Council of the European Union

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PECHE 135

PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	29 May 2020
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2020) 215 final
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending the 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

Delegations will find attached document COM(2020) 215 final.

Encl.: COM(2020) 215 final

EUROPEAN
COMMISSION

Brussels, 29.5.2020
COM(2020) 215 final

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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending the 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

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The main purpose of the proposal is to turn into Union law the amendments to the conservation and enforcement measures adopted by the Northwest Atlantic Fisheries Organisation (NAFO) at its last annual meeting in 2019. The proposal also includes the NAFO editorial improvements and adapts the wording to the EU legal context. NAFO is the regional fisheries management organisation responsible for managing fishery resources in the Northwest Atlantic under its purview. NAFO's conservation and management measures apply exclusively to the NAFO Regulatory Area, the high seas, defined as the area that lies beyond the area where coastal states exercise fisheries jurisdiction. The EU has been a Contracting Party to NAFO since 1979.

The NAFO Convention states that the conservation measures adopted by the NAFO Commission are binding (Articles XIV, VI.8 and VI.9) and that the contracting parties are required to implement them.

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

Regulation (EU) 2019/833 turned into Union law the NAFO conservation and enforcement measures. This proposal covers most the recent amendments adopted by NAFO. These amendments entered into force for the Union on 2 December 2019 and apply from that date.

• Consistency with existing policy provisions in the policy area

The proposal is consistent with Regulation (EU) 2019/833.

The proposal is in line with Part VI (external policy) of Regulation (EU) No 1380/2013 on the common fisheries policy providing that the Union conducts its external fisheries in accordance with its international obligations, basing EU fishing activities on regional fisheries cooperation, and engaging the European Fisheries Control Agency to ensure compliance.

The proposal complements Regulation (EU) 2017/2403 concerning the external fleet management, providing that Union fishing vessels are subject to Regional Fisheries Management Organisations fishing authorisations, and Council Regulation (EC) No 1005/2008 concerning illegal unreported and unregulated fishing providing for inclusion of the NAFO Illegal, Unreported and Unregulated (IUU) list into the Union IUU vessels list.

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

• Consistency with other Union policies

The proposal is consistent with other Union policies.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The proposal is based on Article 43(2) TFEU, as it sets out the provisions needed to pursue the objectives of the common fisheries policy.

• Subsidiarity (for non-exclusive competence)

The proposal falls under the exclusive competence of the Union (Article 3(1)(d) TFEU). The subsidiarity principle, therefore does not apply.

• Proportionality

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

• Choice of the instrument

The instrument of choice amends Regulation (EU) 2019/833.

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

• Ex-post evaluations/fitness checks of existing legislation

Not relevant.

• Stakeholder consultations

The purpose of this proposal is to amend Regulation (EU) 2019/833 by including the most recent changes to conservation and enforcement measures adopted at the NAFO annual meeting of September 2019. These amendments are binding upon the contracting parties. EU Member States national experts and industry representatives were consulted both during the run-up to the NAFO annual meeting at which these recommendations were adopted and during the NAFO negotiations.

• Collection and use of expertise

This proposal turns into Union law a NAFO recommendation that was adopted in accordance with the NAFO standing committees on scientific and control advice.

• Impact assessment

Not relevant. This proposal turns into Union law a NAFO recommendation that is binding on Contracting Parties directly applicable to Member States.

• Regulatory fitness and simplification

This proposal is not linked to regulatory fitness and simplification (REFIT).

- **Fundamental rights**

This proposal has no impact on the protection of fundamental rights.

4. BUDGETARY IMPLICATIONS

This proposal has no budgetary implications.

5. OTHER ELEMENTS

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

Not applicable.

- **Explanatory documents (for directives)**

Not applicable.

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

The proposal includes technical amendments such as improving and clarifying the language on catch and effort limitations, closure of fisheries, catch retained on-board, mesh sizes, fishing and production logbooks, including additional inspection duties and simplifying the monthly catch reports.

The proposal also includes NAFO's editorial changes to a few provisions concerning Greenland halibut, production logbook, cross-references to infringements and infringement procedures. It introduces definitions and reference to the NAFO monitoring, control and surveillance website together with the relevant protocol for granting access to this website.

The proposal also amends Regulation (EU) 2019/833 by clarifying the use of gauges and makes it clear that NAFO norms should be applied. The proposal incorporates the NAFO conservation and enforcement measures definition of 'fishing vessel' as its scope is wider than the definition in Council Regulation (EC) No 1224/2009. This will allow EU control and enforcement authorities to work in line with other NAFO Contracting Parties. The proposal improves the information flow between the Member States fisheries authorities, the Commission and the NAFO Secretariat and acknowledges the role of the European Fisheries Control Agency in coordinating the inspection means deployed within the NAFO Joint Inspection and Surveillance Scheme. It introduces provisions to protect the Greenland shark. It clarifies the need for the consent of the port State Contracting Party to be given to inspectors of another Contracting Party as well as the chartering arrangements that should apply at NAFO level. The proposal also delegates to the Commission powers to amend the NAFO conservation and enforcement provisions on mesh sizes, sorting grids or grates and toggle chains in the Northern prawn fishing, and area restrictions for the bottom fishing activities. These provisions are likely to be amended at upcoming NAFO annual meetings, starting from 2020, and will likely enter into force just before 2021 fishing season. The prompt amendment of these provisions will be needed to allow Union vessels to fish on the same footing as vessels of other NAFO Contracting Parties for every future fishing season.

2020/0095 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending the 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

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,

Whereas:

(1) Since the adoption of Regulation (EU) 2019/833 of the European Parliament and of the Council[2], the Northwest Atlantic Fisheries Organisation (NAFO) adopted at its 41st Annual Meeting a number of legally binding decisions for the conservation of fishery resources under its purview.

(2) Those decisions are addressed to the NAFO Contracting Parties, but also contain obligations for the operators. Following their entry into force on 2 December 2019, NAFO Conservation and Enforcement Measures (CEM) are binding on all NAFO Contracting Parties. As regards the Union, they are to be incorporated into Union law to the extent they are not already provided for by Union law.

(3) Regulation (EU) 2019/833 should therefore be adapted in order apply NAFO mesh measurement norms, introduce the definition of fishing vessel used by NAFO to allow the EU control and enforcement authorities to work in line with other NAFO Contracting Parties, and to improve the information flow between the Member States authorities, the Commission and NAFO Executive Secretary.

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1 OJ C , , p. .

2 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).

(4) In accordance with Article 3(c) and (i) of Regulation (EU) 2019/473[3], the mission of the European Fisheries Control Agency (EFCA) is, inter alia, to organise the operational coordination of fisheries control and inspection activities by the Member States for the implementation of international control and inspection programmes such as the NAFO Joint Inspection and Surveillance Scheme; and to assist Member States in reporting information on fishing activities and control and inspection activities to the Commission and third parties. It is therefore appropriate to establish EFCA as the body that shall receive from Member States and transmit to the NAFO Executive Secretary information relating to inspection and control such us seagoing inspection reports and notifications of the control observers' scheme.

(5) The CEM procedure for Contracting Parties to transmit information to the NAFO Monitoring, Control and Surveillance site consists now of sending the information to be uploaded to the NAFO Executive Secretary. It is therefore necessary update the relevant provisions in the Regulation to reflect this change and to clarify the channels to be used by Member States to transmit the information.

(6) It is also necessary to introduce the CEM provisions for the protection of Greenland shark, to align the provisions of chartering arrangements with those in the NAFO CEM and to spell out the need of the consent of the port State Contracting Party to be given to inspectors of another Contracting Party for their deployment.

(7) Certain provisions of the CEM are likely to be amended at NAFO Annual Meetings due to introduction of new technical measures in relation to changing stocks biomass and review of area restrictions for bottom fishing activities. Therefore, in order to swiftly incorporate into Union law future amendments to the CEM, before start of fishing season, 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 the following aspects: the regulation of mesh sizes, sorting grids or grates and toggle chains in the Northern prawn fishing; and area restrictions for the bottom fishing activities. It is of particular importance that the Commission carries 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[4]. 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.

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

HAVE ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EU) 2019/833

[3] Regulation (EU) 2019/473 of the European Parliament and of the Council of 19 March 2019 on the European Fisheries Control Agency (OJ L 83, 25.3.2019, p. 18).

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

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

(1) Article 3 is amended as follows:

(a) Point (6) is replaced by following:

‘(6) “Fishing vessel” means any Union vessel equipped for, intended for, or engaged in fishing activities, including fish processing, transhipment or any other activity in preparation for or related to fishing activities, including experimental or exploratory fishing activities.’;

(b) Point (31) is added:

‘(31) “MCS Website” means the NAFO Monitoring, Control and Surveillance Website that contains information relevant for at-sea and in-port inspections. The procedure for granting access to this website to individuals within Contracting Parties is outlined in Annex II.XX to the CEM referred to in point 45 of the Annex to this Regulation.’.

(2) Article 5 is amended as follows:

(a) Paragraph 2 is replaced by the following:

‘2. Member States may permit fishing vessels flying their flag to fish for stocks for which the Union has not been allocated a quota in accordance with the fishing opportunities in force (the ‘Others’ quota), if such quota exists and notification of closure has not been given by the NAFO Executive Secretary.’;

(b) In paragraph 3, point (c) is replaced by the following:

‘(c) notify the Commission and EFCA of the names of Union vessels that intend to fish ‘Others’ quota at least 48 hours in advance of each entry, and after a minimum of 48 hours of absence from the Regulatory Area. That notification shall, if possible, be accompanied by an estimate of the projected catch. Where the Commission considers that the relevant conditions established in the NAFO CEM are met, it shall notify the NAFO Executive Secretary.’.

(3) Article 6(1) is amended as follows:

(a) Point (d) is replaced by the following:

‘(d) close its directed fishery for redfish in Division 3M between 24:00 UTC of the day the accumulated reported catch is estimated to reach 50% of the TAC of redfish in Division 3M, as notified in accordance with paragraph 3, and 1 July.’;

(b) Point (e) is replaced by the following:

‘(e) close its directed fishery for redfish 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.’.

(4) Article 7(2) is amended as follows:

(a) Point (a) is replaced by the following:

‘(a) no quota has been allocated to the Union for that stock in that Division, in accordance with the fishing opportunities in force.’;

(b) Point (b) is replaced by the following:

‘(b) a ban on fishing for that particular stock is in force (moratorium); or’.

(5) Article 10 is amended as follows:

(a) Paragraph 1 is amended as follows:

(i) Point (c) is replaced by the following:

‘(c) each Member State shall send to the Commission the name of every port it has so designated, which shall transmit it to the NEAFC Executive Secretary. Any subsequent changes to the list shall be sent in replacement of the previous one not less than 20 days before the change comes into effect.’;

(ii) Point (e) is replaced by the following:

‘(e) each Member State shall inspect each landing of Greenland halibut in its ports and prepare an inspection report in the format prescribed in Annex IV.C to the CEM referred to in point 9 of the Annex to this Regulation, and send it to the NAFO Executive Secretary with the Commission and EFCA in copy, within 14 working days from the date on which the inspection was completed. The report shall identify and provide details of any infringement of this Regulation detected during the port inspection. It shall include all relevant information available with regard to infringements detected at sea during the current trip of the inspected fishing vessel.’;

(b) Paragraph 2(d)(i) is replaced by the following:

‘it receives no confirmation within 72 hours of the notification it has transmitted in accordance with point (a); or’.

(6) In Article 12, the following paragraphs 9 and 10 are added:

‘9. It shall be prohibited to conduct a directed fishery for Greenland shark (*Somniosus microcephalus*) in the Regulatory Area.

10. Fishing vessels flying the flag of a Member State shall undertake all reasonable efforts to minimize incidental catch and mortality, and where alive, release Greenland sharks in a manner that causes the least possible harm.’.

(7) Article 13 is amended as follows:

(a) Paragraph 1 is replaced by the following:

‘1. For the purpose of this Article, mesh size shall be measured in accordance with Annex III.A to the CEM referred to in point 10 of the Annex to this Regulation.’;

(b) Paragraph 2, point (a) is replaced by the following:

‘(a) 40 mm for shrimps, including prawns (PRA).’.

(8) In Article 18, paragraph 4 is deleted.

(9) Article 23 is replaced by the following:

‘*Article 23*

Chartering arrangements

1. For the purpose of this Article, ‘chartering Contracting Party’ shall refer to the Contracting Party that holds an allocation as indicated in Annex I.A and Annex I.B to the CEM, or the Member State that holds a fishing opportunities allocation, and ‘flag State Contracting Party’ shall refer to the Contracting Party or to the Member State in which the chartered vessel is registered.

2. All or part of the fishing allocation of a chartering Contracting Party can be harvested using a chartered authorised vessel (‘chartered vessel’) flying the flag of another Contracting Party, subject to the following conditions:

(a) the flag State Contracting Party has consented in writing to the chartering arrangement;

(b) the chartering arrangement is limited to one fishing vessel per flag State Contracting Party in any calendar year;

(c) the duration of the fishing operations under the chartering arrangement does not exceed six months cumulatively in any calendar year; and

(d) the chartered vessel is not a vessel that has previously been identified as having engaged in IUU fishing.

3. All catch and by-catch taken by the chartered vessel in accordance with the chartering arrangement shall be attributed to the chartering Contracting Party.

4. The flag State Contracting Party shall not authorise the chartered vessel, when conducting fishing operations under the chartering arrangement, to fish any of the flag State Contracting Party's allocations or under another charter at the same time.

5. No transhipment at sea may be carried out without the prior authorisation of the chartering Contracting Party, which shall ensure that it is carried out under the supervision of an observer on board.

6. The flag State Contracting Party shall notify the NAFO Executive Secretary in writing prior to the start of the chartering arrangement of its consent to the chartering arrangement and provide to the chartered vessel a copy of the notice issued by the NAFO Executive Secretary with the details of the chartering.

7. Where the chartered vessel is a Union fishing vessel, the flag Member State shall notify the Commission in writing prior to the start of the chartering arrangement. Where the Commission considers that the relevant conditions established in the CEM

are met, it shall notify the NAFO Executive Secretary of the consent to the chartering arrangement.

8. The chartering Contracting Party shall, before the date the chartering arrangement is effective, provide the following information in writing to the NAFO Executive Secretary and to the chartered vessel, which shall at all times carry a copy on board:

(a) the name, flag State registration, IMO number and flag State of the vessel;

(b) previous name(s) and flag State(s) of the vessel, if any;

(c) the name and address of the owner(s) and operators of the vessel;

(d) a copy of the chartering arrangement and any fishing authorisation or licence the chartering Contracting Party has issued to the chartered vessel; and

(e) the allocation assigned to the vessel.

9. Where the chartering Contracting Party is the European Union, the chartering Member State shall notify the information referred to in the paragraph 8 to the Commission before the chartering arrangement is effective. Where the Commission considers that the relevant conditions established in the CEM are met, it shall transmit the information to the NAFO Executive Secretary.

10. Where the chartered vessel is a Union fishing vessel, the flag Member State shall notify the Commission immediately upon the occurrence of any of the following events:

(a) start of fishing operations under the chartering arrangement;

(b) suspension of fishing operations under the chartering arrangement;

(c) resumption of fishing operations under a chartering arrangement that has been suspended;

(d) end of fishing operations under the chartering arrangement.

11. The flag State Contracting Party shall maintain a separate record of catch and by-catch data from fishing operations in accordance with every charter of a vessel flying its flag and report them to the Commission, which transmit it to the chartering Contracting Party and the NAFO Executive Secretary.'.

(10) Article 25 is amended as follows:

(a) Paragraph 2(a) is replaced by the following:

'(a) accurately records the catch of each tow/set by Division;';

(b) Paragraph 3 is amended as follows:

(i) point (b) is replaced by the following:

'(b) records the production of each species and product type by Division;';

(ii) point (d) is replaced by the following:

‘(d) records each entry in accordance with Article 24;’;

(iii) the following point (e) is added:

‘(e) and when production has occurred on the day of an inspection, makes the information related to any catch processed for that day available to an inspector upon request.’;

(c) Paragraph 6 is amended as follows:

(i) point (c) is replaced by the following:

‘(c) catch report (CAT): quantity of catch retained and quantity discarded by species for the day preceding the report, by Division, including nil catch returns, sent daily before 12:00 UTC, unless otherwise submitted in a COX report; nil catch retained and nil discards of all species shall be reported using the 3 alpha code MZZ (marine species not specified) and quantity as ‘0’ as the following examples demonstrate (//CA/MZZ 0//and//RJ/MZZ 0//);’;

(ii) the second subparagraph is replaced by the following:

‘Catch shall be reported at the species level under their corresponding 3-alpha code presented in Annex I.C of the CEM referred to in point 11 of the Annex to this Regulation or if not contained in Annex I.C the FAO Aquatic Sciences and Fisheries Information System List of Species for Fishery Statistics. The estimated weight of sharks caught per haul or set shall also be recorded.’;

(d) In paragraph 9, the following second subparagraph is added :

‘Paragraph (a) above does not apply if all catches have been reported in accordance with paragraph 6 of this Article.’.

(11) Article 27 is amended as follows:

(a) In paragraph 5 the following letter (g) is added:

‘(g) electronically and without delay following its receipt, transmit to the NAFO Executive Secretary the daily observer report referred to in point (e) of paragraph 11;’;

(b) Paragraph 7 is replaced as follows:

‘7. Each Member State shall provide:

(a) not later than 24 hours in advance of an observer's deployment on board a fishing vessel, the name of the fishing vessel and international radio call sign, together with the name and ID (if applicable) of the observer concerned;

(b) within 20 days following the arrival of the vessel in port, the observer trip report referred to in paragraph 11;

(c) by 15 February each year for the previous calendar year, a report on its compliance with the obligations set out in this Article.'.

(c) Paragraph 15 is replaced by the following:

'15. The information that Member States are required to provide in accordance with points (c) and (d) of paragraph 3, point (a) of paragraph 5, point (c) of paragraph 6 and paragraph 7 shall be transmitted to EFCA with the Commission in copy. EFCA shall ensure that this information is transmitted to the NAFO Executive Secretary without delay, for posting on the NAFO MCS website.'.

(12) Article 28 is amended as follows:

(a) Paragraph 2 is replaced by the following:

'2. Inspection and surveillance shall be carried out by inspectors assigned by the Member States, EFCA and the Commission. Member State and the Commission shall notify inspectors to EFCA through the Scheme.';

(b) Paragraph 7 is replaced by the following:

'7. Inspectors visiting a research vessel shall note the status of the vessel, and shall limit inspection procedures to those necessary to ascertain that the vessel is conducting activities consistent with its research plan. Where the inspectors have reasonable grounds to suspect the vessel is conducting activities that are not consistent with its research plan, the Commission and EFCA shall be informed immediately, and the CEM fully apply.'.

(13) Article 30 is amended as follows:

(a) Paragraph 2(a) is replaced by the following:

'(a) transmit the surveillance report to EFCA which shall submit it without delay to the NAFO Executive Secretary for transmission to the flag State Contracting Party of the vessel';

(b) Paragraph 4 is replaced by the following:

'4. Each Member State shall send the investigation report to EFCA, which shall send it to the NAFO Executive Secretariat and to the Commission.'.

(14) Article 33 is amended as follows:

(a) Paragraph 2(c)(ii) is replaced with the following:

'(ii) record summaries as well as differences between the recorded catch and their estimates of the catch on board in the appropriate sections of the inspection report';

(b) Paragraph 3(a) is replaced by the following:

'(a) send to EFCA the at sea inspection report, if possible within 20 days of the inspection, which shall submit it to the NAFO Executive Secretary.'.

(15) Article 34 is amended as follows:

(a) Paragraph 1(g) is replaced by the following:

‘(g) notify any observer on board of the infringement.’;

(b) Paragraph 2 is amended as follows:

(i) point (a) is replaced by the following:

‘(a) within 24 hours from detection of the infringement, transmit to the Commission and EFCA, which shall in turn transmit to the competent authority of the flag State Contracting Party or Member State if different from the inspecting Member State, and the NAFO Executive Secretary, written notification of the infringement reported by its inspectors. The written notification shall include the information entered in the Infringement section of the inspection report in Annex IV.B to the CEM referred to in point 41 of the Annex to this Regulation, cite the relevant measures and describe in detail the basis for issuing the notice of infringement, and the evidence in support of the notice, and where possible, be accompanied by images of any gear, catch or other evidence relating to the infringement referred to in paragraph 1 of this Article;’;

(ii) the second subparagraph is replaced by the following:

‘EFCA shall submit to the NAFO Executive Secretary the inspection report.’.

(16) Article 35(1) is amended as follows:

(a) Point (a) is replaced by the following:

‘(a) fishing an ‘Others’ quota without prior notification to the Commission and EFCA in contravention of Article 5;’;

(b) Point (e) is replaced by the following:

‘(e) fishing in closed area, in contravention of Article 9 (5) and Article 18;’;

(c) Point (k) is replaced by the following:

‘(k) failure to communicate messages relating to catch in contravention of Article 12(1) and Article 25;’;

(d) Paragraph 5 is replaced by the following:

‘5. For the purposes of paragraphs 3 and 4, ‘misrecording of catches’ means a difference of at least 10 tonnes or 20%, whichever is greater, between the inspectors’ estimates of processed catch on board, by species or in total, and the figures recorded in the production logbook, calculated as a percentage of the production logbook figures.’;

(e) Paragraph 6 is replaced by the following:

‘6. Subject to the consent of the flag Member State and of the port State Contracting Party if different, inspectors of another Contracting Party or Member State may participate in the full inspection and enumeration of the catch.’.

(17) Article 39 is amended as follows:

(a) Paragraph 1 is replaced by the following:

‘1. The port Member State shall provide the Commission with a list of designated ports to which fishing vessels may be permitted entry for the purpose of landing, transhipment and/or provision of port services, and shall to the greatest extent possible ensure that each designated port has sufficient capacity to conduct inspections pursuant to this Chapter. The Commission shall notify the NAFO Executive Secretary of the list of designated ports. Any subsequent changes to the list shall be posted in replacement of the previous one no less than 15 days before the change comes into effect.’;

(b) Paragraph 2 is replaced by the following:

‘2. The port Member State shall establish a minimum prior request period. The prior request period shall be three working days before the estimated time of arrival. However, in agreement with the Commission, the port Member State may make provisions for another prior request period, taking into account, inter alia, the catch product type or the distance between fishing grounds and its ports. The port Member State shall provide the information on the prior request period to the Commission, which shall notify the NAFO Executive Secretary.’;

(c) Paragraph 3 is replaced by the following:

‘3. The port Member State shall designate the competent authority which shall act as the contact point for the purposes of receiving requests in accordance with Article 41, receiving confirmations in accordance with Article 40(2) and issuing authorisations in accordance with paragraph 6 of this Article. The port Member State shall provide the name of the competent authority and its contact information to the Commission, which shall notify the NAFO Executive Secretary.’;

(d) Paragraph 8 is replaced by the following:

‘8. The port Member State shall without delay notify the master of the vessel of its decision on whether to authorise or deny the port entry or, if the vessel is in port, the landing, transhipment and other use of port. If the vessel entry is authorised the port Member State shall return to the master of the vessel a copy of the form Port State Control Prior Request Form in Annex II.L to the CEM referred to in point 43 of the Annex to this Regulation with Part C duly completed. This copy shall also be sent to the NAFO Executive Secretary with the Commission and EFCA in copy. In the case of a denial the port Member State shall also notify the flag NAFO Contracting Party.’;

(e) Paragraph 9 is replaced by the following:

‘9. In case of cancellation of the prior request referred to in Article 41(2) the port Member State shall send a copy of the cancelled Port State Control Prior Request Form to the NAFO Executive Secretary with the Commission and EFCA in copy.’;

(f) Paragraph 17 is replaced by the following:

‘17.The port Member State shall without delay send a copy of each port State control inspection report to the NAFO Executive Secretary with the Commission and EFCA in copy.’.

(18) Article 45 is replaced by the following:

‘*Art. 45*

Sighting and inspection of non-Contracting Party vessels in the Regulatory Area

Each Member State or, when appropriate, EFCA, with an inspection and/or surveillance presence in the Regulatory Area authorised under the Joint Inspection and Surveillance Scheme that sights or identifies a non-Contracting Party vessel engaged in fishing activities in the Regulatory Area shall:

(a) transmit immediately the information to the Commission using the format of the surveillance report set out in Annex IV.A to the CEM referred to in point 38 of the Annex to this Regulation;

(b) attempt to inform the master of the vessel that the vessel is presumed to be engaged in IUU fishing and that this information will be distributed to all Contracting Parties, relevant RFMOs and the flag State of the vessel;

(c) if appropriate, request permission from the master of the vessel to board the vessel for inspection; and

(d) where the master of the vessel agrees to inspection:

(i) transmit the inspector's findings to the Commission without delay, using the inspection report form set out in Annex IV.B to the CEM referred to in point 41 of the Annex to this Regulation; and

(ii) provide a copy of the inspection report to the master of the vessel.’.

(19) In Article 50(2) the following points (i), (j) and (k) are added:

‘(i) mesh sizes set out in Article 13(2);

(j) technical specifications for sorting grids, grates and toggle chains in the Northern prawn fishery set out in Article 14(2);

(k) area restrictions for bottom fishing activities set out in Article 18.’.

(20) The Annex is amended as follows:

(a) Point (44) is replaced by the following:

‘(44) Annex IV.H to the CEM on inspections referred to in Article 39(11);’;

(b) The following point (45) is added:

‘(45) Annex II.XX of the CEM referred to in point (31) of Article 3.’.

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 Brussels,

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