintain a fishing logbook, that is retained on board for at least 12 months and in accordance with Annex II.A of the CEM:
  - (a) accurately records catch of each tow/set related to the smallest geographical area for which a quota has been allocated;
  - (b) indicates the disposition of the catch of each tow/set, including the amount (in kg, live weight) of each stock that is retained on board, discarded, offloaded, or transhipped during the current fishing trip.
3. Each fishing vessel shall maintain a production logbook that is retained on board for at least 12 months and:
  - (a) records the daily cumulative production for each species and product type in kg for the preceding day from 00:01 UTC until 24:00 UTC;

- (b) relates the production of each species and product type to the smallest geographical area for which a quota has been allocated;
  - (c) lists the conversion factors used to convert production weight of each product type into live weight when recorded in the fishing logbook;
  - (d) labels each entry in accordance with Article 24.
4. Each fishing vessel shall, with due regard for safety and navigational responsibilities of the master, stow all catch taken in the Regulatory Area separately from all catch taken outside the Regulatory Area, and ensure that such separation is clearly demarcated using plastic, plywood or netting.
  5. Each fishing vessel shall maintain a stowage plan that:
    - (a) clearly shows the location and quantity, expressed as product weight in kg, of each species within each fish hold;
    - (b) specifies the location in each hold of Northern prawn taken in Division 3L and in Division 3M that includes the quantity of Northern prawn in kg, by Division;
    - (c) is updated daily for the preceding day from 00:01 to 24:00 UTC, and;
    - (d) is retained on board until the vessel has been unloaded completely.
  6. Every fishing vessel shall transmit electronically to its FMC reports as regards the following, in accordance with the format and the content prescribed for each type of report in Annex II.D and Annex II.F of the CEM:
    - (a) catch on entry (COE): quantity of catch on board by species upon entry into the Regulatory Area, transmitted at least six hours in advance of the vessel's entry;
    - (b) catch on exit (COX): quantity of catch onboard by species upon exit from the Regulatory Area transmitted at least six hours in advance of the vessel's exit;
    - (c) catch report (CAT): quantity of catch retained and quantity discarded by species for the day preceding the report, by Division, including nil catch returns, sent daily before 12:00 UTC; Nil catch retained and nil discards of all species shall be reported using the 3 alpha code MZZ (marine species not specified) and quantity as '0' as the following examples demonstrate (//CA/MZZ 0// and //RJ/MZZ 0//);
    - (d) catch on board (COB): for any vessel fishing Northern prawn in Division 3L, prior to entry or exit from Division 3L, transmitted one hour prior to crossing the boundary of Division 3L;
    - (e) transshipment (TRA):
      - (i) by donor vessel, transmitted at least twenty four hours in advance of the transshipment; and
      - (ii) by receiving vessel, no later than one hour after the transshipment.
    - (f) port of landing (POR): by a vessel that has received a transshipment at least twenty four hours in advance of any landing;
    - (g) catch of species listed in List of Species of the Annex I.C of CEM for which the total live weight on board is less than 100 kg, may be reported using the 3 alpha code MZZ (marine species not specified), except in the case of sharks. All sharks shall be reported at the species level under their corresponding 3 alpha code, to the extent possible. When species specific reporting is not possible, shark species shall be

recorded as either large sharks (SHX) or dogfishes (DGX), as appropriate and in accordance with the 3-alpha codes presented in Annex I.C of CEM.

7. The reports referred to in the paragraph 6 may be cancelled using the format specified in Annex II.F (8) of the CEM. If any of those reports is subject to correction, a new report shall be sent without delay after the Cancel report within the time limits set out in this Article.

The flag State FMC shall communicate its acceptance of the report cancellation from its vessels to the Commission without delay.

8. Each Member State shall ensure that its FMC, immediately upon receipt, transmits electronically the reports referred to in paragraph 6 to the NAFO Executive Secretary in the format prescribed in Annex II.D of the CEM, with the Commission and the EFCA in copy.
9. Each Member State shall:
  - (a) report its provisional monthly catches by species and stock area, and its provisional monthly fishing days for the 3M Northern prawn fishery, whether or not it has quota or effort allocations for the relevant stocks; It shall transmit these reports to the Commission within 20 days of the end of the calendar month in which the catch was taken;
  - (b) ensure that logbook information is submitted in either Extensible Markup Language (XML) or in a Microsoft Excel file format, to the Commission containing at a minimum the information outlined in Annex II.N of the CEM within 60 days following the completion of each fishing trip.

## *Article 26*

### *Vessel monitoring system (VMS)*

1. Each fishing vessel operating in the Regulatory Area shall be equipped with a satellite monitoring device capable of continuous automatic transmission of position to its land-based Fisheries Monitoring Centre (FMC), at least once an hour, with the following VMS data:
  - (a) vessel identification;
  - (b) most recent vessel position, by latitude and longitude, having an error tolerance margin no greater than 500 metres and a confidence interval of 99%;
  - (c) UTC date and time of the fixing of the position; and
  - (d) vessel course/heading and speed.
2. Each Member State shall ensure that its FMC:
  - (a) receives the position data referred to in paragraph 1 and records them using the following 3 letter codes:
    - (i) 'ENT', first VMS position transmitted by each vessel upon entering the Regulatory Area;
    - (ii) 'POS', every subsequent VMS position transmitted by each vessel from within the Regulatory Area; and

- (iii) 'EXI', first VMS position transmitted by each vessel upon exiting the Regulatory Area;
  - (b) is equipped with computer hardware and software for automatic data processing and electronic data transmission and applies back-up and recovery procedures and records the data received from fishing vessels in computer readable form that it maintains for no less than three years; and
  - (c) notifies the Commission and the EFCA of the FMC name, address, telephone, telex, e-mail or facsimile numbers and any subsequent changes without delay.
3. Each Member State shall assume all costs associated with its own Vessel Monitoring System.
  4. Where an inspector observes a fishing vessel in the Regulatory Area and has not received data in accordance with paragraph 1, 2 or 8 that inspector shall inform the master of the vessel and the Commission.
  5. The Member State shall ensure that the master or the owner of a fishing vessel entitled to fly its flag or its representative is informed when the vessel's satellite monitoring device appears to be defective or non-functioning.
  6. Where the satellite monitoring device fails, the master shall ensure it is repaired or replaced within one month following such failure, or, where a fishing trip lasts more than one month, the repair or the replacement is completed upon the vessel's next entry into port.
  7. No fishing vessel may commence a fishing trip with a defective satellite monitoring device.
  8. Every fishing vessel operating with a defective satellite monitoring device, shall transmit, at least once every 4 hours, the VMS position data to its flag Member State FMC by other available means of communication, in particular, satellite, email, radio, facsimile or telex.
  9. The flag Member State shall ensure that:
    - (a) its FMC transmits VMS position data to the NAFO Executive Secretary with the Commission and the EFCA in copy, as soon as possible, but no later than 24 hours after it receives them and may authorize fishing vessels entitled to fly its flag to transmit VMS position data by satellite, email, radio, facsimile or telex, direct to the NAFO Executive Secretary; and
    - (b) the VMS position data transmitted to the NAFO Executive Secretary are in conformity with the data exchange format set out in Annex II.E of the CEM and further described in Annex II.D of the CEM.
  10. Each Member State may use NAFO VMS data for search and rescue or for the purpose of maritime safety.



## CHAPTER VI

### OBSERVER SCHEME

#### *Article 27*

##### *Observer program*

1. Subject to Article 28(1) and (2) of this Regulation every fishing vessel shall at all times in the Regulatory Area carry at least one independent and impartial observer.
2. Every Member State shall send to the EFCA a list of the observers it intends to deploy to the vessels entitled to fly its flag operating in the Regulatory Area. The EFCA shall post a list of the observers on the NAFO MCS Website.
3. Every Member State shall ensure that the observers on board such vessels carry out only the following duties:
  - (a) monitor compliance with this Regulation, in particular verify logbook entries including the composition of catch by species, quantities, live and processed weight; and hail and VMS reports;
  - (b) maintain detailed records of the daily activity of the vessel whether fishing or not;
  - (c) for each haul, record the gear type, mesh size, attachments, catch and effort data, coordinates, depth, time of gear on the bottom, catch composition, discards and retained undersized fish;
  - (d) when fishing on seamount closures referred to in Article 18(1), report in the comments section of the observer report referred to in Annex II.M of the CEM, for each haul, all quantities of all VME indicator species as referred to in Annex I.E. of the CEM;
  - (e) monitor the functioning of the satellite tracking system and report on any interruptions or interference therewith;
  - (f) use a pre-agreed code to report to an inspection vessel within 24 hours, any infringement of the Regulation;
  - (g) perform such scientific work as the Commission may request; and
  - (h) as soon as possible after leaving the Regulatory Area, and at the latest at arrival of the vessel in port, submit the report, as set out in Annex II.M of the CEM, in electronic format, to the flag Member State and, if an inspection in port occurs, to the local port inspection authority. The flag Member State forwards the report to the Commission, in Microsoft Excel File format, within 25 days following the arrival of the vessel in port. The Commission shall send this report to the NAFO Executive Secretary.
4. Each vessel shall provide to the observer food and accommodation of a standard no less than that provided to the crew.
5. The master shall extend such co-operation and assistance as may be required to enable the observer to carry out his duties. Such cooperation shall include providing the observer with such access as may be required to the catch retained onboard, including such catch as the vessel may intend to discard.

6. Where a fishing vessel is not carrying an observer as provided for in paragraph 1, other NAFO Contracting Party may, with the consent of the flag Member State, deploy an observer to the vessel who may remain onboard until the flag Member State deploys an observer to the vessel.
7. Subject to any arrangement with another NAFO Contracting Party, or another Member State, each Member State shall bear the costs of remunerating every observer it has deployed.

#### *Article 28*

##### *Electronic reporting*

1. By way of derogation from Article 27 (1), a Member State may withdraw observers from vessels in compliance with the following conditions:
  - (a) the Member State vessels that have functional VMS systems having on board the necessary technical facilities to send electronic ‘observer reports’ and ‘catch reports’;
  - (b) these technical facilities have been tested successfully with NAFO and Contracting Parties through data exchanges with an inspection presence in the Regulatory Area.
2. The testing of this exchange shall be deemed successful where data exchanges have been completed with all recipients at a 100% reliability rate.
3. A Member State with a vessel complying with the conditions of paragraphs 1 and 2, shall withdraw the observer for no more than 75% of the time that the vessel spends in the Regulatory Area during the year.
4. Each Member State that intends to apply paragraphs 1 to 3 of this Article shall:
  - (a) no later than 20 days prior to the start of its fishing season, send to the Commission notification of its intention, and before it authorizes a vessel to operate, send to the Commission the name of such vessel and the period of time during which it will not carry an observer. The Commission shall post the notification to the NAFO MCS Website;
  - (b) ensure that, for each fishery in which the fishing vessels entitled to fly its flag operating in accordance with this Article are engaged, there is a balance between fishing vessels carrying observers and fishing vessels not carrying observers.
5. Where an inspector issues a notice of an infringement to a fishing vessel applying this Article that is not carrying an observer at the time of the notice, the flag Member State shall deem the infringement to be a serious infringement for the purpose of Article 36(1) and, where it does not require the fishing vessel to proceed immediately to port in accordance with Article 36(3)(c)(i), it shall deploy an observer to the fishing vessel without delay.
6. Each Member State applying this Article shall submit to the Commission by 1 February each year for the previous calendar year a report containing information as regards:
  - (a) compliance overall and notably comparison between vessels with and without observers;
  - (b) costs or savings for the industry and for the authorities of the Member State (including those with an inspection presence);
  - (c) interaction with traditional means of control; and

- (d) technical functioning of the Scheme and reliability.
- 7. The Commission shall send the report to the NAFO Executive Secretary.
- 8. Each Member State shall pay its own costs of applying this Article.
- 9. The observer on board a vessel applying this Article shall:
  - (a) in addition to the duties described in Article 27(3) transmit daily in accordance with Annex II.G of the CEM, observer (OBR) report to the flag Member State FMC which shall in turn, no later than 12:00 UTC of the day following its receipt, transmit it to the Commission, which will send it to the NAFO Executive Secretary; and
  - (b) where electronic data transfer is disabled, transmit on a daily basis the report by another means and maintain a written log available to inspectors of the data so transmitted.
- 10. The master of a vessel applying this Article shall:
  - (a) in accordance with Annex II.F(3) of the CEM, transmit daily the CAT report to the flag Member State FMC and ensure that the catch so reported corresponds to the logbook entries. The FMC shall in turn, no later than 12:00 UTC of the day following its receipt, transmit the report to the Commission, which will send it to the NAFO Executive Secretary; and
  - (b) where electronic data transfer is disabled, transmit the report on a daily basis by another means and maintain a written log of the data transmitted, which shall be available to inspectors.
- 11. The daily OBR and CAT reports shall set out by Division the amounts of catch retained on board by species, the catch discarded and the undersized catch.

## **CHAPTER VII**

### **AT SEA INSPECTION AND SURVEILLANCE SCHEME**

#### *Article 29*

##### *General provisions*

- 1. The EFCA shall coordinate the surveillance and inspection activities for the Union. It may draw up, in concert with the Member States concerned, joint operational surveillance and inspection programmes for that purpose, ('At sea Inspection and Surveillance Scheme', hereinafter 'Scheme'). The Member States whose vessels are engaged in the fisheries Regulatory Area shall adopt the necessary measures to facilitate the implementation of these programmes particularly as regards the human and material resources required and the periods and zones in which these resources are to be deployed.
- 2. Inspection and surveillance shall be carried out by inspectors assigned by the Member States and notified to the EFCA through the Scheme.
- 3. The Member States, in collaboration with the Commission and the EFCA, may by mutual agreement deploy inspectors EFCA has assigned to the Scheme to an inspection platform of another NAFO Contracting Party.

4. When there is more than 15 fishing vessels of Member States at any one time present in the Regulatory Area, the EFCA and Member States shall ensure that during that time:
  - (a) an inspector or other competent authority is present in the Regulatory Area; or
  - (b) a competent authority is present in the territory of a NAFO Contracting Party adjacent to the Convention Area;
  - (c) Member States respond without delay to every notice of infringement in the Regulatory Area by a fishing vessel entitled to fly their flag.
5. Member States participating in the Scheme shall provide to each inspection platform, upon its entry into the Regulatory Area, a list of sightings and boarding it has conducted in the previous ten-day period including the date, coordinates and any other relevant information.
6. Each Member State participating in the Scheme, in coordination with the Commission or the EFCA, shall ensure that every inspection platform entitled to fly its flag operating in the Regulatory Area maintains secure contact, daily where possible, with every other inspection platform operating in the Regulatory Area, to exchange information necessary to co-ordinate their activities.
7. Inspectors visiting a research vessel shall note the status of the vessel, and shall limit inspection procedures to those necessary to ascertain that the vessel is conducting activities consistent with its Research Plan. Where the inspectors have reasonable grounds to suspect the vessel is conducting activities that are not consistent with its Research Plan, the Commission and the EFCA have to be immediately informed.
8. Member States ensure its inspectors treat vessels operating in the Regulatory Area on an equitable footing by avoiding a disproportionate number of inspections on vessels entitled to fly the flag of any one NAFO Contracting Party. In respect of any quarter-annual period, the number of inspections its inspectors conduct on vessels entitled to fly the flag of another NAFO Contracting Party shall, insofar as possible, reflect the proportion of the total fishing activity in the Regulatory Area encompassing, inter alia, the level of catches and vessel days. In determining the frequency of inspections, inspectors may take into account the fishing patterns and compliance record of any fishing vessel.
9. When participating in the Scheme, a Member State shall ensure that, except when inspecting a fishing vessel entitled to fly its own flag and in accordance with its domestic law, inspectors and inspector trainees assigned to this Scheme:
  - (a) remain under its operational control;
  - (b) implement the provisions of this Scheme;
  - (c) do not carry arms when boarding the vessel;
  - (d) refrain from enforcing laws and regulations related to Union waters;
  - (e) observe generally accepted international regulations, procedures and practices relating to the safety of the vessel being inspected and its crew;
  - (f) do not interfere with fishing activities or stowage of product and, to the extent practicable, avoid action which would adversely affect the quality of the catch on board; and

- (g) open containers in a manner that facilitates their prompt resealing, repacking and eventual re-storage.
10. All inspection, surveillance and investigation reports referred to in this Chapter VII and associated images or evidence shall be treated as confidential, in accordance with Annex II.B of the CEM.

### *Article 30*

#### *Notification requirements*

1. Each Member State shall, no later than 1 November each year, send to the EFCA (with the Commission in copy) the following information, for onward transmission to the NAFO MCS:
  - (a) the contact information of the competent authority which shall act as the contact point for the purpose of immediate notification of infringements in the Regulatory Area, and any subsequent changes to this information, no less than 15 days before the change comes into effect;
  - (b) the names of inspectors and inspector trainees and the name, radio call sign and communication contact information of each inspection platform it has assigned to the Scheme. It shall notify changes to the particulars so notified, whenever possible, no less than 60 days in advance.
2. When participating in the Scheme, a Member State shall ensure that the EFCA is notified in advance of the date, start time and end of each patrol by the inspection platform it has so assigned.

### *Article 31*

#### *Surveillance procedures*

1. Where an inspector observes in the Regulatory Area a fishing vessel entitled to fly the flag of a NAFO Contracting Party for which there are reasons to suspect an apparent infringement of this Regulation, and where an immediate inspection is not practicable, the inspector shall:
  - (a) fill out the Surveillance Report Form set out in Annex IV.A of the CEM. If the inspector has made a volumetric or catch composition evaluation of the content of a haul, the Surveillance Report shall include all relevant information regarding the composition of the tow, and refer the method used for the volumetric evaluation;
  - (b) record images of the vessel and record the position, date and time the image was recorded; and
  - (c) without delay electronically transmit the Surveillance Report and images to his competent authority.
2. The competent authority of a Member State in receipt of such Surveillance Report shall without delay:
  - (a) transmit the Surveillance Report to the EFCA which shall post it to the NAFO MCS website for transmission to the flag State Contracting Party of the vessel;
  - (b) transmit a copy of images recorded to the EFCA which shall in turn transmit them to the flag state Contracting Party of the vessel or the flag Member State if different from the inspecting Member State;

- (c) ensure security and continuity of the evidence for subsequent inspections.
- 3. Each Member State competent authority shall on receipt of a Surveillance Report concerning a vessel entitled to fly its flag, conduct such investigation as may be necessary to determine appropriate follow-up action.
- 4. Each Member State shall send the investigation report to the EFCA, which shall post it to the NAFO MCS website and send it to the Commission.

### *Article 32*

#### *Boarding and inspection procedures for Contracting Parties*

Each Member State shall ensure that for an inspection conducted under the Scheme, its inspectors:

- (a) prior to boarding, notify the fishing vessel by radio, using the International Code of Signals, of the name of the inspection platform;
- (b) display, on the inspection vessel and boarding vessel, the pennant depicted in Annex IV.E of the CEM;
- (c) ensure that during boarding, the inspection vessel remains at a safe distance from fishing vessels;
- (d) do not require the fishing vessel to stop or manoeuvre when towing, shooting or hauling;
- (e) limit each inspection team to a maximum of four inspectors including any inspection trainee who may accompany the inspection team for training purposes only. Where an inspection trainee accompanies the inspectors, inspectors shall, upon boarding, identify the trainee to the master. The inspection trainee shall simply observe the inspection operation conducted by the authorized inspectors and shall in no way interfere with the activities of the fishing vessel;
- (f) upon boarding, present to the master their NAFO documents of identity issued by the NAFO Executive Secretary in accordance with Article 32.3(b) of the CEM;
- (g) limit inspections to four hours, or the time required for the net to be hauled in and both the net and the catch to be inspected, whichever is longer, except:
  - (i) in the case of an infringement; or
  - (ii) where the inspector estimates the quantity of catch on board to be different from the quantity of catch recorded in the fishing logbook, in which case the inspector will limit the inspection to one additional hour with a view to verifying calculations and procedures, and re-examining the relevant documentation used to calculate the catch taken in the Regulatory Area and the catch on board the vessel;
- (h) gather any relevant information used for identifying compliance with the Regulation provided by the observer.

### *Article 33*

#### *Obligations of the master during inspection*

Every master of a fishing vessel shall take the necessary measures as may be required to facilitate inspection by:

- (a) ensuring, where an inspection vessel has signalled that an inspection is about to commence, that any net about to be hauled is not taken on board for at least 30 minutes following the signal from the inspection vessel;
- (b) upon request by an inspection platform and to the extent compatible with good seamanship, facilitating boarding by the inspectors;
- (c) providing a boarding ladder in accordance with Annex IV.G of the CEM;
- (d) ensuring any mechanical pilot hoist is fit for use in a safe manner including safe access between the hoist to the deck;
- (e) providing the inspectors access to all relevant areas, decks and rooms, processed and unprocessed catch, nets or other gear, equipment, and any relevant documents which they consider necessary to verify compliance with the Regulation;
- (f) recording and providing to inspectors upon request, coordinates pertaining to the start and end locations of any trial tow conducted in reference to Article 8(1)(b)(iii);
- (g) upon request of the inspector, producing registration documents, drawings or descriptions of fish rooms, production logbooks and stowage plans and rendering such assistance as the inspector reasonably requires to ascertain that actual stowage of catch conforms with the stowage plan;
- (h) refraining from interfering with any contact between the inspectors and the observer;
- (i) taking such action as may be necessary to preserve the integrity of any seal affixed by the inspectors and of any evidence remaining on board, until otherwise directed by the flag State;
- (j) to secure the continuity of evidence, where seals have been affixed and/or evidence has been secured, sign the appropriate section of the inspection report acknowledging the placement of seals;
- (k) ceasing fishing when requested to do so by the inspectors in accordance with Article 36(2)(b);
- (l) providing, upon request, the use of the vessel's communication equipment and operator for messages to be sent out and received by the inspectors;
- (m) at the request of the inspectors, removing any part of the fishing gear which appears to be unauthorized under the Regulation;
- (n) where the inspectors have made any entries in the logbooks, providing the inspector with a copy of each page where such entry appears, and at the request of the inspectors, signing each page to confirm that it is a true copy; and
- (o) when requested to cease fishing, not resuming fishing until:
  - (i) the inspectors have completed the inspection and secured any evidence, and
  - (ii) the master has signed the appropriate section of the inspection report as referred to in paragraph (j).

#### *Article 34*

##### *Inspection report and follow-up*

1. Each Member State shall ensure that its inspectors complete an inspection report in the form set out in Annex IV.B of the CEM in relation to each inspection.

2. For the purpose of the inspection report:
  - (a) a fishing trip shall be considered to be current where the inspected vessel has on board catch harvested in the Regulatory Area during the trip;
  - (b) when comparing entries in the production logbook with entries in the fishing logbook the inspectors shall convert production weight into live weight guided by conversion factors used by the master;
  - (c) the inspectors shall:
    - (i) summarize from logbook records the vessel's catch in the Regulatory Area by species and by Division for the current fishing trip;
    - (ii) record summaries in section 12 of the inspection report, as well as differences between the recorded catch and their estimates of the catch onboard in section 14.1 of the inspection report;
    - (iii) upon completion of the inspection, sign the inspection report and present the inspection report to the master for signature and comment, and to any witness who may wish to submit a statement;
    - (iiii) immediately notify their competent authority and transmit to it the information and images within 24 hours, or at the earliest opportunity; and
    - (v) provide a copy of the report to the master, duly noting in the appropriate section of the inspection report any refusal by the master to acknowledge receipt.
3. The inspecting Member State shall:
  - (a) send to EFCA the at sea inspection report, if possible within 20 days of the inspection for publication to the MCS website;
  - (b) comply with the procedure referred to in Article 35(2), after the inspectors issue a notice of an infringement.
4. Each Member State shall ensure that inspection and surveillance reports prepared by NAFO inspectors have equivalent evidentiary status for establishing facts to inspection and surveillance reports of its own inspectors.
5. Member States shall cooperate to facilitate judicial or other proceedings initiated as follow-up to a report submitted by a NAFO inspector in accordance with the Scheme.

### *Article 35*

#### *Procedures relating to infringements*

1. Each inspecting Member State shall ensure that its inspectors upon detecting an infringement of the Regulation:
  - (a) record the infringement in the inspection report;
  - (b) enter and sign a notation in the fishing logbook or other relevant document of the inspected vessel indicating the date, coordinates, and nature of the infringement, make a copy of any relevant entry and request that the master sign each page to verify that it is a true copy of the original;



- (c) record images of any gear, catch, or other evidence the inspector deems necessary related to the infringement;
  - (d) affix securely the inspection seal depicted in NAFO Inspection Seal provided in the Annex IV.F of the CEM, as appropriate, and duly note the action taken and the serial number of each seal in the inspection report;
  - (e) request the master:
    - (i) in order to secure the continuity of proof and evidence, to sign the appropriate section of the inspection report acknowledging the placement of seals, and
    - (ii) to give a written statement in the appropriate section of the inspection report;
  - (f) request that the master remove any part of the fishing gear which appears to be unauthorized under the Regulation; and
  - (g) where practicable, notify the observer of the infringement.
2. The inspecting Member State shall:
- (a) within 24 hours from detection of the infringement, transmit to the Commission and the EFCA, which shall in turn transmit to the competent authority of the flag State Contracting Party or Member State if different from the inspecting Member State, and the NAFO Executive Secretary, written notification of the infringement reported by its inspectors. The written notification shall include the information entered in point 15 of the Report of Inspection of the Annex IV.B of CEM; cite the relevant measures and describe in detail the basis for issuing the notice of infringement, and the evidence in support of the notice; and where possible, be accompanied by images of any gear, catch or other evidence related to the infringement referred to in paragraph 1 of this Article;
  - (b) within 5 days of the inspection vessel's return to port, transmit the inspection report to the Commission and the EFCA;
  - (c) the EFCA shall in turn post it on the NAFO MCS Website in PDF format.
3. The follow-up to infringements by the flag Member State shall be conducted in accordance with the provisions of Article 37.

### *Article 36*

#### *Additional procedures for serious infringements*

1. Each of the following violations constitutes a serious infringement:
- (a) fishing an 'Others' quota without prior notification to the Commission contrary to Article 5;
  - (b) fishing an 'Others' quota more than five working days following closure of the fishery contrary to Article 5;
  - (c) directed fishing for a stock which is subject to a moratorium, or for which fishing is otherwise prohibited, contrary to Article 6;
  - (d) directed fishing for stocks or species after the date of closure of the fishery by the flag Member State notified to the Commission, contrary to Article 6;
  - (e) fishing in a closed area, contrary to Article 9(5) and Article 11;

- (f) fishing with a bottom fishing gear in an area closed to bottom fishing activities, contrary to Chapter III;
  - (g) using an unauthorized mesh size contrary to Article 13;
  - (h) fishing without a valid authorization;
  - (i) mis-recording of catches contrary to Article 25;
  - (j) failing to carry or interfering with the operation of the satellite monitoring system contrary to Article 26;
  - (k) failure to communicate messages related to catch contrary to Article 10(3) or Article 25;
  - (l) obstructing, intimidating, interfering with or otherwise preventing inspectors or observers from performing their duties;
  - (m) committing an infringement where there is no observer on board;
  - (n) concealing, tampering with or disposing of evidence related to an investigation, including the breaking or tampering of seals or gaining access to sealed areas;
  - (o) presentation of falsified documents or providing false information to an inspector that would prevent a serious infringement from being detected;
  - (p) landing, transshipment or making use of other port services:
    - (i) in a port not designated in accordance with the provisions of Article 40(1); or
    - (ii) without authorization of the port State referred to in Article 40(6);
  - (q) failure to comply with the provisions of Article 42(1).
2. Where citing a vessel for having committed a serious infringement, the inspector shall:
- (a) take all measures necessary to ensure security and continuity of the evidence, including, as appropriate, sealing the vessel's hold and/or fishing gear for further inspection;
  - (b) request that the master cease all fishing activity that appears to constitute a serious infringement; and
  - (c) immediately notify the inspector's competent authority, and transmit to it the information and, where possible images, within 24 hours. The competent authority receiving this information will notify the flag state Contracting Party or Member State if different from the inspecting Member State in accordance with Article 35.
3. In the case of a serious infringement concerning a vessel entitled to fly its flag, the flag Member States shall:
- (a) acknowledge receipt of the related information and images without delay;
  - (b) ensure the inspected vessel does not resume fishing until further notification;
  - (c) using all information and material available, review the case and, within 72 hours:
    - (i) require the vessel to proceed immediately to a port for a full inspection under its authority, if any of the following serious infringements are apparent:
      - directed fishing for a stock which is subject to a moratorium;
      - directed fishing for a stock for which fishing is prohibited under Article 6;

- mis-recording of catch, contrary to Article 25; or
  - repetition of the same serious infringement during a 6 months period.
4. Where the serious infringement is mis-recording of catch, the full inspection shall ensure the physical inspection and enumeration of total catch on board, by species and Division.
  5. In this Article, ‘mis-recording of catches’ means a difference of at least 10 tonnes or 20%, whichever is greater, between the inspectors’ estimates of processed catch on board, by species or in total, and the figures recorded in the production logbook, calculated as a percentage of the production logbook figures.
  6. Subject to the consent of the flag Member State and, if the port state NAFO Contracting Party is different, inspectors of another Contracting Party may participate in the full inspection and enumeration of the catch.
  7. If paragraph 3(c) (i) does not apply, the flag Member State shall either:
    - (a) allow the vessel to resume fishing. In such a case, the flag Member State shall provide written justification to the Commission no later than 2 days following the notice of infringement which shall in turn transmit it to the NAFO Executive Secretary, on why the vessel has not been ordered to port; or
    - (b) require the vessel to proceed immediately to a port for a full physical inspection, under its authority.
  8. Where the flag Member State orders the inspected vessel to port, the inspectors on board may board or remain on board the vessel as it proceeds to port, provided that the flag Member State does not require the inspector to leave the vessel.

#### *Article 37*

##### *Follow-up to infringements*

1. In the case of an infringement by a vessel flying its flag, the flag Member State shall:
  - (a) investigate fully, including if necessary, by physically inspecting the fishing vessel at the earliest opportunity;
  - (b) cooperate with the inspecting NAFO Contracting Party or inspecting Member State if different from the flag Member State to preserve the evidence and the chain of custody in a form that will facilitate proceedings in accordance with its laws;
  - (c) take immediate judicial or administrative action in conformity with its national legislation against the persons responsible for the vessel; and
  - (d) ensure that sanctions applicable in respect of infringements are adequate in severity to be effective in securing compliance, deterring further infringements or their repetition and depriving the offenders of the benefits accruing from the infringement.
2. The judicial or administrative action and sanctions referred to in paragraph 1(c) and (d) may include, but is not limited to, the following, depending on the gravity of the offence and in accordance with domestic law:
  - (a) fines;
  - (b) seizure of the vessel, illegal fishing gear and catches;

- (c) suspension or withdrawal of authorization to conduct fishing activities; and
  - (d) reduction or cancellation of any fishing allocations.
3. Each flag Member State shall ensure that it treats all notices of infringement as if the infringement was reported by its own inspectors.
  4. The flag Member State and the port Member State shall immediately notify the Commission:
    - (a) the judicial or administrative action and sanctions referred to in paragraph 1(c) and (d);
    - (b) as soon as practicable but no later than four months following the occurrence of a serious infringement, a report setting out the progress of the investigation, including details of any action it has taken or has initiated in relation to the infringement; and
    - (c) upon completion of its investigation, a report on the final outcome.

### *Article 38*

#### *Member State reports on inspection, surveillance and infringements*

1. Each Member State shall annually by 1 February report to the Commission and EFCA. The Commission shall in turn report to the NAFO Executive Secretary, in accordance with the Scheme:
  - (a) the number of inspections of fishing vessels entitled to fly the flag of each Member State and other NAFO Contracting Party it has conducted in the previous calendar year;
  - (b) the name of every fishing vessel in relation to which its inspectors have issued a notice of infringement including the date and position of the inspection and the nature of the infringement;
  - (c) the number of hours flown by its surveillance aircraft on patrol, the number of sightings made by such aircraft, the number of surveillance reports it has transmitted and, for each such report, the date, time and position of the sightings;
  - (d) the action it has taken during the previous year, including a description of the specific terms of any judicial or administrative actions or sanctions imposed (e.g. amount of fines, value of forfeited fish and/or gear, written warnings given), concerning:
    - (i) every infringement cited by an inspector related to vessels entitled to fly its flag; and
    - (ii) each Surveillance Report it has received.
2. The reports referred to in point (d) of paragraph 1 shall indicate the current status of the case. The Member State shall continue to list such infringement in each subsequent report until it reports the final outcome of the infringement.
3. A Member State shall provide a sufficiently detailed explanation regarding every infringement for which it has taken no action or where no penalties were imposed.

## CHAPTER VIII

### PORT STATE CONTROL OF VESSELS FLYING THE FLAG OF ANOTHER CONTRACTING PARTY

#### *Article 39*

##### *Scope*

The provisions in this Chapter apply to landing, transshipments, or use of ports of Member States by fishing vessels entitled to fly the flag of another NAFO Contracting Party, conducting fishing activities in the Regulatory Area. The provisions apply to fish caught in the Regulatory Area, or fish products originating from such fish, that have not been previously landed or transhipped at a port.

#### *Article 40*

##### *Duties of the port Member State*

1. The port Member State shall provide to the Commission and the EFCA a list of designated ports to which fishing vessels may be permitted entry for the purpose of landing, transshipment and/or provision of port services, and shall to the greatest extent possible ensure that each designated port has sufficient capacity to conduct inspections pursuant to this Chapter. The Commission shall post the list of designated ports on the NAFO MCS Website, in PDF format. Any subsequent changes to the list shall be posted in replacement of the previous one no less than fifteen days before the change comes into effect.
2. The port Member State shall establish a minimum prior request period. The prior request period shall be 3 working days before the estimated time of arrival. However, in agreement with the Commission, the port Member State may make provisions for another prior request period, taking into account, *inter alia*, catch product type or the distance between fishing grounds and its ports. The port Member State shall provide the information on the prior request period to the Commission that will post it to the NAFO MCS Website, in PDF format.
3. The port Member State shall designate the competent authority which shall act as the contact point for the purposes of receiving requests in accordance with Article 42, receiving confirmations in accordance with Article 41(2) and issuing authorizations in accordance with paragraph 6. The port Member State shall provide the competent authority name and its contact information to the Commission, which will post this information to the NAFO MCS Website, in PDF format.
4. The requirements of paragraphs 1, 2 and 3 do not apply where the European Union does not permit landings, transshipments, or use of ports by vessels entitled to fly the flag of another NAFO Contracting Party.
5. The port Member State shall forward a copy of the form as referred to in Article 42 (1) and (2) without delay to the flag NAFO Contracting Party of the vessel and to the flag NAFO Contracting Party of donor vessels where the vessel has engaged in transshipment operations.

6. Fishing vessels may not enter port without prior authorization by the competent authorities of the port Member State. Authorization to land or tranship shall only be given if the confirmation from the flag NAFO Contracting Party as referred to in Article 41(2) has been received.
7. By way of derogation from paragraph 6, the port Member State may authorize all or part of a landing in the absence of the confirmation referred to in that paragraph subject to the following condition:
  - (a) the fish concerned shall be kept in storage under the control of the competent authorities;
  - (b) the fish shall only be released to be sold, taken over, produced, or transported once the confirmation referred to in paragraph 6 has been received;
  - (c) if the confirmation has not been received within 14 days of the landing the port Member State may confiscate and dispose of the fish in accordance with national rules.
8. The port Member State shall without delay notify the master of the fishing vessel of its decision on whether to authorize or deny the port entry, or if the vessel is in port, the landing, transhipment and other use of port. If the vessel entry is authorized the port Member State returns to the master a copy of the form Port State Control Prior Request Form of Annex II.L of the CEM with Part C duly completed. This copy shall also be sent to the Commission to be posted to the NAFO MCS Website, without delay. In case of a denial the port Member State shall also notify the flag NAFO Contracting Party.
9. In case of cancellation of the prior request referred to in Article 42(2) the port Member State shall send a copy of the cancelled Port State Control Prior Request Form to the Commission to be posted on the NAFO MCS Website, and for automatic transmission to the flag NAFO Contracting Party.
10. Unless otherwise required in a recovery plan, the port Member State shall carry out inspections of at least 15 % of all such landings or transhipments during each reporting year. In determining which vessels to inspect, the port Member State shall give priority to:
  - (a) vessels that have been previously denied entry or use of a port in accordance with this Chapter or any other provision of the Regulations; and
  - (b) requests from other NAFO Contracting Parties, States or Regional Fisheries Management Organization' ('RFMOs') that a particular vessel be inspected.
11. Inspections shall be consistent with Annex IV.H of CEM by authorized port Member State inspectors who shall present documents of identity to the master of the vessel prior to the inspection.
12. Subject to the agreement of the port Member State, the Commission may invite inspectors of other NAFO Contracting Parties to accompany their own inspectors and observe the inspection.
13. An inspection in port shall involve the monitoring of the entire landing or transhipment of fishery resources in that port. During any such inspection, the inspector of the port Member State shall, at a minimum:
  - (a) cross-check against the quantities of each species landed or transshipped,

- (i) the quantities by species recorded in the logbook;
  - (ii) catch and activity reports; and
  - (iii) all information on catches provided in the prior notification Port State Control Prior Request Forms of Annex II.L of CEM;
- (b) verify and record the quantities by species of catch remaining on board upon completion of landing or transshipment;
  - (c) verify any information from inspections carried out in accordance with Chapter VII;
  - (d) verify all nets on board and record mesh size measurements;
  - (e) verify fish size for compliance with minimum size requirements.
14. The port Member State where possible communicate with the master or senior crew members of the vessel, as well as with the observer, and where possible and where needed, ensure that the inspector is accompanied by an interpreter.
15. The port Member State where possible avoid unduly delaying the fishing vessel and ensure that the vessel suffers the minimum interference and inconvenience, including avoiding unnecessary degradation of the quality of the fish.
16. Each inspection shall be documented by completing the form PSC 3 (port State Control inspection form) as set out in Annex IV.C of the CEM. The process for completion and handling of the completing Report on Port State Control Inspection shall include the following:
- (a) the inspectors shall identify and provide details of any infringement to the Regulation detected during the port inspection. Details shall include all relevant information available in reference to infringements detected at sea during the current trip of the inspected fishing vessel;
  - (b) the inspectors may insert any comments they consider relevant;
  - (c) the master shall be given the opportunity to add any comments or objection to the report, and, as appropriate, to contact the relevant authorities of the flag State in particular where the master has serious difficulties in understanding the content of the report;
  - (d) the inspectors shall sign the report and request that the master sign the report. The master's signature on the report shall serve only as acknowledgment of the receipt of a copy of the report;
  - (e) the master of the vessel shall be provided with a copy of the report containing the result of the inspection, including possible measures that could be taken.
17. The port Member State shall without delay send a copy of each port State Control inspection report to the Commission and to EFCA. The Commission will post the port State Control inspection report to the NAFO MCS Website, in PDF format, for automatic transmission to the flag State NAFO Contracting Party and to the flag State of any vessel that transhipped catch to the inspected fishing vessel.

## Article 41

### *Duties of the flag Member State*

1. The Member States shall ensure that the master of any fishing vessel entitled to fly their flag complies with the obligations relating to masters set out in Article 42.
2. The Member State of a fishing vessel intending to land or tranship, or where the vessel has engaged in transshipment operations outside a port, shall confirm by returning a copy of the form, Port State Control Prior Request Form, Annex II.L of the CEM, transmitted in accordance with Article 40(5) with part B duly completed, stating that:
  - (a) the fishing vessel declared to have caught the fish had sufficient quota for the species declared;
  - (b) the declared quantity of fish on board has been duly reported by species and taken into account for the calculation of any catch or effort limitations that may be applicable;
  - (c) the fishing vessel declared to have caught the fish had authorization to fish in the areas declared; and
  - (d) the presence of the vessel in the area in which it has declared to have taken its catch has been verified by VMS data.
3. The Member State shall send to the Commission the contact information of the competent authority, which shall act as the contact point for the purposes of receiving requests in accordance with Article 40(5) and providing confirmation in accordance with Article 40(6). The Commission will post this information on the NAFO MCS website in PDF format.

## Article 42

### *Obligations of the master of a fishing vessel*

1. The master or the agent of any fishing vessel intending to enter port shall forward the request for entry to the competent authorities of the port Member State within the request period referred to in Article 40(2). Such request shall be accompanied by the Port State Control Prior Request Form, provided for in Annex II.L of the CEM Part A duly completed as follows:
  - (a) Port State Control Prior Request Form PSC 1, as referred to in Annex II.L.A of the CEM shall be used where the vessel is carrying, landing, transshipment its own catch; and
  - (b) Port State Control Prior Request Form PSC 2, as referred to in Annex II.L.B of the CEM, shall be used where the vessel has engaged transshipment operations. A separate form shall be used for each donor vessel;
  - (c) Both forms PSC 1 and PSC 2 shall be completed in cases where a vessel carries, lands or transships its own catch and catch that was received through transshipment.
2. A master or Agent may cancel a prior request by notifying the competent authorities of the port they intended to use. The request shall be accompanied by a copy of the



original Port State Control Prior Request Form, Annex II.L of the CEM with the word 'cancelled' written across it.

3. The master of a fishing vessel shall not commence landing or transshipment operations prior to the Estimated Time of Arrival (ETA) as reported in PSC1 or PSC2 has expired. However, landing or transshipment operations may commence prior to ETA with permission from the competent authorities of the port Member State.
4. The master of a fishing vessel shall:
  - (a) co-operate with and assist in the inspection of the fishing vessel conducted in accordance with these procedures and shall not obstruct, intimidate or interfere with the port State inspectors in the performance of their duties;
  - (b) provide access to any areas, decks, rooms, catch, nets or other gear or equipment, and provide any relevant information which the port State inspectors request including copies of any relevant documents.

#### *Article 43*

##### *Infringements detected during in-port inspections*

Where an infringement is detected during an inspection of a vessel in port, the relevant provisions of Articles 35 to 38 shall apply.

#### *Article 44*

##### *Confidentiality*

All inspection and investigation reports and associated images or evidence, and forms referred to in this Chapter shall be treated by Member States, competent authorities, operators, masters of vessels, crew as confidential, in accordance with Annex II.B of CEM.

## **CHAPTER IX**

### **NON-CONTRACTING PARTY (NCP) SCHEME**

#### *Article 45*

##### *Presumption of IUU fishing*

1. An NCP vessel is presumed to have undermined the effectiveness of the Regulation, and to have engaged in IUU fishing, if it has been:
  - (a) sighted or identified by other means as engaged in fishing activities in the Regulatory Area;

- (b) involved in transshipment with another NCP vessel sighted or identified as engaged in fishing activities inside or outside the Regulatory Area; and/or
- (c) included in the IUU list of the North East Atlantic Fisheries Commission' ('NEAFC')<sup>14</sup>.

#### *Article 46*

##### *Sighting and inspection of NCP vessels in the Regulatory Area*

1. Each Member State with an inspection and/or surveillance presence in the Regulatory Area authorized under the Joint Inspection and Surveillance Scheme that sights or identifies an NCP vessel engaged in fishing activities in the Regulatory Area shall:
  - (a) transmit immediately the information to the Commission using the format of the surveillance report set out in Annex IV.A of the CEM;
  - (b) attempt to inform the Master that the vessel is presumed to be engaged in IUU fishing and that this information will be distributed to all Contracting Parties, relevant RFMOs and the flag State of the vessel;
  - (c) if appropriate, request permission from the Master to board the vessel for inspection; and
  - (d) where the Master agrees to inspection:
    - (i) transmit the inspector's findings to the Commission without delay, using the inspection report form set out in Annex IV.B of the CEM; and
    - (ii) provide a copy of the inspection report to the Master.

#### *Article 47*

##### *Port entry and inspection of NCP vessels*

1. Each Master of an NCP vessel shall request permission to enter port from the competent authority of the port Member State in accordance with the provisions of Article 42.
2. Each port Member State shall:
  - (a) forward without delay to the flag State of the vessel and to the Commission the information it has received pursuant to Article 42;
  - (b) refuse port entry to any NCP vessel where:
    - (i) the Master has not fulfilled the requirements set out in Article 42(1); or
    - (ii) the flag State has not confirmed the vessel's fishing activities in accordance with Article 41 (2);
  - (c) inform the Master or agent, the flag State of that vessel, and the Commission of its decision to refuse port entry, landing transshipment or other use of port of any NCP vessel;

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<sup>14</sup> The Convention on future multilateral co-operation in the North-East Atlantic Fisheries signed in London on 18 November 1980 and entered into force on 17 March 1982 to which European Community acceded on 13 July 1981 (OJ L 227/21, 12.8.1981).

- (d) withdraw denial of port entry only if the port State has determined there is sufficient proof that the grounds on which entry was denied were inadequate or erroneous or that such grounds no longer apply;
  - (e) inform the Master or agent, the flag State of that vessel, and the Commission of its decision to withdraw denial of port entry, landing transshipment or other use of port of any NCP vessel;
  - (f) where it permits entry, ensure the vessel is inspected by duly authorized officials knowledgeable in the Regulation and that the inspection is carried out in accordance with Article 40 (11)–(17); and
  - (g) send a copy of the inspection report and details of any subsequent action it has taken to the Commission without delay.
3. Each Member State shall ensure that no NCP vessel engages in landing, or transshipment operations or other use of its ports unless the vessel has been inspected by its duly authorized officials knowledgeable in the Regulation and the Master establishes that the fish species on board subject to the NAFO Convention were harvested outside the Regulatory Area or in compliance with the Regulation.

#### *Article 48*

##### *Provisional IUU Vessel List*

1. In addition to information submitted from Member States in accordance with Articles 43 and 45, each Member State may, without delay, transmit to the Commission any information that may assist in identification of any NCP vessel that might be carrying out IUU fishing in the Regulatory Area.
2. If a Contracting Party objects to a NEAFC IUU-listed vessel being incorporated into or deleted from the NAFO IUU Vessel List, such vessel shall be placed by NAFO Executive Secretary on the Provisional IUU Vessel List.

#### *Article 49*

##### *Action against vessels listed in the IUU Vessel List*

- (1) Each Member State shall take all measures necessary to deter, prevent, and eliminate IUU fishing, in relation to any vessel listed in the IUU Vessel List, including:
  - (a) prohibiting any vessel entitled to fly its flag, from, except in the case of force majeure, participating in fishing activities with such vessel, including but not limited to joint fishing operations;
  - (b) prohibiting the supply of provisions, fuel or other services to such vessel;
  - (c) prohibiting entry into its ports of such vessel, and if the vessel is in port, prohibiting use of the port, except in the case of force majeure, distress, for the purposes of inspection, or for taking appropriate enforcement action;
  - (d) prohibiting change of crew, except as required in relation to force majeure;
  - (e) refusing to authorize such vessel to fish in waters under its national jurisdiction;
  - (f) prohibiting chartering of such vessel;
  - (g) refusing to entitle such vessels to fly its flag;

- (h) prohibiting landing and importation of fish from onboard or traceable to such vessel;
- (i) encouraging importers, transporters and other sectors concerned, to refrain from negotiating transshipment of fish with such vessels; and
- (j) collecting and exchanging any appropriate information regarding such vessel with the other Contracting Parties, non-Contracting Parties and RFMOs with the aim of detecting, deterring and preventing the use of false import or export certificates in relation to fish or fish product from such vessels.

## **CHAPTER X**

### **FINAL PROVISIONS**

#### *Article 50*

##### *Annual report*

1. By 30 June of each year Member States shall submit to the Commission an annual report for the preceding calendar year, comprising information on fisheries, research, statistics, management, inspection activities and any additional information as appropriate.
2. The annual report shall include information on the steps taken to mitigate bycatch and reduce discards, and on any relevant research in this field.
3. The Commission shall compile the information received and forward it to NAFO Executive Secretary without delay.

#### *Article 51*

##### *Confidentiality*

In addition to the obligations laid down in Articles 112 and 113 of Regulation (EC) No 1224/2009, Member States shall ensure confidential treatment of electronic reports and messages transmitted to and received from NAFO pursuant to Articles 4(3)(a), 22(5), 22(6), 25(7), 27(2), and 27(4).

#### *Article 52*

##### *Procedure for amendments*

1. The Commission is empowered to adopt delegated acts in accordance with Article 53 concerning:
  - (a) Article 4(3), (5) and (7), Article 6(1)(c) and (g), Article 6(2), Article 9(5)(b), Article 10(1)(c) and (e), Article 10(2)(a), Article 20(2)(a), Article 22(5)(a), 25(8)(a) and (b), Article 27(2)(h), Article 28(5)(a), Article 28(7), Article 30(1)(a) and (b), Article 34(3)(a), Article 36(1)(b), Article 36(3)(c)(ii), Article 38(1), Article 38(2)(b), 40(1), (2) and (7), and Article 50(1), as regards deadlines for reporting or submission of other information or requests;
  - (b) definitions in Article 3;
  - (c) the list of prohibited activities of research vessels in Article 4(2);
  - (d) certain catch and efforts limitations as provided in Article 5(2)(c), (d), and (f);

- (e) duties related to closures of fisheries in Article 6;
- (f) situations described in Article 7(2) where species listed in fishing opportunities shall be classified as bycatch and the specified maxima for retention on board for species classified as bycatch of Article 7(3);
- (g) cases where bycatch limits exceed in any one haul the limits specified in Article 8(1)(b), measures related to skate fishing in Article 8(3);
- (h) measures prescribed in Article 9 related to Northern prawn fishing areas; relevant reporting, change of fishery, fishing depths and references to restricted or closed areas;
- (i) procedures concerning vessels with more than 50 tonnes live weight total catch on board, entering NAFO Regulatory Area to fish for Greenland halibut concerning the content of notifications prescribed in Article 10(2)(a) and (b), and conditions for commencement of fishing prescribed in Article 10(2)(d);
- (j) geographical and time closures for Northern prawn in Article 11;
- (k) shark conservation measures including reporting, prohibition of removal of shark fins on boards, retention, transshipment and landing in Article 12(1);
- (l) technical characteristics of mesh sizes of Article 13(2), and use of sorting grids and grates for Northern prawn in Article 14(3);
- (m) provisions concerning changes in Map of Footprint, Boundary Points Delineating the Eastern Side of the Footprint in Article 17, including adding new areas;
- (n) provisions concerning changes in delineating restricted areas and dates of closures for bottom fishing activities, including adding new areas in Article 18;
- (o) provisions concerning definition of encounter with VME indicator species in Article 21(1), duties of an observer deployed under Article 21(4)(b);
- (p) content of the electronic transmission in Article 22(5), list of valid documents to be carried on board of a vessels according to Article 22(8) and the content of the capacity plan described in Article 22(10);
- (q) documentation to be carried on board of a vessel on chartering arrangements in Article 23(9);
- (r) obligations concerning the utilization of fishing logbooks, production logbooks and stowage plans respectively of paragraphs (2), (3), (5) of Article 25, as well as requirement for electronic reports in Article 25(6) and duties concerning the reporting of provisional monthly catches, including form and transmission deadline as prescribed in Article 25 (8);
- (s) the VMS data to be automatic continuous transmission of (1), duties concerning FMC in paragraph (2) and (9) of Article 26;
- (t) provisions on electronic reporting, percentage rates, content of Member States reports, duties of an observer and master of the vessel contained respectively in Article 28(3), (4), (6), (9) and (10);
- (u) the content of notifications in Article 30(1);
- (v) obligations of the master during inspection in Article 33;
- (w) duties of inspectors and inspecting Member State in paragraphs (2)(c) and (3) respectively of Article 34;

- (x) duties of inspecting Member States in paragraphs (1) and (2) of Article 35;
  - (y) list of violations constituting a serious infringements in Article 36(1), duties of inspectors in Article 36(2) and the flag Member State in Article 36(3);
  - (z) duties of the port Member State in Article 40;
  - (aa) obligations of the master of a fishing vessel in Article 42(1);
  - (bb) inspection obligations of port Member States relating to NCPs in Article 47(2);
  - (cc) list of measures to be taken by Member States against IUU listed vessels in Article 49; and
  - (dd) annual reporting obligation in Article 50.
2. Amendments in accordance with paragraph 1 shall be strictly limited to the enactment of amendments to CEM into Union law.

*Article 53*  
*Exercise of the delegation*

1. The power to adopt delegated acts is conferred on the Commission subject to conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 52 shall be conferred on the Commission for a period of five years from [dd/mm/yyyy]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
3. The delegation of power referred to in Article 52 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated act already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Article 52 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

*Article 54*  
*Implementation of certain parts of and Annexes to the CEM*

1. The parts of and Annexes to the CEM referred to in the following provisions of this Regulation shall become directly applicable in all Member States and enforceable against natural and legal persons, on the twentieth day following the publication referred to in paragraph (2):
  - (a) Article 3 (17), (21) and (29);
  - (b) Article 4(3)(a);
  - (c) Article 9(1), (4) and (5);
  - (d) Article 10(1)(e);
  - (e) Article 13(1), (2)(d);
  - (f) Article 14(2) and (3);
  - (g) Article 16(1) and (2);
  - (h) Article 17;
  - (i) Article 18(1) to (4);
  - (j) Article 19(1), (2)(a) and (d);
  - (k) Article 20(2)(b);
  - (l) Article 21(2) and (4)(a);
  - (m) Article 22(1)(a) and (b), (5)(a);
  - (n) Article 22(5)(a)(b);
  - (o) Article 24(1)(b) and (e);
  - (p) Article 25(2) and (6), (6)(g), (7), (8), (9)(b);
  - (q) Article 26(9)(b);
  - (r) Article 27(3)(d) and (h);
  - (s) Article 28(9)(a), (10)(a);
  - (t) Article 29(10);
  - (u) Article 31(1)(a);
  - (v) Article 32(b);
  - (w) Article 33(c);
  - (x) Article 34(1);
  - (y) Article 35(1)(d), (2)(a);
  - (z) Article 40(8), (11), (13)(a)(iii) and (16);
  - (aa) Article 41(2);
  - (bb) Article 42(1), (1)(a)(b) and (2);
  - (cc) Article 43;
  - (dd) Article 44; and
  - (ee) Article 46(1)(a) and (d).

2. The Commission shall publish in the *Official Journal of the European Union* the parts of and Annexes to the CEM referred to in paragraph (1) within one month after the entry into force of this Regulation.

The Commission shall publish in the *Official Journal of the European Union* subsequent changes to parts of and Annexes to the CEM already published, in accordance with the first subparagraph, within one month after those changes become binding on the Union and the Member States.

*Article 55*

Repeal

Regulation (EC) No 2115/2005 and Regulation (EC) No 1386/2007 are hereby repealed.

*Article 56*

This Regulation shall enter into force on the twentieth 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,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*