

Council Regulation(EC) No 41/2007 of 21 December 2006 fixing for 2007 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required

## CHAPTER VII

### **SPECIAL PROVISIONS FOR COMMUNITY VESSELS FISHING IN THE NAFO REGULATORY AREA**

#### SECTION 1

#### **Community participation**

##### *Article 28*

#### **List of vessels**

1 Only Community vessels of more than 50 gross tonnes which have been issued a special fishing permits by their flag Member State and are included in the NAFO vessel register shall be authorised, on the conditions set out in their permits, to fish, keep on board, trans-ship and land fishery resources from the NAFO Regulatory Area.

2 Each Member State shall inform the Commission in computer readable form, at least 15 days before the new vessel enters the NAFO Regulatory Area, of any amendment to its list of vessels flying its flag and registered in the Community that are authorised to fish in the NAFO Regulatory Area. The Commission shall forward this information promptly to the NAFO Secretariat.

3 The information referred to in paragraph 2 shall include the following:

- a the internal number of the vessel, as defined in Annex I to Regulation (EC) No 26/2004;
- b the international radio call sign;
- c the vessel charterer, where applicable;
- d the vessel type.

4 For vessels temporarily flying the flag of a Member State (bare boat charter), the information forwarded shall furthermore include:

- a the date from which the vessel has been authorised to fly the flag of the Member State;
- b the date from which the vessel has been authorised by the Member State to engage in fishing in the NAFO Regulatory Area;
- c the name of the State where the vessel is registered or has been previously registered and the date as from which it ceased flying the flag of that State;
- d the name of the vessel;
- e the official registration number of the vessel assigned by the competent national authorities;
- f the home port of the vessel after the transfer;
- g the name of owner or charterer of the vessel;

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- h a declaration that the master has been provided with a copy of the regulations in force in the NAFO Regulatory Area;
- i the principal species which can be fished by the vessel in the NAFO Regulatory Area;
- j the Subareas where the vessel may be expected to fish.

## SECTION 2

### Technical measures

#### Article 29

##### Mesh sizes

1 The use of trawl net having in any section thereof net meshes of dimensions less than 130 mm shall be prohibited for direct fishing of the groundfish species referred to in Annex VII except for fishing for *Sebastes mentella* as referred to in paragraph 3. That mesh size may be reduced to a minimum of 60 mm for direct fishing of short-finned squid (*Illex illecebrosus*). For direct fishing of skates (*Rajidae*) that mesh size shall be increased to a minimum of 280 mm in the cod-end and 220 mm in all other parts of the trawl.

2 Vessels fishing for shrimp (*Pandalus borealis*) shall use nets with a minimum mesh size of 40 mm.

3 Vessels fishing for pelagic *Sebastes mentella* (Oceanic redfish) in Sub-Area 2 and Division 1F and 3K shall use nets with a minimum mesh size of 100 mm.

#### Article 30

##### Attachments to nets

1 The use of any means or device other than those described in this Article which obstructs the meshes of a net or which diminishes their size shall be prohibited.

2 Canvas, netting or any other material may be attached to the underside of the cod-end in order to reduce or prevent damage.

3 Devices may be attached to the upper side of the cod-end provided that they do not obstruct the meshes of the cod-end. The use of top-side chafers shall be limited to those listed in Annex VIII.

4 Vessels fishing for shrimp (*Pandalus borealis*) shall use sorting grids or grates with a maximum spacing between bars of 22 mm. Vessels fishing for shrimp in Division 3L shall also be equipped with toggle chains of a minimum of 72 cm in length as described in Annex IX.

#### Article 31

##### By-catch retained on board

1 Fishing vessels shall limit their by-catch to a maximum of 2500 kg or 10 %, whichever is the greater, for each species listed in Annex IC for which no quota has been allocated in that Division to the Community.

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2 In cases where a ban on fishing is in force or an 'Others' quota has been fully utilised, the by-catch of the species concerned may not exceed 1 250 kg or 5 %, whichever is the greater.

3 The percentages in paragraphs 1 and 2 calculated as the percentage, by weight, for each species of the total catch retained on board. Catches of shrimp shall not be included in the calculation of by-catch levels of ground fish species.

### *Article 32*

#### **By-catch in any one haul**

1 If the percentages of by-catches in any one haul exceed the percentages laid down in Article 31(1) and (2) the vessel shall immediately move a minimum of 10 nautical miles from any position of the previous tow and throughout the next tow keep a minimum distance of 10 nautical miles from any position of the previous tow. If after moving, the next haul exceeds these by-catch limits the vessel shall leave the Division and not return for at least 60 hours.

2 Should total by-catches of all ground fish species subject to quota in any haul in the shrimp fishery exceed 5 % by weight in Division 3M or 2,5 % by weight in Division 3L, the vessel shall move a minimum of 10 nautical miles from any position of the previous tow and throughout the next tow keep a minimum distance of 10 nautical miles from any position of the previous tow. If after moving, the next haul exceeds these by-catch limits the vessel shall leave the Division and not return for at least 60 hours.

3 The percentage of by-catch authorised in any one haul shall be calculated as the percentage, by weight, for each species of the total catch in that haul.

### *Article 33*

#### **Directed fishery and by-catch**

1 Masters of Community vessels shall not conduct directed fisheries for species for which by-catch limits apply. A directed fishery for a species shall be considered to have been conducted when that species comprises the largest percentage by weight of the total catch in any one haul.

2 However, when a vessel is conducting a directed fishery for skate with a legal mesh size appropriate for that fishery, the first time that, in a haul, catches of species for which by-catch limits comprise the largest percentage, by weight of the total catch, they shall be considered as incidental. In this event the vessel shall immediately change position in accordance with Article 32(1) and (2).

3 Following an absence from a Division of at least 60 hours in accordance with the provisions of Article 32(1) and (2), masters of Community vessels shall undertake a trial tow the duration of which shall not exceed 3 hours. By way of derogation from paragraph 1 of this Article, if in a haul from such a trial tow catches of species for which by-catch limits comprise the largest percentage, by weight of the total catch, it shall not be considered as a directed fishery. In this event the vessel shall immediately change position in accordance with Article 32(1) and (2).

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### Article 34

#### Minimum size of fish

1 Fish from the NAFO Regulatory Area which do not have the size required as set out in Annex X may not be processed, retained on board, trans-shipped, landed, transported, stored, sold, displayed or offered for sale, but shall be returned immediately to the sea.

2 Where the quantity of caught fish not having the size required as set out in Annex X exceeds 10 % of the total quantity, the vessel shall move away to a distance of at least five nautical miles from any position of the previous haul before continuing fishing. Any processed fish for which minimum fish size requirements apply which is below a length equivalent in Annex X, shall be deemed to originate from fish that is below the minimum fish size.

### SECTION 3

#### Establishment of fisheries restrictive areas in order to protect deep sea sensitive habitats (seamounts)

### Article 35

#### Demersal fishing gears

The conduct of fishing activities involving demersal fishing gears shall be prohibited in the following areas:

| Area                   | Coordinate 1 | Coordinate 2 | Coordinate 3 | Coordinate 4 |
|------------------------|--------------|--------------|--------------|--------------|
| Orphan Knoll           | 50.00.30     | 51.00.30     | 51.00.30     | 50.00.30     |
|                        | 47.00.30     | 45.00.30     | 47.00.30     | 45.00.30     |
| Corner Seamounts       | 35.00.00     | 36.00.00     | 36.00.00     | 35.00.00     |
|                        | 48.00.00     | 48.00.00     | 52.00.00     | 52.00.00     |
| Newfoundland Seamounts | 43.29.00     | 44.00.00     | 44.00.00     | 43.29.00     |
|                        | 43.20.00     | 43.20.00     | 46.40.00     | 46.40.00     |
| New England Seamounts  | 35.00.00     | 39.00.00     | 39.00.00     | 35.00.00     |
|                        | 57.00.00     | 57.00.00     | 64.00.00     | 64.00.00     |

### SECTION 4

#### Control measures

### Article 36

#### Product labelling and separate stowage

1 All processed fish harvested in the NAFO Regulatory Area shall be labelled in such a way that each species and product category as referred to in Article 1 of Council Regulation

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(EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products<sup>(1)</sup> and in case of shrimp the date of capture is identifiable. It shall also be marked as having been caught in the NAFO Regulatory Area.

2 All shrimp harvested in Division 3L and 3M and all Greenland halibut harvested in Subarea 2 and Divisions 3KLMNO shall be marked as having been caught in these respective zones.

3 Taking into account consideration for the legitimate safety and navigational responsibilities of the master of the vessel, the following shall apply:

- a) all catches taken inside the NAFO Regulatory Area shall be stowed separately from all catches taken outside the area. They shall be kept clearly separate, for example with plastic, plywood or netting;
- b) catches of the same species may be stowed in more than one part of the hold but the location where it is stowed shall be clearly represented in the stowage plan referred to in Article 37.

#### *Article 37*

### **Fishing and production logbooks and stowage plan**

1 In addition to complying with Articles 6, 8, 11 and 12 of Regulation (EEC) No 2847/93, masters of Community vessels shall enter in the logbook the information listed in Annex XI to the Regulation.

2 Before the 15th of each month, each Member State shall, in computer-readable form, notify the Commission of the quantities of stocks specified in Annex XII landed during the preceding month and communicate any information received under Articles 11 and 12 of Regulation (EEC) No 2847/93.

3 The masters of Community vessels shall, in respect of catches of the species listed in Annex IC, keep:

- a a production logbook stating their cumulative production, by species on board in product weight stated in kilograms.
- b a stowage plan that shows the location of the different species in the holds. In the case of shrimp, vessels shall keep a stowage plan that specifies the location of shrimp taken in Division 3L and in Division 3M as well as the quantities of shrimp by Division on board in product weight stated in kilograms.

4 The production logbook and stowage plan referred to in paragraph 3 shall be updated on a daily basis for the preceding day reckoned from 00.00 hrs (UTC) until 24.00 hrs (UTC) and shall be kept on board until the vessel has unloaded completely.

5 The master of a Community vessel shall provide the necessary assistance to enable the quantities declared in the production logbook and the processed products stored on board to be verified.

6 Every two years Member States shall certify the accuracy of the capacity plans for all Community vessels authorised to fish pursuant to Article 28(1). The master shall ensure that a copy of such certification remains onboard to be shown to an inspector upon request.

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### Article 38

#### Carrying of nets

1 When fishing directly for one or more of the species listed in Annex VII, Community vessels shall not carry nets with a mesh size smaller than that laid down in Article 29.

2 However, Community vessels fishing in the course of the same voyage in areas other than the NAFO Regulatory Area may keep on board nets with a smaller mesh size than that laid down in Article 29 provided they are securely lashed and stowed and are not available for immediate use. Such nets must:

- a) be unshackled from their boards and their hauling or trawling cables and ropes; and
- b) if they are carried on or above the deck, be lashed securely to a part of the superstructure.

### Article 39

#### Trans-shipment

1 Community vessels shall not engage in trans-shipment operations in the NAFO Regulatory Area unless they have received prior authorisation to do so from their competent authorities.

2 Community vessels shall not engage in trans-shipment operations of fish from or to a non-contracting party vessel which has been sighted or otherwise identified as having engaged in fishing activities in the NAFO Regulatory Area.

3 Community vessels shall report each trans-shipment in the NAFO Regulatory Area to their competent authorities. Donor vessels shall make that report at least twenty-four hours in advance and receiving vessels not later than one hour after the trans-shipment.

4 The report referred to in paragraph 3 shall include the time, the geographical position, the total round weight by species to be off-loaded or on-loaded in kilograms as well as the call sign of vessels involved in the trans-shipment.

5 The receiving vessel shall report, in addition to the total catch on board and the total weight to be landed, the name of the port and the expected time of landing at least 24 hours in advance of any landing.

6 Member States shall promptly transmit the reports referred to in paragraph 3 and 5 to the Commission, which shall promptly forward them to the NAFO Secretariat.

### Article 40

#### Chartering of Community vessels

1 Member States may assent to a fishing vessel flying their flag and authorised to fish in the NAFO Regulatory Area being subject to a chartering arrangement for the utilisation in part or in full of a quota and/or fishing days allocated to another Contracting Party of NAFO. Chartering arrangements involving vessels identified by NAFO or any other Regional fisheries Organisation as having been involved in Illegal, Unreported and Unregulated (IUU) fishing activities shall, however, not be permitted.

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2 On the date of the conclusion of a chartering arrangement, the flag Member State shall send the following information to the Commission, which shall forward this information to the Executive Secretary of NAFO:

- a its assent to the charter arrangement;
- b species covered by the charter and fishing opportunities allocated by the charter contract;
- c duration of the charter arrangement;
- d name of the charterer;
- e contracting party which chartered the vessel;
- f the action the Member State has taken to ensure that the chartered vessels flying its flag comply with the NAFO conservation and enforcement measures for the duration of the chartering period.

3 When the charter arrangement ends, the flag Member State shall inform the Commission, which shall promptly forward this information to the Executive Secretary of NAFO.

4 The flag Member State shall act to ensure that:

- a the vessel is not authorised to fish during the charter period against the fishing opportunities allocated to the flag Member State;
- b the vessel is not authorised to fish under more than one charter arrangement during the same period;
- c the vessel complies with the NAFO conservation and enforcement measures for the duration of the chartering period;
- d all catches and by-catches under notified chartering arrangements are recorded in the fishing logbook by the chartered vessel separate from other catch data.

5 Member States shall report all catches and by-catches as referred to in paragraph 4(d) to the Commission separately from other national catch data. The Commission shall promptly forward those data to the Executive Secretary of NAFO.

#### *Article 41*

### **Monitoring of fishing effort**

1 Each Member State shall take the necessary measures to ensure that the fishing effort of its vessels is commensurate with the fishing opportunities available to that Member State in the NAFO Regulatory Area.

2 Member States shall transmit to the Commission the fishing plan for their vessels fishing for species in the NAFO Regulatory Area no later than 31 January 2007 or, thereafter, at least 30 days before the commencement of such activity. The fishing plan shall identify, inter alia, the vessel or vessels that will engage in these fisheries and the intended number of fishing days those vessels will spend in the NAFO Regulatory Area.

3 Member States shall, on an indicative basis, inform the Commission of the intended activities of their vessels in other areas.

4 The fishing plan shall represent the total fishing effort to be deployed in the NAFO Regulatory Area in relation to the fishing opportunities available to the Member State making the notification.

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5 No later than 15 January 2008, Member States shall report to the Commission on the implementation of their fishing plans. Those reports shall include the number of vessels actually engaged in fishing activities in the NAFO Regulatory Area, the catches of each vessel and the total number of days each vessel fished in that Area. Activities of vessels fishing for shrimp in Divisions 3M and 3L shall be reported separately for each Division.

## SECTION 5

### Special provisions for northern prawns

#### Article 42

##### Northern prawn fisheries

1 Each Member State shall report to the Commission daily on the quantities of Northern prawns (*Pandalus borealis*) caught in Division 3L of the NAFO Regulatory Area by vessels flying its flag and registered in the Community. All fishing activities shall take place at depths greater than 200 metres and shall be limited to one vessel per each Member State allocation at any one time.

2 Masters of vessels fishing for shrimp in Division 3L or their representatives shall, before entry into any port, provide the competent authorities of the Member States whose ports they wish to use with the following information at least 24 hours before the estimated time of arrival at port:

- a) the time of arrival at port;
- b) the quantities of shrimp retained on board;
- c) the Division or Divisions where the catches were taken.

## SECTION 6

### Special provisions for redfish

#### Article 43

##### Redfish fishery

1 Every second Monday, the master of a Community vessel fishing for redfish in Division Subarea 2 and Divisions IF, 3K and 3M of the NAFO Regulatory Area, shall notify the competent authorities of the Member State whose flag the vessel is flying or in which the vessel is registered of the quantities of redfish caught in those zones in the two-week period ending at 12 midnight on the previous Sunday.

When accumulated catches reach 50 % of the TAC, the notification shall be made weekly each Monday.

2 Member States shall report to the Commission every second Tuesday before 12 noon for the fortnight ending at 12 midnight on the previous Sunday the quantities of redfish caught in Subarea 2 and Divisions IF, 3K and 3M of the NAFO Regulatory Area by vessels flying their flag and registered in their territory.



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When accumulated catches have reached 50 % of the TAC, reports shall be sent on a weekly basis.

## SECTION 7

### Enforcement measures

#### Article 44

#### Follow-up to infringements

1 The competent authorities of a Member State notified of an infringement committed by one of its vessels shall investigate that infringement immediately and fully to obtain the evidence required which shall include, where appropriate, the physical inspection of the vessel concerned.

2 The competent authorities of the Member State shall take immediate judicial or administrative action in accordance with their national legislation against the nationals responsible for the vessel flying its flag where the measures adopted by NAFO have not been respected.

3 The competent authorities of the flag Member State shall ensure that the proceedings initiated pursuant to paragraph 2 are capable, in accordance with the relevant provisions of national law, of providing effective measures that are adequate in severity, secure compliance, deprive those responsible of the economic benefit of the infringement and effectively discourage future infringements.

#### Article 45

#### Treatment of infringement reports from inspectors

1 Inspection and surveillance reports drawn up by NAFO inspectors shall constitute admissible evidence for judicial or administrative proceedings of any Member States. For establishing facts, those reports shall be treated on the same basis as inspection and surveillance reports of their own inspectors.

2 Member States shall collaborate in order to facilitate judicial or other proceedings arising from a report submitted by an inspector under this scheme, subject to the rules governing the admissibility of evidence in domestic judicial and other systems.

#### Article 46

#### Enhanced follow-up with regard to certain serious infringements

1 In addition to the provisions of Council Regulation (EEC) No 1956/88 of 9 June 1988 adopting provisions for the application of the scheme of joint international inspection adopted by the Northwest Atlantic Fisheries Organization<sup>(2)</sup>, in particular paragraphs 9 and 10 of the Scheme attached thereto, the flag Member State shall take action under this Section where a vessel flying its flag has committed one of the following serious infringements:

- a directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited.

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- b mis-recording of catches. To be considered for follow-up action under this Article the difference between the inspector's estimates of processed catch on board, by species or in total, and the figures recorded in the production logbook shall be 10 tons or 20 %, whichever is the greater, calculated as a percentage of the production logbook figures. In order to calculate the estimate of the catch on board a stowage factor agreed between the inspectors of the inspecting Contracting Party and the Contracting Party of the inspected vessel shall be used.
- c the repetition of the same serious infringement mentioned in paragraph 9 of the Scheme attached to Regulation (EEC) No 1956/88, that has been confirmed in accordance with paragraph 10 of the Scheme during a 100 day period or within the fishing trip, whichever is shorter.

2 The flag Member State shall ensure that following the inspection referred to in paragraph 3 the vessel concerned ceases all fishing activities and an investigation into the serious infringement is initiated.

3 If no inspector or other person designated by the flag Member State of the vessel to carry out the investigation as outlined in paragraph 1 is present in the Regulatory area the flag Member State shall require the vessel to proceed immediately to a port where the investigation can be initiated.

4 When completing the investigation for any serious infringement of mis-recording of catch referred to in paragraph 1(b) the flag Member State shall ensure that the physical inspection and enumeration of total catch on board takes place under its authority in port. Such inspection may take place in the presence of an inspector from any another Contracting Party that wishes to participate, subject to the consent of the flag Member State.

5 When a vessel is required to proceed to port pursuant to paragraphs 2, 3 and 4, an inspector from another Contracting Party may board and/or remain on board the vessel as it is proceeding to port, provided that the competent authority of the Member State of the inspected vessel does not require the inspector to leave the vessel.

#### *Article 47*

### **Enforcement measures**

1 Each flag Member State shall take enforcement measures with respect to a vessel, where it has been established, in accordance with its laws that this fishing vessel flying its flag committed a serious infringement to in Article 46.

2 The measures referred to in paragraph 1 may include, in particular depending on the gravity of the offence and in accordance with the pertinent provisions of national law:

- a) fines;
- b) seizure of illegal fishing gear and catches;
- c) sequestration of the vessel;
- d) suspension or withdrawal of fishing authorisation;
- e) reduction or withdrawal of the fishing quota.

3 The flag Member State of the vessel concerned shall notify to the Commission without delay, the appropriate measures taken in accordance with this Article. Based on this notification, the Commission shall notify to the NAFO Secretariat of that measures.

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## Article 48

### Report on infringements

1 In case of a serious infringement referred to in Article 46, the Member State concerned shall provide the Commission with a report on the progress of the investigation, including details of any action taken or proposed to be taken in relation to the serious infringement as soon as practicable and in any case within three months following the notification of the infringement and a report on the outcome of the investigation when the investigation is completed.

2 The Commission shall compile a Community report on the basis of the reports of the Member States. It shall send the Community report on the progress of the investigation to the NAFO Secretariat within four months following the notification of the infringement and as soon as possible the report on the outcome of the investigation when the investigation is completed.

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- (1) [OJ L 17, 21.1.2000, p. 22](#). Regulation as last amended by Regulation (EC) No 1759/2006 ([OJ L 335, 1.12.2006, p. 3](#)). .
- (2) [OJ L 175, 6.7.1988, p. 1](#).

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**Changes and effects yet to be applied to :**

- Regulation revoked by [2023 c. 28 Sch. 1 Pt. 2](#)