

Regulation (EU) No 1236/2010 of the European Parliament and of the Council of 15 December 2010 laying down a scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries and repealing Council Regulation (EC) No 2791/1999

REGULATION (EU) No 1236/2010 OF THE  
EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 15 December 2010

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

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<sup>(2)</sup>,

Whereas:

- (1) The Convention on future multilateral cooperation in the North-East Atlantic fisheries (the Convention), was approved by the Council in Decision 81/608/EEC<sup>(3)</sup> and entered into force on 17 March 1982.
- (2) The Convention provides for an appropriate framework for multilateral cooperation on the rational conservation and management of fishery resources in the Area defined by the Convention (the Convention Area).
- (3) The North-East Atlantic Fisheries Commission (NEAFC), at its Annual Meeting on 15 November 2006, adopted a recommendation establishing a scheme of control and enforcement (the Scheme) applicable to fishing vessels operating in the waters of the Convention Area which lie beyond the waters under the fisheries jurisdiction of the Contracting Parties (the Regulatory Area). The Scheme, which came into force on 1 May 2007, was amended by several recommendations at the Annual Meetings in November 2007, 2008 and 2009.
- (4) Under Articles 12 and 15 of the Convention, these recommendations came into force on 9 February 2008, 6 and 8 January 2009, and 6 February 2010 respectively.
- (5) The Scheme provides for control and enforcement measures applicable to vessels flying the flag of Contracting Parties and operating in the Regulatory Area, and arrangements for inspection at sea which include inspection and surveillance procedures and infringement procedures which must be implemented by the Contracting Parties.

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- (6) The Scheme provides for a new Port State Control system which will effectively close European ports to landings and transshipments of frozen fish which have not been verified to be legal by the flag state of fishing vessels flying the flag of a Contracting Party other than the port state.
- (7) Certain control provisions adopted by NEAFC have been incorporated into Union law by way of the yearly TAC and quotas Regulation, and most recently by Council Regulation (EC) No 43/2009 of 16 January 2009 fixing for 2009 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<sup>(4)</sup>. For the sake of legal certainty, such provisions which are not of a temporary nature should be the subject of a new separate regulation.
- (8) The Scheme also comprises provisions to promote compliance by vessels flying the flag of a non-Contracting Party with the control and enforcement measures in order to ensure full respect of conservation and management measures adopted by NEAFC. NEAFC recommended removing a number of vessels from the list of vessels that have been confirmed to have engaged in illegal, unreported and unregulated fisheries. The incorporation of those recommendations into Union law should be ensured.
- (9) Article 5(2) of Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy<sup>(5)</sup> provides that Member States shall control access to waters and resources and control activities outside EU waters carried out by vessels flying their flag. Provision should therefore be made for Member States whose vessels are authorised to fish in the Regulatory Area to assign inspectors to the Scheme to undertake monitoring and surveillance as well as adequate resources for inspection.
- (10) In order to ensure the monitoring of fishing activities in the Convention Area, it is necessary for Member States to cooperate with one another and with the Commission and the body designated by it in applying the Scheme.
- (11) It is the responsibility of Member States to ensure that their inspectors comply with the inspection procedures laid down by NEAFC.
- (12) The Commission should be empowered to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) in respect of detailed rules concerning lists of the fishery resources to be notified, procedures for prior notification of entry into port and for the cancellation thereof as well as authorisation to land or tranship. The Commission should also be empowered to adopt delegated acts in respect of the incorporation into Union law of future amendments of those measures of the Scheme which form the subject matter of certain expressly defined non-essential elements of this Regulation and which become binding upon the Union in accordance with the terms of the Convention. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.
- (13) The measures necessary for the implementation of this Regulation should be adopted by the Commission by means of implementing acts in accordance with Article 291

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TFEU. According to that Article, rules and general principles concerning mechanisms for the control by Member States of the Commission's exercise of implementing powers are to be laid down in advance by a regulation adopted in accordance with the ordinary legislative procedure. Pending the adoption of that new regulation, Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>(6)</sup> continues to apply, with the exception of the regulatory procedure with scrutiny, which is not applicable.

- (14) As this Regulation will establish new rules concerning control and enforcement in the Convention Area, Council Regulation (EC) No 2791/1999 of 16 December 1999 laying down certain control measures applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries<sup>(7)</sup> should be repealed,

HAVE ADOPTED THIS REGULATION:

## CHAPTER I

### GENERAL PROVISIONS

#### *Article 1*

##### **Subject matter**

This Regulation lays down the general rules and conditions for the application by the Union of the Scheme adopted by NEAFC.

#### *Article 2*

##### **Scope**

Unless otherwise stated, this Regulation shall apply to all EU vessels used or intended for use for fishing activities carried out in respect of fishery resources in the Regulatory Area.

#### *Article 3*

##### **Definitions**

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

1. 'Convention' means the Convention on future multilateral cooperation in North-East Atlantic fisheries, as amended;
2. 'Convention Area' means the Convention Area as defined in Article 1(1) of the Convention;
3. 'Regulatory Area' means the waters of the Convention Area which lie beyond the waters under the fisheries jurisdiction of the Contracting Parties;
4. 'Contracting Parties' means the Contracting Parties to the Convention;

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5. 'NEAFC' means the North-East Atlantic Fisheries Commission;
6. [<sup>F1</sup>'fishing activities' means fishing, including joint fishing operations, fish processing operations, the transshipment or landing of fishery resources or products thereof and any other commercial activity in preparation for, or related to, fishing, including packaging, transporting, refuelling or resupplying;]
7. 'fishery resources' means the resources referred to in Article 1(2) of the Convention;
8. 'regulated resources' means those fishery resources which are subject to recommendations under the Convention and are listed in the Annex;
9. 'fishing vessel' means any vessel used or intended for use for the purposes of the commercial exploitation of fishery resources, including fish processing vessels and vessels engaged in transshipment;
10. [<sup>F1</sup>'non-Contracting Party vessel' means any vessel engaged in fishing activities that is not flagged in a Contracting Party, including vessels for which there are reasonable grounds for suspecting them to be without nationality;]
11. 'joint fishing operation' means any operations between two or more vessels where catch is taken from the fishing gear of one fishing vessel to another;
12. 'transshipment operation' means the unloading of all or any fishery products on board a fishing vessel onto another fishing vessel;
13. [<sup>F1</sup>'port' means any place on shore used for landing or for the provision of services in relation to, or in support of, fishing activities, or a place on or close to the shore designated by a Contracting Party for transshipping of fishery resources.]

#### Textual Amendments

- F1** Substituted by [Regulation \(EU\) 2016/96 of the European Parliament and of the Council of 20 January 2016 amending Regulation \(EU\) No 1236/2010 laying down a scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries.](#)

### Article 4

#### Contact points

1 Member States shall designate the competent authority which shall act as the contact point for the purposes of receiving surveillance and inspection reports in accordance with Articles 12, 19, 20 and 27 and for receiving notifications and issuing authorisations in accordance with Articles 24 and 25.

2 Contact points for receiving notifications and issuing authorisations in accordance with Articles 24 and 25 shall be available 24 hours a day.

3 Member States shall send to the Commission or to the body designated by it and to the NEAFC Secretary the telephone number, e-mail address and fax number of the designated contact point.

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4 Any subsequent changes to the information concerning the contact points referred to in paragraphs 1 and 3 shall be notified to the Commission or the body designated by it and to the NEAFC Secretary no later than 15 days before the change comes into force.

5 The format for transmission of the information referred to in paragraphs 1 and 3 shall be established in accordance with Article 50(2).

## CHAPTER II

### MONITORING MEASURES

#### *Article 5*

#### **Union participation**

1 Member States shall send to the Commission, in a computer-readable form, a list of all vessels flying their flag and registered in the Union which are authorised to fish in the Regulatory Area, in particular the vessels authorised to fish directly for one or more regulated resources together with any amendments to the list. This information shall be sent no later than 15 December each year or no later than 5 days before the vessel enters the Regulatory Area. The Commission shall forward the information promptly to the NEAFC Secretary.

2 The format for transmission of the list referred to in paragraph 1 shall be determined in accordance with Article 50(2).

#### *Article 6*

#### **Marking of gear**

1 Member States shall ensure that gear used by their fishing vessels in the Regulatory Area is marked in accordance with Commission Regulation (EC) No 356/2005 of 1 March 2005 laying down detailed rules for the marking and identification of passive fishing gear and beam trawls<sup>(6)</sup>.

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

#### *Article 7*

#### **Retrieval of lost gear**

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

2 Member States shall undertake to retrieve on a regular basis lost gears belonging to vessels flying their flag.

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## Article 8

### Recording of catches

1 In addition to the information specified in Article 6 of Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy<sup>(9)</sup>, the masters of EU fishing vessels shall record, either in a bound paginated fishing logbook or by electronic means, the following:

- a each entry into and exit from the Regulatory Area;
- b on a daily basis and/or for each haul the estimated cumulative catches retained on board since the last entry into the Regulatory Area;
- c on a daily basis and/or for each haul the amount of fish discarded;
- d immediately after each communication pursuant to Article 9, the date and time, according to Universal Coordinated Time (UTC), of transmission of a report and, in the case of radio transmission, the name of the radio station through which the report was transmitted;
- e the fishing depth, where appropriate.

2 The masters of EU fishing vessels engaged in fishing activities carried out in respect of regulated resources and which process and/or freeze their catch shall:

- a record their cumulative production by species and product form in a production logbook; and
- b stow in the hold all processed catch in such a way that the location of each species can be identified from a stowage plan maintained on board the fishing vessel.

3 By way of derogation from paragraph 1, Member States may exempt from the obligation to record in a fishing logbook or electronically a vessel engaged in transshipment operations which on-loads quantities on board. Vessels benefiting from this derogation shall specify in a stowage plan the location in the hold of frozen fish referred to in Article 14(1) and record in a production logbook:

- a the date and time, according to UTC, of transmission of a report referred to in Article 9;
- b in the case of radio transmission, the name of the radio station through which the report was transmitted;
- c the date and time, according to UTC, of the transshipment operation;
- d the location (latitude/longitude) of the transshipment operation;
- e the quantities of each species on-loaded;
- f the name and international radio call sign of the fishing vessel from which the catch has been off-loaded.

4 Detailed rules for the implementation of this Article shall be determined in accordance with Article 50(2).

## Article 9

### Reporting of catches of regulated resources

1 The masters of EU fishing vessels engaged in fishing activities carried out in respect of regulated resources shall communicate catch reports by electronic means to their Fisheries Monitoring Centre, as defined in point (15) of Article 4 of Regulation (EC) No 1224/2009. The

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data contained in such reports shall be accessible to the Commission on request. Reports shall include the following:

- a reports on the quantities held on board when entering the Regulatory Area. Such reports shall be transmitted no earlier than 12 hours and no later than 2 hours before each entry into the Regulatory Area;
- b reports on weekly catches. Such reports shall be transmitted for the first time no later than the end of the seventh day following the entry of the vessel into the Regulatory Area or, when fishing trips take more than 7 days, no later than Monday noon for catches taken in the Regulatory Area during the preceding week ending at midnight on Sunday. This report shall include the number of fishing days since the start of fishing, or since the last catch report;
- c reports on catches on board when exiting the Regulatory Area. Such reports shall be transmitted no earlier than 8 hours and no later than 2 hours before each departure from the Regulatory Area. Such reports shall include, where appropriate, the number of fishing days and the catch taken in the Regulatory Area since the start of fishing, or since the last catch report;
- d reports on the quantities on-loaded and off-loaded for each transshipment of fish during the vessel's stay in the Regulatory Area. Donor vessels shall make this report no later than 24 hours before the transshipment, and receiving vessels no later than 1 hour after the transshipment. The report shall include the date, time and geographical position of the planned transshipment as well as the total round weight by species which are to be off-loaded or which have been on-loaded in kilograms and the call signs of the donor and receiving vessels. <sup>F1</sup>Without prejudice to Chapter IV, at least 24 hours before any landing, the receiving vessel shall report the total catch on board, the total weight to be landed, the name of the port and the estimated date and time of landing, regardless of whether the landing is to take place in a port inside or outside the Convention Area.]

2 The reports on catches referred to in this Article shall be expressed in kilograms (rounded to the nearest 100 kg). The total round weight shall be reported by species, using the FAO codes. The total quantity of species for which the total round weight by species is less than 1 tonne may be reported under the 3-alpha code MZZ (marine fish not specified).

3 Member States shall record the data contained in the catch reports in the database referred to in Article 109(1) of Regulation (EC) No 1224/2009.

4 The detailed rules for the implementation of this Article and in particular the format and the specifications for the transmissions shall be determined in accordance with Article 50(2).

#### Textual Amendments

- F1** Substituted by [Regulation \(EU\) 2016/96 of the European Parliament and of the Council of 20 January 2016 amending Regulation \(EU\) No 1236/2010 laying down a scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries.](#)

### Article 10

#### Global reporting of catches and fishing effort

1 Member States shall inform the Commission by computer transmission before the 15th day of each month of the quantities of fishery resources caught in the Regulatory Area by vessels flying their flag which have been landed or transhipped during the preceding month.

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2 Without prejudice to Article 33(2) of Regulation (EC) No 1224/2009, Member States shall also inform the Commission by computer transmission before the 15th day of each month of the quantities of regulated resources caught in areas under the national fisheries jurisdiction of third countries and in EU waters of the Convention Area by vessels flying their flag which have been landed or transhipped during the preceding month.

3 The format for transmission of the data pursuant to paragraphs 1 and 2 shall be determined in accordance with Article 50(2).

The list of the fishery resources referred to in paragraph 1 shall be adopted in accordance with the procedure laid down in Articles 46 to 49.

4 The Commission shall compile the data referred to in paragraphs 1 and 2 for all Member States and forward them to the NEAFC Secretary within 30 days following the calendar month in which the catches were landed or transhipped.

### *Article 11*

#### **Vessel Monitoring System**

Member States shall ensure the automatic and electronic transmission to the NEAFC Secretary of information obtained by the vessel monitoring system (VMS) concerning vessels flying their flag which fish or plan to fish in the Regulatory Area. The format and the specifications of these transmissions shall be determined in accordance with Article 50(2).

[<sup>F2</sup>In respect of bottom fishing in the Regulatory Area, the following additional provisions shall apply:

- (a) each Member State shall implement an automatic system able to monitor and detect possible bottom fishing in areas outside the existing bottom fishing areas, and possible fishing inside closed areas;
- (b) each Member State shall ensure that delimitations of closed areas are installed in their vessel monitoring systems according to coordinates contained in recommendations adopted by NEAFC.]

#### **Textual Amendments**

- F2** Inserted by [Commission Delegated Regulation \(EU\) 2015/1341 of 12 March 2015 amending Regulation \(EU\) No 1236/2010 of the European Parliament and of the Council laying down a scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries.](#)

### *Article 12*

#### **Communication of information**

1 Member States shall communicate the reports and the information referred to in Articles 9 and 11 without delay to the NEAFC Secretary. In the event of technical malfunction, however, such reports and information shall be transmitted to the NEAFC Secretary within 24 hours of receipt. Member States shall ensure that all reports and messages forwarded by them are numbered sequentially.



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[<sup>F3</sup>1a The reports referred to in Article 9 may be cancelled by means of a cancellation report.

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

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

[<sup>F4</sup>2 Member States shall ensure that the reports and information transmitted to the NEAFC Secretary are in accordance with the data exchange formats and data communication systems determined pursuant to Article 16 of Commission Implementing Regulation (EU) No 433/2012<sup>(10)</sup>.]

#### Textual Amendments

- F3** Inserted by [Commission Delegated Regulation \(EU\) No 603/2012 of 30 April 2012 amending Regulation \(EU\) No 1236/2010 of the European Parliament and of the Council laying down a scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries.](#)
- F4** Substituted by [Commission Delegated Regulation \(EU\) 2015/1341 of 12 March 2015 amending Regulation \(EU\) No 1236/2010 of the European Parliament and of the Council laying down a scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries.](#)

### Article 13

#### Transhipments and joint fishing operations

1 EU fishing vessels shall engage in transhipment activities in the Regulatory Area only if they have received prior authorisation from the competent authorities in their flag Member State.

2 EU fishing vessels may only engage in transhipment operations or joint fishing operations with vessels flying the flag of a Contracting Party and vessels of a non-Contracting Party granted the status of a cooperating non-Contracting Party by NEAFC.

3 EU fishing vessels engaged in transhipment operations which on-load quantities on board shall not engage in other fishing activities, including joint fishing operations, during the same trip, with the exception of fish-processing operations and landings.

### Article 14

#### Separate stowage

1 EU fishing vessels which carry on board frozen fishery resources caught in the Convention Area by more than one fishing vessel may stow the fish from each of those vessels in more than one part of the hold but shall keep it clearly separate from fish caught by other vessels, in particular by using plastic, plywood or netting.

2 All catches taken inside the Convention Area shall be stowed separately from all catches taken outside the area.

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### Article 15

#### **Labelling of frozen fish**

When frozen, all fish caught in the Convention Area shall be identified with a clearly legible label or stamp. The label or stamp shall be placed at the time of stowage on each box or block of frozen fish and shall indicate the species, the production date, the ICES sub-area and division where the catch was taken and the name of the vessel which caught the fish.

### CHAPTER III

#### **INSPECTIONS AT SEA**

### Article 16

#### **NEAFC inspectors**

- 1 Member States whose fishing vessels are authorised to fish in the Regulatory Area shall assign inspectors to the Scheme to carry out surveillance and inspection (NEAFC inspectors).
- 2 Member States shall issue a special identity document to each NEAFC inspector. The form of this document shall be determined in accordance with Article 50(2).
- 3 Each NEAFC inspector shall carry and produce the special identity document when boarding a fishing vessel.

### Article 17

#### **General provisions for inspection and surveillance**

- 1 The Commission or the body designated by it shall coordinate the surveillance and inspection activities for the Union and shall draw up each year, in concert with the Member States concerned, a joint deployment plan for Union participation in the Scheme in the following year. This deployment plan shall, inter alia, determine the number of inspections to be carried out.

Where at any time more than ten EU fishing vessels are engaged in fishing activities carried out in respect of regulated resources in the Regulatory Area, the Commission or the body designated by it shall ensure that an inspection vessel from a Member State is present during that time in the Regulatory Area or that an agreement has been concluded with another Contracting Party to ensure the presence of an inspection vessel.

- 2 Member States shall ensure that the inspections by their NEAFC inspectors are carried out in a non-discriminatory manner and in accordance with the Scheme. The number of inspections shall be based on fleet size, taking into account the time spent by fishing vessels in the Regulatory Area.

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3 The Commission or the body designated by it shall seek to ensure, through an equitable distribution of inspections, equal treatment of all Contracting Parties with fishing vessels operating in the Regulatory Area.

4 Member States shall take steps to ensure that NEAFC inspectors from another Contracting Party are permitted to carry out inspections on board vessels flying their flag.

5 NEAFC inspectors shall avoid the use of force except in cases of legitimate self-defence. When carrying out inspections on board fishing vessels, NEAFC inspectors shall not carry fire-arms. This paragraph shall be without prejudice to national provisions concerning the prohibition of the use of force.

6 NEAFC inspectors shall avoid causing any inconvenience to the fishing vessel or interfering with its activities and the catch retained on board, except when and to the degree necessary to carry out their mandates.

### *Article 18*

#### **Means to carry out inspection**

1 Member States shall make available to their NEAFC inspectors adequate means to enable them to carry out their surveillance and inspection tasks. To that end they shall assign inspection vessels and aircraft to the Scheme.

2 The Commission or the body designated by it shall send to the NEAFC Secretary before 1 January each year details of the plan together with the names of the NEAFC inspectors and special inspection vessels as well as the types of aircraft and their identification details (registration number, name, radio call-sign) which Member States are assigning to the Scheme during that year. Where appropriate, this information shall be taken from the list of inspectors referred to in Article 79(1) of Regulation (EC) No 1224/2009. Member States shall send changes to this list to the Commission or the body designated by it which in turn shall forward them to the NEAFC Secretary and the other Member States 1 month before the changes are due to come into effect.

3 Any vessel assigned to the Scheme and carrying NEAFC inspectors, as well as the boarding craft deployed by that vessel, shall display the NEAFC inspection special signal to indicate that NEAFC inspectors on board may carry out inspection duties in accordance with the Scheme. Aircraft assigned to the Scheme shall have their international radio call-sign clearly displayed. The form of the special signal shall be determined in accordance with Article 50(2).

4 For each Union inspection vessel or aircraft assigned to the Scheme, the Commission or the body designated by it shall keep a record of the date and hour of the start and termination of their duties under the Scheme as set out in the form determined in accordance with Article 50(2).

### *Article 19*

#### **Surveillance procedure**

1 Surveillance shall be based on sightings of fishing vessels by NEAFC inspectors from a vessel or aircraft assigned to the Scheme. NEAFC inspectors shall forward a copy of each sighting report for every vessel without delay, by electronic transmission in the form set out in accordance with Article 50(2), to the flag state of the vessel concerned, to the Commission or

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the body designated by it and to the NEAFC Secretary. A hard copy of each sighting report and any photographs shall be forwarded on request to the flag state of the vessel concerned.

2 NEAFC inspectors shall record their sightings in a surveillance report using a form established in accordance with Article 50(2).

#### *Article 20*

### **Inspection procedure**

1 NEAFC inspectors shall not board any fishing vessel without prior notice being transmitted by radio to that vessel or without that vessel being given the appropriate signal using the International Code of Signals, including the identity of the inspection platform; however, it shall not be necessary for such notice to be acknowledged as received.

2 NEAFC inspectors shall have the authority to examine all relevant areas, decks and rooms of the fishing vessels, catch (whether processed or not), nets or other gear, equipment, and any relevant documents which they deem necessary to verify compliance with the conservation and management measures adopted by NEAFC and to question the master or a person designated by the master.

3 The fishing vessel to be boarded shall not be required to stop or manoeuvre when fishing, shooting or hauling. The NEAFC inspectors may order that the hauling of the fishing gear be interrupted or delayed until they have boarded the fishing vessel but may not do so in any event more than 30 minutes after the fishing vessel has received the signal referred to in paragraph 1.

4 Masters of inspection platforms shall ensure that they manoeuvre at a safe distance from the fishing vessels in accordance with good seamanship.

5 NEAFC inspectors may instruct a fishing vessel to delay its entry into or exit from the Regulatory Area for up to 6 hours from the time of transmission by the fishing vessel of the reports referred to in Article 9(1)(a) and (c).

6 The duration of an inspection shall not exceed 4 hours, or the time it takes to haul in the net and to inspect the net and the catch, whichever is longer. Where an infringement is detected the NEAFC inspectors may stay on board for the time necessary for the completion of the measures provided for in Article 29(1)(b).

7 In special circumstances relating to the size of a fishing vessel and the quantities of fish retained on board, the duration of the inspection may exceed the limits laid down in paragraph 6. In such a situation, NEAFC inspectors shall under no circumstances stay on board the fishing vessel longer than the time required to complete the inspection. The reasons for exceeding the limit laid down in paragraph 6 shall be recorded in the inspection report referred to in paragraph 9.

8 No more than two NEAFC inspectors assigned by a Member State shall board a fishing vessel of another Contracting Party. In carrying out their inspection, the NEAFC inspectors may request the master to provide any assistance which is required. NEAFC inspectors shall not interfere with the master's ability to communicate with the authorities of the flag state during the boarding and inspection.

9 Each inspection shall be documented by the completion of an inspection report in the format established in accordance with Article 50(2). The master may add his comments to the inspection report which shall be signed by the NEAFC inspectors at the end of the inspection.

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A copy of the inspection report shall be given to the master of the fishing vessel. A copy of each inspection report shall be transmitted without delay to the flag state of the inspected vessel and to the Commission or the body designated by it. The Commission or the body designated by it shall forward the copy promptly to the NEAFC Secretary. The original or a certified copy of each inspection report shall be forwarded on request to the flag state of the inspected vessel.

#### *Article 21*

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

The master of a fishing vessel shall:

- (a) facilitate prompt and safe boarding and disembarkation pursuant to specifications adopted in accordance with Article 50(2);
- (b) cooperate with and assist in the inspection of the fishing vessel conducted pursuant to this Regulation, not obstruct, intimidate or interfere with the NEAFC inspectors in the performance of their duties and ensure their safety;
- (c) allow the NEAFC inspectors to communicate with the authorities of the flag state and the inspecting state;
- (d) provide access to any areas, decks and rooms of the fishing vessel, catch (whether processed or not), nets or other gear, equipment, and to any relevant information or documents which the NEAFC inspectors deem necessary in accordance with Article 20(2);
- (e) provide copies of documents as required by the NEAFC inspectors; and
- (f) provide NEAFC inspectors with reasonable facilities, including, where appropriate, food and accommodation when they remain on board the vessel in accordance with Article 32(3).

#### CHAPTER IV

#### **[<sup>F1</sup>PORT STATE CONTROL OF FISH CAUGHT BY VESSELS FLYING THE FLAG OF ANOTHER CONTRACTING PARTY]**

#### *[<sup>F1</sup>Article 22*

#### **Scope**

Without prejudice to Regulation (EC) No 1224/2009 and Council Regulation (EC) No 1005/2008<sup>(1)</sup>, the provisions set out in this Chapter shall apply to the use of ports of Member States by fishing vessels carrying on board fishery resources, caught in the Convention Area by fishing vessels flying the flag of another Contracting Party, that have not been previously landed or transhipped at a port.]

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*Status: Point in time view as at 05/02/2016.*

*Changes to legislation: There are outstanding changes not yet made to Regulation (EU) No 1236/2010 of the European Parliament and of the Council. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)*

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## *[<sup>F1</sup>Article 23*

### **Designated ports**

Member States shall designate and notify the Commission of ports where the landing or transshipment of fishery resources, caught in the Convention Area by fishing vessels flying the flag of another Contracting Party, or the provision of port services to such vessels are permitted. The Commission shall notify the NEAFC Secretary of those ports and of any changes to the list of ports designated at least 15 days before the change comes into force.

Landings and transshipments of fish caught in the Convention Area by fishing vessels flying the flag of another Contracting Party as well as the provision of port services to such vessels shall be allowed only in designated ports.]

## *Article 24*

### **Prior notification of entry into port**

[<sup>F1</sup> In accordance with Article 6 of Regulation (EC) No 1005/2008, when the master of a fishing vessel carrying fish referred to in Article 22 of this Regulation intends to call into a port, the master of the vessel, or his representative, shall notify the competent authorities of the Member State of the port he wishes to use no later than 3 working days before the estimated time of arrival.

However, a Member State may make provision for another notification period, taking into account, in particular, the type of processing of the fish caught or the distance between the fishing grounds and its ports. In such a case, the Member State shall inform the Commission, or the body designated by it, and the NEAFC Secretary thereof without delay.]

[<sup>F2</sup> The prior notification referred to in paragraph 1 may be cancelled by the sender by notifying the competent authorities of the port that the master wished to use no later than 24 hours before the notified estimated time of arrival in that port.]

However, a Member State may make provision for another notification period for cancellation. In such a case, the Member State shall inform the Commission, or the body designated by it, and the NEAFC Secretary thereof without delay.

3 The competent authorities of the port Member State shall forward without delay a copy of the notifications referred to in paragraphs 1 and 2 to the flag state of the fishing vessel and to the flag state or states of the donor vessels when the fishing vessel has engaged in transshipment operations. A copy of the notification referred to in paragraph 2 shall also be forwarded without delay to the NEAFC Secretary.

4 The format and the specifications of the notifications shall be determined in accordance with Article 50(2).

As far as necessary, further detailed rules on the notification and cancellation procedures under this Article, including periods, shall be adopted in accordance with the procedure laid down in Articles 46 to 49.

*Status: Point in time view as at 05/02/2016.*

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## Article 25

### [<sup>F1</sup>Authorisation to land or tranship and of other use of port]

[<sup>F1</sup>1 In response to a notification transmitted pursuant to Article 24, the flag state of the fishing vessel intending to land or tranship or, where the fishing vessel has engaged in transshipment operations outside Union waters, the flag state or states of the donor vessels, shall, by completing the prior notification referred to in Article 24, confirm that:]

- a the fishing vessel which declared having caught the fish had sufficient quota for the species declared;
- b the quantities of fish on board have been duly reported and taken into account for the calculation of any catch or effort limitations that may be applicable;
- c the fishing vessel which declared having caught the fish had authorisation to fish in the areas declared;
- d the presence of the fishing vessel in the area of catch declared has been verified according to VMS data.

[<sup>F1</sup>2 Landing or transshipment operations may only start after authorisation has been given by the competent authorities of the port Member State by duly completing the prior notification referred to in Article 24. Such authorisation shall only be given if the confirmation from the flag state referred to in paragraph 1 has been received.]

3 By way of derogation from paragraph 2, the competent authorities of the port Member State may authorise all or part of a landing in the absence of the confirmation referred to in paragraph 1, but in such cases they shall keep the fish concerned in storage under their control. The fish shall only be released to be sold, taken over or transported once the confirmation referred to in paragraph 1 has been received. If the confirmation has not been received within 14 days of the landing the competent authorities of the port Member State may confiscate and dispose of the fish in accordance with national rules.

[<sup>F5</sup>3a Landing, transshipment and other use of port shall not be authorised if the port Member State receives clear evidence that the catch on board was taken in contravention of applicable requirements of a Contracting Party in respect of areas under its national jurisdiction.]

[<sup>F1</sup>4 The competent authorities of the port Member State shall without delay notify their decision on whether or not to authorise the landing, transshipment and other use of port to the master of the vessel or his representative and to the flag state of the vessel by completing as appropriate the prior notification referred to in Article 24 and shall inform the NEAFC Secretary thereof.]

5 Detailed rules on the authorisation to land or tranship under this Article shall be adopted in accordance with the procedure laid down in Articles 46 to 49.

#### Textual Amendments

- F5** Inserted by [Regulation \(EU\) 2016/96 of the European Parliament and of the Council of 20 January 2016 amending Regulation \(EU\) No 1236/2010 laying down a scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries.](#)

*Status: Point in time view as at 05/02/2016.*

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## Article 26

### Port inspections

[<sup>F1</sup> Each Member State shall carry out inspections of at least 5 % of landings or transhipments of fresh fish and at least 7,5 % of frozen fish in its ports during each reporting year, on the basis of risk management that takes into consideration the general guidelines outlined in Annex II.]

[<sup>F51a</sup> Inspections shall be conducted in a fair, transparent and non-discriminatory manner and shall not constitute harassment of any vessel.]

[<sup>F12</sup> Inspectors shall examine all relevant areas of the vessel in order to verify compliance with the relevant conservation and management measures. Inspections shall be conducted in accordance with the procedures laid down in Annex III.]

[<sup>F52a</sup> Each Member State shall make all possible efforts to facilitate communication with the master or senior crew members of the vessel, including, where possible and where needed by ensuring that the inspector is accompanied by an interpreter.]

3 National inspectors shall make all possible efforts to avoid delaying a vessel unduly and to ensure that the vessel suffers the minimum interference and inconvenience and that degradation of the quality of the fish is avoided.

[<sup>F53a</sup> National inspectors shall not interfere with the master's ability to communicate with the authorities of the flag state.]

[<sup>F14</sup> The port Member State may invite inspectors of other Contracting Parties to accompany its own inspectors and observe the inspection.]

#### Textual Amendments

- F5** Inserted by [Regulation \(EU\) 2016/96 of the European Parliament and of the Council of 20 January 2016 amending Regulation \(EU\) No 1236/2010 laying down a scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries.](#)

## Article 27

### Inspection reports

1 Each inspection shall be documented by the completion of an inspection report using the form established in accordance with Article 50(2).

2 The master may add his comments to the inspection report, which shall be signed by the inspector and the master at the end of the inspection. A copy of the inspection report shall be given to the master of the fishing vessel.

3 A copy of each inspection report shall be transmitted without delay to the flag state of the inspected fishing vessel, to the flag state or states of the donor vessels where the vessel has engaged in transhipment operations, to the Commission or the body designated by it and to the NEAFC Secretary. The original or a certified copy of each inspection report shall be forwarded on request to the flag state of the inspected vessel.



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## CHAPTER V

### INFRINGEMENTS

#### Article 28

##### Scope

Without prejudice to Regulation (EC) No 1224/2009 and to Regulation (EC) No 1005/2008 the provisions set out in this Chapter shall apply to EU fishing vessels and to fishing vessels flying the flag of another Contracting Party used or intended for use for fishing activities carried out in respect of fishery resources in the Regulatory Area.

#### Article 29

##### Infringement procedures

1 Where inspectors find that there are clear grounds for believing that a fishing vessel has engaged in any activity contrary to the conservation and management measures adopted by NEAFC they shall:

- a record the infringement in the report referred to in Articles 19(2), 20(9) or 27;
- b take all necessary measures to ensure security and continuity of the evidence. An identification mark may be affixed securely to any part of the fishing gear which appears to the inspector to be or to have been in contravention of applicable measures;
- c attempt immediately to communicate with an inspector or designated authority of the flag state of the inspected fishing vessel;
- d transmit the inspection report promptly to the Commission or the body designated by it.

2 The Member State carrying out the inspection shall communicate in writing the details of the infringement to the designated authority of the flag state of the inspected vessel and to the Commission or the body designated by it and, whenever possible, shall do so during the first working day following the start of the inspection.

[<sup>F5</sup>Where appropriate, the Member State carrying out the inspection shall also communicate the findings of that inspection to the Contracting Party in whose waters the infringement took place and the state of which the vessel's master is a national.]

3 The Member State carrying out the inspection shall send without delay the original of the surveillance or inspection report with any supporting documents to the competent authorities of the flag state of the inspected fishing vessel as well as a copy to the Commission or the body designated by it, which shall forward a copy to the NEAFC Secretary.

##### Textual Amendments

- F5** Inserted by Regulation (EU) 2016/96 of the European Parliament and of the Council of 20 January 2016 amending Regulation (EU) No 1236/2010 laying down a scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries.

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### Article 30

#### Follow-up in the case of infringement

1 Where a Member State is notified by another Contracting Party or another Member State of an infringement committed by a fishing vessel flying its flag, it shall take prompt action in conformity with its national law to obtain and consider the evidence of the infringement and to conduct any further investigation necessary for the follow-up to the infringement and, whenever possible, to inspect the fishing vessel concerned.

2 Member States shall designate the competent authorities which are to receive evidence of infringement and shall inform the Commission or the body designated by it of the address of those authorities and of any change in this information. The Commission or the body designated by it shall subsequently forward the information to the NEAFC Secretary.

### Article 31

#### Serious infringements

For the purpose of this Regulation, the following infringements shall be considered to be serious:

- (a) fishing without a valid authorisation issued by the flag state;
- (b) fishing without quota or after its exhaustion;
- (c) use of prohibited fishing gear;
- (d) serious misrecording of catches;
- (e) repeated failure to comply with Articles 9 or 11;
- (f) landing or transhipping in a port not designated in accordance with Article 23;
- (g) failure to comply with Article 24;
- (h) landing or transshipment without authorisation of the port state as referred to in Article 25;
- (i) preventing an inspector from carrying out his duties;
- (j) directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited;
- (k) falsifying or concealing the markings, identity or registration of a fishing vessel;
- (l) concealing, tampering with or disposing of evidence relating to an investigation;
- (m) multiple violations which together constitute a serious disregard of conservation and management measures;
- (n) engaging in transshipment or joint fishing operations with vessels of a non-Contracting Party which has not been accorded the status of a cooperating non-Contracting Party by NEAFC;

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- (o) supplying any provisions, fuel or other services to vessels that have been placed on the list referred to in Article 44.

### *Article 32*

#### **Follow-up in the case of serious infringements**

1 If an inspector considers that there are clear grounds for believing that a fishing vessel has committed a serious infringement under Article 31, that inspector shall promptly notify that infringement to the Commission or the body designated by it, the competent authorities of the flag state of the inspected fishing vessel and the flag state or states of the donor vessels where the inspected vessel has engaged in transshipment operations, in accordance with Article 29(3), and shall also transmit a copy to the NEAFC Secretary.

2 In order to preserve the evidence, the inspector shall take all necessary measures to ensure the security and continuity thereof whilst minimising inconvenience to the vessel and interference with its operation.

3 The inspector shall be entitled to remain on board the fishing vessel for the period necessary to provide information on the infringement to the duly authorised inspector referred to in Article 33, or until receiving a reply from the flag state requesting him to leave the fishing vessel.

### *Article 33*

#### **Follow-up in the case of serious infringements by an EU fishing vessel**

1 Flag Member States shall respond to the notification referred to in Article 32(1) without delay and shall ensure that the fishing vessel concerned is inspected within 72 hours by an inspector duly authorised in relation to the infringement. The duly authorised inspector shall board the fishing vessel concerned and examine the evidence of the suspected infringement established by the inspector, and forward the results of the examination as quickly as possible to the competent authority in the flag Member State and to the Commission or the body designated by it.

2 Following notification of the results of the examination referred to in paragraph 1, flag Member States shall, if the evidence so warrants, require the fishing vessel to proceed immediately, and in any case within 24 hours, to a port designated by that flag Member State, for a thorough inspection under its authority.

3 The flag Member State may authorise the inspecting state to bring without delay the fishing vessel to a port designated by the flag Member State.

4 If the fishing vessel is not called to port, the flag Member State must provide due justification in a timely manner to the Commission or the body designated by it and to the inspecting state. The Commission or the body designated by it shall forward such justification to the NEAFC Secretary.

5 Where a fishing vessel is required to proceed to port for a thorough inspection pursuant to paragraphs 2 or 3, a NEAFC inspector from another Contracting Party may, subject to the consent of the flag Member State of the fishing vessel, board and remain on board the fishing vessel as it proceeds to port, and may be present during the inspection of the fishing vessel in port.

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6 Flag Member States shall inform promptly the Commission or the body designated by it of the outcome of the thorough inspection and of the measures that they have adopted as a result of the infringement.

7 The detailed rules for the implementation of this Article shall be determined in accordance with Article 50(2).

#### *Article 34*

### **Reporting and follow-up of infringements**

1 By 15 February each year, Member States shall report to the Commission or the body designated by it on the status of the proceedings concerning infringements of the conservation and management measures adopted by NEAFC which were committed during the previous calendar year. The infringements shall continue to be listed in each subsequent report until the proceedings are concluded in accordance with the relevant provisions of national law. The Commission or the body designated by it shall forward the reports to the NEAFC Secretary before 1 March of the same year.

2 The report referred to in paragraph 1 shall indicate the current status of the proceedings and in particular whether the case is pending, under appeal or still under investigation. The report shall describe in specific terms any sanctions imposed, stating in particular the level of fines, the value of forfeited fish and/or gear and any written warnings given and, if no action has been taken, it shall state the reasons thereof.

#### *Article 35*

### **Treatment of inspection reports**

Without prejudice to Article 77 of Regulation (EC) No 1224/2009, Member States shall collaborate with each other and with other Contracting Parties in order to facilitate judicial or other proceedings arising from a report submitted by an inspector under the Scheme, subject to the rules governing the admissibility of evidence in domestic judicial or other systems.

#### *Article 36*

### **Reports on surveillance and inspection activities**

1 Each Member State shall report to the Commission or the body designated by it by 15 February each year for the previous calendar year:

- a the number of inspections it has carried out under Articles 19, 20 and 26, specifying the number of inspections on the vessels of each Contracting Party and, where an infringement has been committed, the date and position of the inspection of the individual vessel concerned and the nature of the infringement;
- b the number of hours flown and the number of days at sea on NEAFC patrols, the number of sightings of both Contracting Party vessels and non-Contracting Party vessels, and the list of individual vessels for which a surveillance report has been completed.

2 The Commission or the body designated by it shall compile a Union report on the basis of the reports of the Member States. It shall send the Union report to the NEAFC Secretary by 1 March each year.

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## CHAPTER VI

### MEASURES TO PROMOTE COMPLIANCE BY NON-CONTRACTING PARTY FISHING VESSELS

#### *Article 37*

##### **Scope**

- 1 This Chapter shall apply to non-Contracting Parties' fishing vessels used or intended for use for fishing activities carried out in respect of fishery resources in the Convention Area.
- 2 This Chapter shall be without prejudice to Regulation (EC) No 1224/2009 and to Regulation (EC) No 1005/2008.

#### *Article 38*

##### **Sightings and identifications of non-Contracting Party vessels**

- 1 Member States shall transmit without delay to the Commission or the body designated by it any information regarding non-Contracting Party vessels sighted or otherwise identified as engaging in fishing activities in the Convention Area. The Commission or the body designated by it shall inform promptly the NEAFC Secretary and all other Member States of each sighting report it receives.
- 2 The Member State which sighted the non-Contracting Party vessel shall attempt to inform that vessel without delay that it has been sighted or otherwise identified as engaging in fishing activities in the Convention Area and is consequently presumed, unless its flag state has been accorded the status of cooperating non-Contracting Party by NEAFC, to be undermining the NEAFC conservation and management measures.
- 3 In the case of a non-Contracting Party vessel sighted or otherwise identified as engaging in transshipment activities, the presumption of undermining the NEAFC conservation and management measures shall apply to any other non-Contracting Party vessel that has been identified as having engaged in such activities with that vessel.

#### *Article 39*

##### **Inspections at sea**

- 1 NEAFC inspectors shall request permission to board and inspect non-Contracting Party vessels sighted or otherwise identified by a Contracting Party as engaging in fishing activities in the Convention Area. If the master consents to the boarding and inspection of the vessel, the inspection shall be documented by the completion of an inspection report, as referred to Article 20(9).
- 2 NEAFC inspectors shall without delay transmit a copy of the inspection report to the Commission or the body designated by it, to the NEAFC Secretary and to the master of the non-Contracting Party vessel. Where the evidence in that report so warrants, a Member State may take such action as may be appropriate in accordance with international law. Member States are encouraged to examine whether their national measures are appropriate for the exercise of jurisdiction over such vessels.

*Status: Point in time view as at 05/02/2016.*

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3 If the master does not consent to the boarding and inspection of his vessel or does not fulfil any one of the obligations laid down in Article 21(a) to (d), the vessel shall be presumed to have engaged in illegal, unreported and unregulated fishing activities (IUU activities). The NEAFC Inspector shall inform without delay the Commission or the body designated by it thereof. In turn the Commission or the body designated by it shall promptly inform the NEAFC Secretary thereof.

#### Article 40

### Entry into port

1 The master of a non-Contracting Party fishing vessel may only call into a port designated in accordance with Article 23. The master intending to call into a port of a Member State shall notify the competent authorities of the port Member State in accordance with the provisions of Article 24. The port Member State concerned shall forward this information without delay to the flag state of the vessel and to the Commission or the body designated by it. In turn, the Commission or the body designated by it shall forward this information to the NEAFC Secretary.

2 The port Member State shall prohibit the entry into its ports of vessels that have not given the required prior notification of entry into port as referred to in Article 24.

[<sup>F23</sup> The decision to prohibit the entry into the port shall be notified without delay by the port Member State to the master of the vessel or his representative, and communicated to the flag State of the vessel and to the Commission or the body designated by it. In turn, the Commission or the body designated by it shall forward that information to the NEAFC Secretary.]

#### Textual Amendments

- F2** Inserted by [Commission Delegated Regulation \(EU\) 2015/1341 of 12 March 2015 amending Regulation \(EU\) No 1236/2010 of the European Parliament and of the Council laying down a scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries.](#)

#### Article 41

### Inspections in port

[<sup>F41</sup>. Member States shall ensure that all non-Contracting Party vessels entering one of their ports are inspected in accordance with the provisions of Article 26(2) and Article 26(3). The vessel shall not be allowed to land or tranship any fish until this inspection has been completed. Each inspection shall be documented by the completion of an inspection report as provided for in Article 27. Where the master of the vessel has failed to fulfil any one of the obligations laid down in Article 21(a) to (d), the vessel shall be presumed to have engaged in IUU activities.]

2 Information on the results of all inspections of non-Contracting Party vessels conducted in the ports of Member States, and concerning subsequent action, shall immediately be transmitted to the Commission or the body designated by it, which shall forward such information to the NEAFC Secretary.

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### Textual Amendments

- F4** Substituted by [Commission Delegated Regulation \(EU\) 2015/1341 of 12 March 2015 amending Regulation \(EU\) No 1236/2010 of the European Parliament and of the Council laying down a scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries.](#)

## *[F<sup>4</sup>* Article 42

### **Landings, transshipments and other use of port**

1 Landings, transshipments and/or other use of port by non-Contracting Party vessels may only start after authorisation has been given by the competent authorities of the port State.

2 When a non-Contracting Party vessel has entered port, Member States shall deny that vessel landing, transshipping, processing and packaging of fisheries resources and other port services, including, inter alia, refuelling and resupplying, maintenance and dry-docking, if:

- a the vessel has been inspected pursuant to Article 41, and the inspection reveals that the vessel has species on board which are subject to recommendations established under the Convention, unless the master of the vessel provides satisfactory evidence to the competent authorities proving that the fish were caught outside the Regulatory Area or in compliance with all relevant recommendations established under the Convention; or
- b the flag State of the vessel, or the flag State or States of donor vessels where the vessel has engaged in transshipment operations, does not provide the confirmation referred to in Article 25; or
- c the master of the vessel has failed to fulfil any one of the obligations laid down in Article 21(a) to (d); or
- d Member States have received clear evidence that the fisheries resources on board were taken in the waters under the jurisdiction of a Contracting Party in contravention of applicable regulations; or
- e Member States have sufficient proof that the vessel has otherwise been engaged in IUU fishing activities in the Convention Area or has supported such fishing activities.

3 In the case of denial under paragraph 2, a non-Contracting Party vessel shall be prohibited from transshipping in the waters under the jurisdiction of the Member States.

4 In the case of denial under paragraph 2, Member States shall communicate their decision to the master of the vessel or to his representative and to the Commission or the body designated by it. In turn, the Commission or the body designated by it shall without delay forward this information to the NEAFC Secretary.

5 Member States shall withdraw their denial of the use of their ports in respect of a vessel only if there is sufficient proof that the grounds on which use was denied were inadequate or erroneous or that such grounds no longer exist.

6 Where a Member State has withdrawn its denial pursuant to paragraph 5, it shall promptly notify those to whom a communication was made pursuant to paragraph 4. In turn, the Commission or the body designated by it shall without delay forward this information to the NEAFC Secretary.]

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### Textual Amendments

- F4** Substituted by [Commission Delegated Regulation \(EU\) 2015/1341 of 12 March 2015 amending Regulation \(EU\) No 1236/2010 of the European Parliament and of the Council laying down a scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries.](#)

### Article 43

#### Reports on non-Contracting Parties activities

1 Each Member State shall report to the Commission or the body designated by it by 15 February each year for the previous calendar year:

- a the number of inspections of non-Contracting Party vessels that it conducted under this Scheme at sea or in its ports, the names of the vessels inspected and their respective flag states, the dates of the inspections and the names of any ports where the inspections were conducted, and the results of such inspections; and
- b where fish are landed or transhipped following an inspection pursuant to this Scheme, the evidence provided pursuant to Article 42.

2 In addition to surveillance reports and information on inspections, Member States may at any time submit to the Commission or the body designated by it any further information which might be relevant for the identification of non-Contracting Party vessels that might be carrying out IUU activities in the Convention Area.

3 On the basis of this information, the Commission or the body designated by it shall send a global report on non-Contracting Parties' activities to the NEAFC Secretary by 1 March each year.

### Article 44

#### Vessels engaged in IUU activities

1 Member States shall ensure that vessels appearing in the provisional list of vessels engaged in IUU activities established by NEAFC ('A' list) are:

- a inspected in accordance with the provisions of Article 41 when they enter their ports;
- <sup>[F4]</sup>b not authorised to land or tranship in their ports or to tranship in the waters under their jurisdiction;
- c not given assistance by fishing vessels, support vessels, refuel vessels, the mother-ship and cargo vessels flying their flag or permitted to participate in any transhipment or joint fishing operation with such vessels;
- d not supplied with provisions, fuel or other services.

2 The provisions laid down in paragraph 1(b) and (d) shall not be applied to any vessel appearing on the 'A' list where a recommendation has been made to NEAFC that the vessel in question should be removed from the 'A' list.



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### Textual Amendments

- F4** Substituted by [Commission Delegated Regulation \(EU\) 2015/1341 of 12 March 2015 amending Regulation \(EU\) No 1236/2010 of the European Parliament and of the Council laying down a scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries.](#)

## CHAPTER VII

### FINAL PROVISIONS

#### *Article 45*

#### **Confidentiality**

1 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 the NEAFC Secretary pursuant to Articles 11, 12 and 19(1).

2 The detailed rules for the implementation of this Article shall be determined in accordance with Article 50(2).

#### *Article 46*

#### **Delegation of powers**

1 The Commission may adopt, by means of delegated acts in accordance with Article 47 and subject to the conditions of Articles 48 and 49 the detailed rules for the application of Article 25, as well as the list of fishery resources referred to in Article 10(1) and detailed rules on the notification and cancellation procedures, including periods, as referred to in the second subparagraph of Article 24(4).

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

#### *Article 47*

#### **Exercise of the delegation**

1 The power to adopt delegated acts referred to in Article 46 shall be conferred on the Commission for a period of 3 years from 1 January 2011. The Commission shall make a report in respect of the delegated powers at the latest 6 months before the end of the three-year period. The delegation of power shall be automatically extended for periods of an identical duration, unless the European Parliament or the Council revokes it in accordance with Article 48.

2 As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

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3 The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in Articles 48 and 49.

#### *Article 48*

### **Revocation of the delegation**

1 The delegation of power referred to in Article 46 may be revoked at any time by the European Parliament or by the Council.

2 The institution which has commenced an internal procedure for deciding whether to revoke the delegation of power shall endeavour to inform the other institution and the Commission within a reasonable time before the final decision is taken, indicating the delegated powers which could be subject to revocation and possible reasons for a revocation.

3 The decision of revocation shall put an end to the delegation of the powers specified in that decision. It shall take effect immediately or at a later date specified therein. It shall not affect the validity of the delegated acts already in force. It shall be published in the *Official Journal of the European Union*.

#### *Article 49*

### **Objections to delegated acts**

1 The European Parliament or the Council may object to a delegated act within a period of 2 months from the date of notification.

At the initiative of the European Parliament or the Council this period shall be extended by 2 months.

2 If, on expiry of that period, neither the European Parliament nor the Council has objected to the delegated act it shall be published in the *Official Journal of the European Union* and shall enter into force at the date stated therein.

The delegated act may be published in the *Official Journal of the European Union* and enter into force before the expiry of that period if the European Parliament and the Council have both informed the Commission of their intention not to raise objections.

3 If the European Parliament or the Council objects to a delegated act, it shall not enter into force. The institution which objects shall state the reasons for objecting to the delegated act.

#### *Article 50*

### **Implementation**

1 The Commission shall be assisted by a Management Committee for Fisheries and Aquaculture.

2 Where reference is made to this paragraph, Articles 4 and 7 of Decision 1999/468/EC shall apply. The period referred to in Article 4(3) of Decision 1999/468/EC shall be set at 3 months.

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## Article 51

### Procedure for amendments

As far as is necessary, in order to incorporate into Union law amendments to the existing provisions of the Scheme which become obligatory for the Union, the Commission may amend the provisions of this Regulation by means of delegated acts in accordance with Article 47 and subject to the conditions set out in Articles 48 and 49, concerning:

- (a) participation of Contracting Parties in the fishery in the Regulatory area as referred to in Article 5;
- (b) removal and disposal of fixed gear and the retrieval of lost gear as referred to in Articles 6 and 7;
- (c) use of VMS as referred to in Article 11;
- (d) cooperation and communication of information to the NEAFC Secretary as referred to in Article 12;
- (e) requirements for separate stowage and labelling of frozen fishery resources as referred to in Articles 14 and 15;
- (f) assignment of NEAFC inspectors as referred to in Article 16;
- (g) measures to promote compliance with the Scheme by non-Contracting Party fishing vessels under Chapter VI;
- (h) the list of regulated resources set out in the Annex.

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

## Article 52

### Repeal

Regulation (EC) No 2791/1999 is hereby repealed.

## Article 53

### Entry into force

This Regulation shall enter into force on the day following 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.

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## REGULATED RESOURCES

## A) Pelagic and oceanic species

Stock (common name)	FAO code	Scientific Name	ICES subareas and divisions
Redfish	REB	<i>Sebastes mentella</i>	I, II, V, XII, XIV
Norwegian Spring Spawning Herring (Atlanto Scandian)	HER	<i>Clupea harengus</i>	I, II
Blue whiting	WHB	<i>Micromesistius poutassou</i>	IIa, IVa, Vb, VI, VII, XII, XIV
Mackerel	MAC	<i>Scomber scombrus</i>	IIa, IV, V, VI, VII, XII
Haddock	HAD	<i>Melanogrammus aeglefinus</i>	VIIb

## B) Deep-Sea Species

Stock (common name)	FAO code	Scientific Name	ICES subareas
Baird's smoothhead	ALC	<i>Alepocephalus bairdii</i>	I to XIV
Risso's smoothhead	PHO	<i>Alepocephalus rostratus</i>	I to XIV
Blue antimora (Blue hake)	ANT	<i>Antimora rostrata</i>	I to XIV
Black scabbardfish	BSF	<i>Aphanopus carbo</i>	I to XIV
Iceland catshark	API	<i>Apristurus</i> spp.	I to XIV
Greater silver smelt	ARG	<i>Argentina silus</i>	I to XIV
Alfonsinos	ALF	<i>Beryx</i> spp.	I to XIV
Tusk	USK	<i>Brosme brosme</i>	I to XIV
Gulper shark	GUP	<i>Centrophorus granulosus</i>	I to XIV
Leafscale gulper shark	GUQ	<i>Centrophorus squamosus</i>	I to XIV
Black dogfish	CFB	<i>Centroscyllium fabricii</i>	I to XIV
Portuguese dogfish	CYO	<i>Centroscymnus coelolepis</i>	I to XIV
Longnose velvet dogfish	CYP	<i>Centroscymnus crepidater</i>	I to XIV

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<b>B)Deep-Sea Species</b>			
Deep-water red crab	KEF	<i>Chaceon (Geryon) affinis</i>	I to XIV
Rabbit fish (Rattail)	CMO	<i>Chimaera monstrosa</i>	I to XIV
Frilled shark	HXC	<i>Chlamydoselachus anguineus</i>	I to XIV
Conger eel	COE	<i>Conger conger</i>	I to XIV
Roundnose grenadier	RNG	<i>Coryphaenoides rupestris</i>	I to XIV
Kitefin shark	SCK	<i>Dalatias licha</i>	I to XIV
Birdbeak dogfish	DCA	<i>Deania calceus</i>	I to XIV
Black (Deep-water) cardinal fish	EPI	<i>Epigonus telescopus</i>	I to XIV
Greater lanternshark	SHL	<i>Etmopterus princeps</i>	I to XIV
Velvet belly	SHL	<i>Etmopterus spinax</i>	I to XIV
Blackmouth dogfish	SHO	<i>Galeus melastomus</i>	I to XIV
Mouse catshark	GAM	<i>Galeus murinus</i>	I to XIV
Bluemouth (Blue mouth redfish)	BRF	<i>Helicolenus dactylopterus</i>	I to XIV
Bluntnose six-gilled shark	SBL	<i>Hexanchus griseus</i>	I to XIV
Orange roughy	ORY	<i>Hoplostethus atlanticus</i>	I to XIV
Silver roughy (Pink)	HPR	<i>Hoplostethus mediterraneus</i>	I to XIV
Large-eyed rabbit fish (Ratfish)	CYH	<i>Hydrolagus mirabilis</i>	I to XIV
Silver scabbard fish (Cutlass fish)	SFS	<i>Lepidopus caudatus</i>	I to XIV
Eelpout	ELP	<i>Lycodes esmarkii</i>	I to XIV
Roughhead grenadier (Rough rattail)	RHG	<i>Macrourus berglax</i>	I to XIV
Blue ling	BLI	<i>Molva dypterygia</i>	I to XIV
Ling	LIN	<i>Molva molva</i>	I to XIV
Common mora	RIB	<i>Mora moro</i>	I to XIV
Sailfin roughshark (Sharpback shark)	OXN	<i>Oxynotus paradoxus</i>	I to XIV
Red (blackspot) seabream	SBR	<i>Pagellus bogaraveo</i>	I to XIV

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<b>B) Deep-Sea Species</b>			
Forkbeards	GFB	<i>Phycis</i> spp.	I to XIV
Wreckfish	WRF	<i>Polyprion americanus</i>	I to XIV
Round skate	RJY	<i>Raja fyllae</i>	I to XIV
Arctic skate	RJG	<i>Raja hyperborea</i>	I to XIV
Norwegian skate	JAD	<i>Raja nidarosiensis</i>	I to XIV
Greenland halibut	GHL	<i>Rheinhardtius hippoglossoides</i>	I to XIV
Straightnose rabbitfish	RCT	<i>Rhinochimaera atlantica</i>	I to XIV
Knifetooth dogfish	SYR	<i>Scymnodon ringens</i>	I to XIV
Small redfish (Norway haddock)	SFV	<i>Sebastes viviparus</i>	I to XIV
Greenland shark	GSK	<i>Somniosus microcephalus</i>	I to XIV
Spiny (Deep-sea) Scorpionfish	TJX	<i>Trachyscorpia cristulata</i>	I to XIV

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## Appendix

### Statements on Article 51

The European Parliament, the Council and the Commission note that any of the provisions of a non-essential character of the basic legislative act, which now are listed under Article 51 of the Regulation (delegation of powers), can become at any time in the future a significant element of the existing NEAFC control scheme from a political point of view, in which case the European Parliament, the Council and the Commission recall that either of the legislators, the Council or the European Parliament, can immediately exercise either the right to object to a draft Commission delegated act or the right to revoke the delegated powers as provided under Article 48 and Article 49 of the Regulation respectively.

The Council and the Parliament agree that the inclusion of any provision of the NEAFC control scheme into this Regulation as a non-essential element, now listed under Article 51, does not imply per se that such provisions will automatically be considered by the legislators to be of a non-essential character in any future Regulations.

The European Parliament, the Council and the Commission declare that the provisions of this Regulation shall be without prejudice to any future position of the institutions as regards the implementation of Article 290 TFEU or individual legislative acts containing such provisions.

## [<sup>F5</sup>ANNEX II

### GENERAL GUIDELINES FOR RISK MANAGEMENT IN RELATION TO PORT MEMBER STATE CONTROL

Risk management means the systematic identification of risks and the implementation of all measures necessary for limiting the occurrence of those risks. This includes activities such as collecting data and information, analysing and assessing risks, preparing and taking action and regular monitoring and review of the process and its outcomes.

On the basis of its risk assessment, each port Member State defines its risk-management strategy to facilitate compliance with this Regulation. That strategy should encompass the identification, description and allocation of appropriate cost-effective control instruments and inspection means, in relation to the nature and the estimated level of each risk, and the achievement of target benchmarks.

Risk-assessment and management criteria are laid down for checking, inspection and verification activities in order to allow timely risk analyses and general assessments of relevant control and inspection information.

Individual fishing vessels, groups of fishing vessels, operators, and/or fishing activity, on different species and in different parts of the Convention Area are subject to control and inspections in accordance with the level of risk attributed, using, *inter alia*, the following general assumptions of risk-level criteria in relation to the port Member State control of landings and transshipments in port:

- (a) catches taken by a non-Contracting Party vessel;
- (b) frozen catches;
- (c) catches of a large volume;

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- (d) catches previously transhipped at sea;
- (e) catches taken outside the waters under the jurisdiction of Contracting Parties, i.e. in the Regulatory Area;
- (f) catches taken both inside and outside the Convention Area;
- (g) catches of high value species;
- (h) catches of fishery resources for which there are particularly limited fishing opportunities;
- (i) number of inspections previously carried out and number of detected infringements for a vessel and/or operator.]

### [<sup>F5</sup> ANNEX III

#### PORT MEMBER STATE INSPECTION PROCEDURES

National inspectors shall:

- (a) verify that the vessel identification documentation on board and information relating to the owner of the vessel is true, complete and correct, including through appropriate contacts with the flag state or international records of vessels if necessary;
- (b) verify that the vessel's flag and markings (e.g. name, external registration number, International Maritime Organisation (IMO) ship identification number, international radio call sign and other markings, main dimensions) are consistent with information contained in the documentation;
- (c) verify that the authorisations for fishing and fishing-related activities are true, complete, correct and consistent with the information provided in accordance with Article 24;
- (d) review all other relevant documentation and records held on board, including those in electronic format and vessel monitoring system (VMS) data from the flag state or relevant regional fisheries management organisations. Relevant documentation may include logbooks, catch, transhipment and trade documents, crew lists, stowage plans and drawings, descriptions of fish holds, and documents required pursuant to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES);
- (e) examine all relevant fishing gear on board, including any gear stowed out of sight as well as related devices, and verify that they are in conformity with the conditions of the authorisations. The fishing gear shall also be checked to ensure that features such as the mesh and twine size, devices and attachments, dimensions and configuration of nets, pots, dredges, hook sizes and numbers are in conformity with applicable regulations and that the markings correspond to those authorised for the vessel;
- (f) determine whether the fish on board were harvested in accordance with the applicable authorisations;
- (g) monitor the entire discharge or transhipment and cross-check between the quantities by species recorded in the prior notice of landing and the quantities by species landed or transhipped;



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- (h) examine the fish, including by sampling, to determine their quantity and composition. In doing so, inspectors may open containers where the fish have been pre-packed and move the catch or containers to ascertain the integrity of fish holds. Such examination may include inspections of product type and determination of nominal weight;
- (i) when the landing or transshipment is completed, verify and note the quantities by species of fish remaining on board;
- (j) evaluate whether there is clear evidence for believing that a vessel has engaged in IUU fishing or fishing-related activities in support of such fishing;
- (k) provide the master of the vessel with the report containing the result of the inspection, including possible measures that could be taken, to be signed by the inspector and the master. The master's signature on the report shall serve only as acknowledgment of the receipt of a copy of the report. 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. A copy of the report shall be provided to the master; and
- (l) arrange, where necessary and possible, for the translation of relevant documentation.]

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- (1) Opinion of 17 March 2010 (not yet published in the Official Journal).
- (2) Position of the European Parliament of 19 October 2010 (not yet published in the Official Journal) and decision of the Council of 29 November 2010.
- (3) OJ L 227, 12.8.1981, p. 21.
- (4) OJ L 22, 26.1.2009, p. 1.
- (5) OJ L 343, 22.12.2009, p. 1.
- (6) OJ L 184, 17.7.1999, p. 23.
- (7) OJ L 337, 30.12.1999, p. 1.
- (8) OJ L 56, 2.3.2005, p. 8.
- (9) OJ L 261, 20.10.1993, p. 1.
- (10) [<sup>F4</sup>Commission Implementing Regulation (EU) No 433/2012 of 23 May 2012 laying down detailed rules for the application of Regulation (EU) No 1236/2010 of the European Parliament and of the Council laying down a scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries (OJ L 136, 25.5.2012, p. 41).]
- (11) [<sup>F1</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, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999 (OJ L 286, 29.10.2008, p. 1).]

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#### Textual Amendments

- F1** Substituted by Regulation (EU) 2016/96 of the European Parliament and of the Council of 20 January 2016 amending Regulation (EU) No 1236/2010 laying down a scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries.
- F4** Substituted by Commission Delegated Regulation (EU) 2015/1341 of 12 March 2015 amending Regulation (EU) No 1236/2010 of the European Parliament and of the Council laying down a scheme of control and enforcement applicable in the area covered by the Convention on future multilateral cooperation in the North-East Atlantic fisheries.

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