EUROPEAN UNION

THE EUROPEAN PARLIAMENT **THE COUNCIL**

Brussels, 14 November 2023
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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2019/833 laying down conservation and enforcement measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation

REGULATION (EU) 2023/…
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of …

amending Regulation (EU) 2019/833
laying down conservation and enforcement measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation

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,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[1],

Acting in accordance with the ordinary legislative procedure[2],

[1] OJ C 293, 18.8.2023, p. 144.
[2] Position of the European Parliament of 9 November 2023 (not yet published in the Official Journal) and decision of the Council of …

Whereas:

(1) Regulation (EU) 2019/833 of the European Parliament and of the Council[1] implemented into Union law the most up-to-date rules for conservation and enforcement measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation (NAFO). That Regulation was subsequently amended by Regulations (EU) 2021/1231[2] and (EU) 2022/2037[3] of the European Parliament and of the Council, in order to implement into Union law the measures adopted by NAFO at its annual meetings in 2019, 2020 and 2021.

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1 Regulation (EU) 2019/833 of the European Parliament and of the Council of 20 May 2019 laying down conservation and enforcement measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation, amending Regulation (EU) 2016/1627 and repealing Council Regulations (EC) No 2115/2005 and (EC) 1386/2007 (OJ L 141, 28.5.2019, p. 1).

2 Regulation (EU) 2021/1231 of the European Parliament and of the Council 14 July 2021 amending Regulation (EU) 2019/833 laying down conservation and enforcement measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation (OJ L 274, 30.7.2021, p. 32).

3 Regulation (EU) 2022/2037 of the European Parliament and of the Council of 19 October 2022 amending Regulation (EU) 2019/833 laying down conservation and enforcement measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation (OJ L 275, 25.10.2022 p. 11).

(2) At its 44th Annual Meeting in September 2022, NAFO adopted a number of legally binding measures for the conservation of fishery resources under its purview as regards new duties of flag States relating to the submission of research plans, vessel requirements to carry out research activities, the regulation of trial tow upon first entry into a Division on a fishing trip, adjustments for redfish 3M NAFO Division closures, prohibition of landing, transhipment and retention on board of Greenland shark (*Somniosus microcephalus*) and the cross-listing of vessels carrying out illegal, unreported and unregulated (IUU) fishing from other regional fisheries management organisations.

(3) Those measures are addressed to NAFO Contracting Parties and also contain obligations for operators. Following their entry into force on 1 December 2022, NAFO conservation and enforcement measures (CEM) are binding on all NAFO Contracting Parties. As regards the Union, they are to be implemented into Union law to the extent that they are not already provided for therein.

(4) Regulation (EU) 2019/833 should therefore be amended in order to implement those new CEM into Union law.

(5) Certain provisions of the CEM are likely to be amended at future NAFO annual meetings following the introduction of new measures relating to fisheries research plans. In order to implement swiftly into Union law such future amendments to the CEM, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of Member State duties relating to the submission of research plans and in respect of vessel requirements to carry out research activities. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[1]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(6) Regulation (EU) 2019/833 should therefore be amended,

HAVE ADOPTED THIS REGULATION:

[1] OJ L 123, 12.5.2016, p. 1.

Article 1

Amendments to Regulation (EU) 2019/833

Regulation (EU) 2019/833 is amended as follows:

(1) in Article 4, paragraphs 2 to 6 are replaced by the following:

‘2. The flag Member State shall:

(a) by electronic transmission in the format prescribed in Annex II.C to the CEM referred to in point 5 of the Annex to this Regulation, and prior to the commencement of the research, notify the Commission of all research vessels entitled to fly its flag that are authorised by it to conduct research activities in the Regulatory Area;

(b) provide the Commission with a research plan for all vessels entitled to fly its flag that are authorised by it to conduct research activities in the Regulatory Area, no later than 40 days prior to the opening of the June meeting of the NAFO Scientific Council, in the cases of non-recurrent new surveys and research activities and where catches retained on board during research activities are intended for marketing and, in other cases, no later than ten days prior to the commencement of the research;

(c) ensure that a research plan of surveys conducted in the Regulatory Area targeting stocks subject to fishing opportunities contains as a minimum the following information:

(i) vessel identification;

(ii) purpose;

(iii) summary of scientific methods or procedures;

(iv) location and dates of the research activity;

(v) the name of the principal investigator;

(vi) whether any catches retained on board will be marketed;

(vii) total estimated research catch of the survey target species and whether an observer with sufficient scientific expertise will be on board;

(viii) information on when the research results will be presented to the NAFO Scientific Council;

(ix) where relevant, any requests to derogate from this point; and

(x) where relevant, an indication that the activity constitutes a non-recurrent new survey or research; and

(d) notify the Commission immediately of the commencement and termination of research activities by vessels temporarily engaged in research, including during fishing trips in which both commercial and research activities take place.

3. Vessels engaged in research shall:

(a) keep on board a copy of the research plan and any changes thereto in the English language at all times; and

(b) for surveys conducted in the Regulatory Area targeting stocks subject to fishing opportunities, stow catches taken in research activities separately with netting, plywood, boxes or other means from all other catches taken in fishing trips in which both commercial and research activities are carried out; the location of the catches taken in research activities shall be indicated in the stowage plan.

4. Unless otherwise supported by the an opinion of the NAFO Scientific Council, research vessels conducting surveys in the Regulatory Area targeting stocks subject to fishing opportunities and retaining on board catches obtained during such research activities with the purpose of marketing those catches shall:

(a) comply with the recording and reporting requirements laid down in Chapter V;

(b) have an observer with sufficient expertise on board; and

(c) count those catches against the Member State's relevant quota and fishing effort limitations set out in fishing opportunities.

5. Unless otherwise provided for in this Regulation, research vessels shall not be restricted by CEM pertaining to the catching of fish in the Regulatory Area, in particular concerning mesh size, size limits, closed areas and seasons.

6. The Commission shall forward the information notified by flag Member States in accordance with paragraph 2 to the NAFO Executive Secretary without delay.';

(2) in Article 6(1), point (e) is replaced by the following:

'(e) close its redfish fishery in Division 3M at 24:00 UTC of the day the accumulated reported catch is estimated to reach 100 % of the TAC of redfish in Division 3M, as notified in accordance with paragraph 3;';

(3) in Article 8, the following paragraph is added:

‘5. Upon its first entrance into a Division on a fishing trip, a vessel may undertake one trial tow for up to a maximum duration of three hours. If the stocks subjected to by-catch limits form the largest percentage, by weight, of the total resultant catch in the haul, this shall not be considered as a directed fishery for those stocks, and the vessel shall immediately change position in accordance with paragraph 1, point (b). Vessels shall identify any trial tow conducted in accordance with this paragraph and shall record in the fishing logbook the coordinates pertaining to the start and end locations of any trial tow conducted.’;

(4) in Article 12, paragraph 9 is replaced by the following:

‘9. It shall be prohibited to conduct a directed fishery for retaining, transshipping or landing part or whole of a Greenland shark (*Somniosus microcephalus*) in the Regulatory Area.’;

(5) in Article 44, point (c) is replaced by the following:

‘(c) included in the IUU list of the Commission for the Conservation of Antarctic Marine Living Resources[*], the Commission for the Conservation of Southern Bluefin Tuna[**], the Inter-American Tropical Tuna Commission[***], the International Commission for the Conservation of Atlantic Tunas[****], the Indian Ocean Tuna Commission[*****], the General Fisheries Commission for the Mediterranean[******], the North East Atlantic Fisheries Commission[*******], the North Pacific Fisheries Commission[********], the South East Atlantic Fisheries Organisation[*********], the Southern Indian Ocean Fisheries Agreement[**********], the South Pacific Regional Fisheries Management Organisation[********** or the Western and Central Pacific Fisheries Commission[**********.

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[*] The Convention on the Conservation of Antarctic Marine Living Resources drawn up in Canberra 20 May 1980 and entered into force on 7 April 1982 (OJ L 252, 5.9.1981, p. 26).

[**] The Convention for the Conservation of Southern Bluefin Tuna done in Canberra on 10 May 1993 and entered into force on 20 May 1994 (OJ L 336, 23.12.2015, p. 27).

[***] The Convention for the strengthening of the Inter-American Tropical Tuna Commission established by the 1949 Convention between the United States of America and the Republic of Costa Rica (Antigua Convention) done in Washington 14 November 2003 and entered into force on 27 August 2010 (OJ L 224, 16.8.2006, p. 22).

**** The International Convention for the Conservation of Atlantic Tunas signed in Paris on 10 July 1984 and entered into force on 9 January 1997 (OJ L 162, 18.6.1986, p. 34).

***** The Agreement for the establishment of the Indian Ocean Tuna Commission signed in Rome 25 November 1993 and entered into force on 27 March 1996 (OJ L 236, 5.10.1995, p. 25).

****** Agreement establishing the General Fisheries Commission for the Mediterranean originally formulated at Rome 24 September 1949 and entered into force on 20 February 1952 (OJ L 190, 4.7.98, p. 37).

******* The Convention on future multilateral cooperation in the North-East Atlantic Fisheries signed in London on 18 November 1980 and entered into force on 17 March 1982 to which European Community acceded on 13 July 1981 (OJ L227, 12.8.1981, p.22).

******** The Convention on the Conservation and Management of High Seas Fisheries Resources in the North Pacific Ocean done at tokyo 24 February 2012 and entered into force on 19 July 2015 (OJ L 55, 28.2.2022, p. 14).

********* The Convention on the Conservation and Management of Fishery Resources in the South-East Atlantic Ocean done at Windhoek, Namibia, 20 April 2001 and entered into force on 13 April 2003 (OJ L 234, 31.8.2002, p. 40).

********** The Southern Indian Ocean Fisheries Agreement (SIOFA) signed in Rome the 7 July 2016 and entered into force on 21 June 2012 (OJ L 196, 18.7.2006, p. 5 and OJ L 76 M, 16.3.2007, p. 78).

*********** The Convention on the Conservation and Management of High Seas Fishery Resources in the South Pacific Ocean done at Auckland on 14 November 2009 and entered into force on 24 August 2012 (OJ L 67, 6.3.2012, p. 1).

************ The Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean done at Honolulu on 5 September 2000 and entered into force on 19 June 2004 (OJ L 32, 4.2.2005, p. 1).';

(6) in Article 50(2), the following points are added:

‘(m) flag Member State duties in relation to research plans referred to in Article 4(2);

(n) requirements for vessels engaged in the research referred to in Article 4(3), (4), and (5).’.

Article 2

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at …,

For the European Parliament	*For the Council*
The President	*The President*