

North-East Atlantic Fisheries Commission

NEAFC

SCHEME OF CONTROL AND ENFORCEMENT

London – January 2007

THE NORTH EAST ATLANTIC FISHERIES COMMISSION AT ITS ANNUAL MEETING ON 20 NOVEMBER, 1998, ADOPTED IN ACCORDANCE WITH ARTICLE 8 OF THE CONVENTION, A RECOMMENDATION ON A SCHEME OF CONTROL AND ENFORCEMENT IN RESPECT OF FISHING VESSELS FISHING IN AREAS BEYOND THE LIMITS OF NATIONAL FISHERIES JURISDICTION IN THE CONVENTION AREA

THE SCHEME ENTERED INTO FORCE ON 1 JULY 1999.

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The present text describes the rules binding Contracting Parties as of January 2007

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CHAPTER I - General Provisions

Article 1 - Definitions

For the purpose of this Scheme:

- a) **“Convention Area” means the waters of the Convention Area as defined in Article 1(1) of the Convention;**
- b) “Regulatory Area” means the waters of the Convention Area, which lie beyond the waters under the fisheries jurisdiction of Contracting Parties;
- c) “fisheries resources” are those referred to in Article 1 (2) of the Convention;
- d) “regulated resources” are those of the fisheries resources which are subject to recommendations under the Convention and are listed in Annex I;
- e) “fishing vessel” means any vessel used or intended for use for the purposes of the commercial exploitation of fisheries resources, including fish processing vessels and vessels engaged in transshipment;
- f) **“foreign fishing vessel” means a fishing vessel flying the flag of another Contracting Party;**
- g) **“non-Contracting Party vessel” means any fishing vessel not flagged in a Contracting Party of NEAFC, including vessels for which there are reasonable grounds for suspecting them to be without nationality;**
- h) **“fishing activities” means fishing, including joint fishing operations, fish processing operations, the transshipment or landing of fish or fish products and any other commercial activity in preparation for or related to fishing;**
- i) “transshipment operation” means the transfer, over the side, of any quantity of fisheries resources or products thereof retained on board, from one fishing vessel to another;
- j) “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;
- k) **“port” means any place used for landing or a place close to the shore designated by a Contracting Party for transshipping of fisheries resources;**
- l) “infringement” means any activity or omission of a fishing vessel which gives clear grounds for suspecting that a violation of applicable provisions of both this Scheme and any other relevant recommendation under the Convention has occurred and which is recorded in an inspection or surveillance report in accordance with the Scheme;
- m) **“the term “IUU” means illegal, unreported and unregulated fishing activities as referred to in paragraph 3 of the FAO International Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated fishing.**

Article 2 - Scope

Unless otherwise stated, this Scheme shall apply to all vessels used or intended for use for fishing activities conducted on fisheries resources in the Regulatory Area.

Article 3 - Co-operation

Contracting Parties shall consult, co-operate and exchange information with other Contracting Parties and the Secretary in order to facilitate the implementation of this Scheme.

CHAPTER II - Control Measures

Article 4 - Authorisation to fish

1. Each Contracting Party shall:
 - a) authorise the use of fishing vessels flying its flag for fishing activities only where it is able to exercise effectively its responsibilities in respect of such vessels;
 - b) ensure that only authorised fishing vessels flying its flag conduct fishing activities;
 - c) ensure that fishing vessels flying its flag comply with applicable recommendations adopted under the Convention;
 - d) undertake to manage the number of authorised fishing vessels and their fishing effort commensurate to the fishing opportunities available to that Contracting Party;
2. A master of a fishing vessel shall not engage in transshipment or joint fishing operations with vessels of non-Contracting Parties which have not been granted the status of cooperating non-Contracting Parties in accordance with Article 35.
3. A master of a fishing vessel engaged in transshipment operations which on-loads quantities on board shall not engage in **any other** fishing activity, including joint fishing operations, during the same trip.

Article 5 - Notification of fishing vessels

1. Each Contracting Party shall notify, in computer readable form, to the Secretary prior to 1 January of each year if possible, or in any case before the vessel's entry into the Regulatory Area, all fishing vessels authorised to fish and notably whether the vessel is authorised to fish one or more regulated resource. This notification shall include for each fishing vessel the information listed and in the format of Annex II. Each Contracting Party shall notify any modifications to this information without delay.
2. The Secretary shall make available to all Contracting Parties the information notified under paragraph 1.

Article 6 - Vessel requirements

1. Each Contracting Party shall ensure that its fishing vessels are marked in such a way that they can be readily identified in accordance with generally accepted standards, such as the FAO Standard Specifications for the Marking and Identification of Fishing Vessels.
2. Each Contracting Party shall ensure that its fishing vessels shall carry on board documents issued by the appropriate certifying authority of the State in which it is registered showing at least the elements referred to in Annex III.
3. Each Contracting Party shall ensure that its fishing vessels over 24 metres in length overall shall keep on board up-to-date drawings or descriptions of their fish rooms and refrigerated sea water tanks, including an indication of their storage capacity in cubic metres. Fishing vessels with refrigerated sea water tanks shall keep on board a document indicating the calibration of tanks in cubic metres at intervals of 10 cm.
4. The documents referred to in paragraph 3 above shall be checked at regular intervals by an appropriate authority of the Contracting Party concerned.
5. Any modifications to the characteristics contained in the documents referred to in paragraphs 2 and 3 shall be certified by such appropriate authority.

Article 7 - Marking of gear

1. Each Contracting Party shall ensure that gear used by its fishing vessels in the Regulatory Area is marked consistent with the Convention on Conduct of Fishing operations in the North Atlantic signed in London on 1 June 1967.
2. Marker buoys or similar objects floating on the surface and intended to indicate the location of fixed fishing gear shall display the registration number of the fishing vessel to which they belong.

CHAPTER III - Monitoring of Fisheries

Article 8 - Scope

The provisions in this chapter apply to the monitoring by Contracting Parties of fishing vessels flying their own flag.

Article 9 - Recording of Catch and Fishing Effort

1. Each Contracting Party shall ensure that all fishing vessels flying its flag and conducting fishing activities under Article 2 keep a bound fishing logbook with numbered pages and, where appropriate, a production logbook and a stowage plan. However, a Contracting Party may exempt from keeping a fishing logbook a vessel engaged in transshipment operations which on-loads quantities on board.
2. Fishing logbooks shall contain the following recordings in accordance with the specifications set out in Annex IV:
 - a) each entry into and exit from the Regulatory Area and the cumulative catches retained on board;
 - b) on a daily basis and/or for each haul, by species in live weight kilograms:
 - catches retained on board;
 - the estimated cumulative catch since the entry into the Regulatory Area;
 - the type of gear (number of hooks, length of gill nets, etc);
 - the number of fishing operations per day (where appropriate);
 - the small statistical rectangle or fishing location (longitude and latitude);
 - the amount of fish discarded.
 - c) on each occasion when fish is transhipped, where appropriate, the quantities by species on-loaded and off-loaded.
 - d) on each occasion a vessel engaged in a joint fishing operation shall record:
 - i) where the catch is taken on board:
 - the date and time (UTC);
 - the location (longitude/latitude);
 - catches taken on board and any catch discard from the vessel;
 - the name and international radio call sign of the fishing vessel from whose gear the catch has been taken.

- ii) where the catch is not taken on board:
 - the date and time (UTC);
 - the location (longitude/latitude);
 - that no catch has been taken on board;
 - the name and international radio call sign of the fishing vessel which has taken the catch.
3. After each communication of a report pursuant to Article **11(4), 12 and 13**, the following details are to be immediately entered in the logbook:
 - a) date and time (UTC) of transmission of a report;
 - b) in case of radio transmission, name of radio station through which the report is transmitted.
4. Fishing vessels engaged in fishing activities conducted on regulated resources which process and/or freeze their catch shall, in accordance with specifications in Annex IV:
 - 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 by the master of the fishing vessel.
5. Vessels exempt from keeping a fishing logbook pursuant to paragraph 1 shall record in a production logbook and stowage plan:
 - the information under paragraph 3 a) and b);
 - the date and time (UTC) of the transshipment operation;
 - the location (longitude/latitude) of the transshipment operation;
 - the quantities of species on-loaded;
 - the name and international radio call sign of the fishing vessel from which the catch has been off-loaded.
6. The quantities recorded in accordance with this Article shall correspond accurately to the quantities kept on board. The original recordings contained in the logbook shall be kept on board the fishing vessel for period of at least 12 months.

Article 10 - Reporting of catch and fishing effort

1. Each Contracting Party shall, within 30 days following the calendar month in which the catches were landed, or transhipped, report to the Secretary, provisional monthly statistics of catches of **species** listed in Attachment II and in accordance with the specifications and format set out in Annex V, whether or not that Party has quota allocations for the stocks from which catches were obtained.
2. The Secretary shall, within 10 days following the monthly deadlines for receipt of the provisional catch statistics, collate the information received and circulate it to the Contracting Parties.

Article 11 - Vessel Monitoring System

1. Each Contracting Party shall implement a vessel monitoring system (VMS) for its fishing vessels exceeding 20 metres between perpendiculars or 24 metres overall length which fish, or plan to fish, in the Regulatory Area and:
 - a) require its fishing vessels, fishing in the Regulatory Area, to be equipped with an autonomous system able to automatically transmit messages to a land-based fisheries monitoring centre (FMC) allowing a continuous tracking of the position of a fishing vessel by the Contracting Party of that fishing vessel in conformity with the specifications and schedule set out in Annex VI;
 - b) ensure that the satellite device shall enable a fishing vessel to communicate by satellite to the Contracting Party messages relating to the following data:
 - the vessel identification;
 - the most recent geographical position of the vessel (longitude, latitude) with a position error which shall be less than 500 metres, with a confidence interval of 99%;
 - the date and time of the fixing of the said position of the vessel;
 - where applicable, data relating to the catch on board;
 - where applicable, data relating to transhipment.
2. Each Contracting Party shall take the necessary measures to ensure that the FMC receives through the VMS the messages requested in paragraph 1(b).

3. Each Contracting Party shall ensure that the masters of fishing vessels flying its flag shall ensure that the satellite tracking devices are at all times fully operational and that the information in paragraph 1(b) is transmitted. In the event of a technical failure or non-operation of the satellite tracking device fitted on board a fishing vessel, the device shall be repaired or replaced within one month. After this period, the Master of a fishing vessel shall not be authorised to commence a fishing trip with a defective satellite tracking device. Where a device stops functioning and a fishing trip lasts more than one month, the repair or the replacement has to take place as soon as the vessel enters a port, the fishing vessel shall not be authorised to continue or commence a fishing trip without the satellite tracking device having been repaired or replaced.
4. Each Contracting Party shall ensure that a fishing vessel with a defective VMS tracking device shall communicate, at least daily, reports containing the information in paragraph 1(b) to the FMC in accordance with the format set out in Annex VII (5).
5. Contracting Parties shall establish a data-base delimiting the Regulatory Area by latitude and longitude co-ordinates. This shall be without prejudice to each Contracting Party's position concerning the delimitation of sea areas under their sovereignty and jurisdiction.

Article 12 - Communication of catches

1. Each Contracting Party shall ensure that its fishing vessels engaged in fishing activities conducted on regulated resources shall communicate catch reports in accordance with the specification and format set out in Annex VII **by electronic means to their FMC**:
 - a) the quantities on board when entering the Regulatory Area. This report shall be made no more than 12 hours and at least 6 hours in advance of each entry into the Regulatory Area;
 - b) weekly catches. This report shall for the first time be transmitted at the latest at the end of the seventh day after the entry into the Regulatory Area or, when fishing trips take more than 7 days, the fishing vessel shall transmit by the latest Monday noon the catches taken in the Regulatory Area during the preceding week ending Sunday midnight. This report shall include information on the number of fishing days since the commencement of fishing, or since the last catch report;
 - c) when exiting the Regulatory Area. This report shall be made no more than 8 hours and at least 6 hours in advance of each exit from the Regulatory Area. It shall include, where appropriate, the number of fishing days and the catch taken in the Regulatory Area since the commencement of fishing, or since the last catch report;
2. The reports on catches referred to in this Article shall be given in kilograms (rounded to the nearest 100kg) total round weight by species (3 alpha codes). The total quantity of species for which the total round weight by species is less than one tonne may be reported under the 3 alpha code MZZ (marine fish not specified).

Article 13 - Communication of Transhipments

1. Each Contracting Party shall ensure that its fishing vessels engaged in transhipment operations involving regulated resources shall communicate reports of transhipments in accordance with the specification and format set out in Annex VII by electronic means to their FMC.

These reports shall include the quantities on-loaded and off-loaded for each transhipment during the vessel's stay in the Regulatory Area. Donor vessels shall make this report at least twenty-four (24) hours in advance, and concerning receiving vessels this report shall be made no later than one (1) hour after transhipment. The report shall include the date, time, geographical position of the planned transhipment and total round weight by species to be off-loaded or which have been on-loaded in kilograms and the call signs of vessels transhipped to or from respectively.

2. The reports shall be given according to the specification set out in Article 12(2).

Article 14 - Communication to the Secretary

1. Each Contracting Party shall communicate reports and messages pursuant to Article 11, 12 and 13 to the Secretary without delay. In the event of technical malfunction, these reports shall however be transmitted to the Secretary within 24 hours of receipt. Contracting Parties shall ensure that all reports and messages forwarded by them will be sequentially numbered.
2. Each Contracting Party shall ensure that the reports and messages transmitted between the Contracting Party and the Secretary or if the Contracting Party so desires, between its fishing vessels and the Secretary, shall be in accordance with the data exchange formats and protocols set out in Annex VIII.
3. Each Contracting Party shall notify the name, address, telephone, and fax numbers as well as the addresses for electronic communication of their relevant authorities to the Secretary. **Any changes to this information shall be transmitted to the secretary without delay.**
4. The Secretary shall make available as soon as possible the information received under this Article to other Contracting Parties with an active inspection presence in the Area. Such information shall be provided when the Secretary receives the report of entry referred to in Annex X (A), which may be sent up to 24 hours in advance of the entry by the surveillance craft into the area. If the surveillance craft does not enter the area within this period, it shall send a report of exit as referred to in Annex X (B). All reports and messages communicated pursuant to Articles 11, 12 and 13 shall be treated in a confidential manner.

CHAPTER IV - Inspections at sea

Article 15 – NEAFC Inspectors

1. Control and surveillance shall be carried out by inspectors of the fishery control service of the Contracting Parties following their assignment to the Scheme (**NEAFC inspectors**). **Each inspector shall carry special documentation of identity as a NEAFC inspector issued by the respective Contracting Party in accordance with the format set out in Annex IX. Each inspector shall carry and produce this document of identity when boarding a fishing vessel.**
2. Each Contracting Party shall ensure that **NEAFC** inspectors from another Contracting Party shall be allowed to carry out inspections on board those of its fishing vessels to which this Scheme applies. Furthermore, it shall adopt measures obliging the masters of the fishing vessels to co-operate with the **NEAFC** inspectors and to ensure their safety throughout the inspection.
3. Each Contracting Party shall ensure that inspections carried out by that Party shall be carried out in a non-discriminatory manner and in accordance with the Scheme. The number of inspections shall be based upon fleet size, taking into account the time spent in the Regulatory Area. In its inspections, each Contracting Party shall aim at ensuring equal treatment between all Contracting Parties with fishing vessels operating in the Regulatory Area through an equitable distribution of inspections.

Article 16 - Means of inspection

1. Each Contracting Party shall notify the Secretary before 1 January each year of the names of the **NEAFC** inspectors and special inspection vessels as well as the type of aircraft and the details of their identification (registration number, name, radio call-sign) which they are assigning to the Scheme for that year. Modifications by Contracting Parties to such notifications shall be communicated to the Secretary giving one month's notice.
2. The Secretary shall circulate to all Contracting Parties the notifications received from any Contracting Party under the Scheme, within 15 days of receipt.
3. Any vessel assigned to the Scheme and carrying **NEAFC** inspectors, as well as the boarding craft deployed by that vessel shall carry a NEAFC inspection **pennant** illustrated in Annex IX to indicate that 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.
4. Each Contracting Party shall keep a record for their assigned inspection vessels and aircraft of the date and hour of the start and termination of their duties under the Scheme as set out in Annex X. The Contracting Party shall notify this information to the NEAFC Secretary. The Secretary shall promptly inform the other Contracting Parties accordingly.
5. Where, at any time, more than 10 fishing vessels of any one Contracting Party are engaged in fishing activities conducted on regulated resources in the Regulatory Area, the Contracting Party shall, during that time, have an inspection vessel in the Regulatory Area, or shall co-operate with another Contracting Party to jointly operate an inspection vessel.

Article 17 - Surveillance procedure

1. Surveillance shall be based on sightings of fishing vessels by assigned inspectors from an inspection vessel or aircraft assigned to the Scheme.
2. The inspector shall complete the surveillance report in the form set out in Annex XI A.
3. A copy of each surveillance report shall be forwarded without delay by electronic transmission, in the form set out in Annex XI B, to the Contracting Party of the vessel concerned or a designated authority of that Contracting Party and to the Secretary. A hard copy of each surveillance report and any photographs shall be forwarded on request to the Contracting Party of the vessel concerned.
4. The Secretary shall make available as soon as possible the information received under this Article to other Contracting Parties with an active inspection presence in the Area. All reports and messages communicated shall be treated in a confidential manner.

Article 18 – Inspection procedure

1. No boarding shall be conducted without prior notice by radio being sent to the fishing vessel or without the fishing vessel being given the appropriate signal using the International Code of Signals, including the identity of the inspection platform, whether or not such notice is acknowledged as received.
2. An inspector has 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 the inspector deems necessary to verify the compliance with the measures established 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 inspectors may order the interruption or delay in the hauling of the fishing gear until they have boarded the fishing vessel and in any event no more than 30 minutes after receiving the signal.
4. In conformity with the provision of Article **16**, the duration of an inspection shall not exceed 4 hours, or until the net is hauled in and the net and catch are inspected, whichever is longer. In the case of an infringement being detected the inspectors may stay on board for the time necessary for the completion of measures provided for in Article **29(1)(b)**. However, 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 stipulated above. In such a situation, the inspection Party shall in no case stay longer on board the fishing vessel than the time required to complete the inspection. The reasons for exceeding the limit stipulated above shall be recorded in the inspection report referred to in paragraph 6.
5. There shall be no more than two inspectors in an inspection party from one Contracting Party boarding a fishing vessel of another Contracting Party.
6. Each inspection shall be documented by completing an inspection report as set out in Annex XII.

7. In carrying out their inspection, the inspectors may request of the master any assistance required. The report of the inspection may be commented upon by the master and shall be signed by the inspectors at the end of the inspection. A copy of the inspection report shall be given to the master of the fishing vessel.
8. 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 Contracting Party shall ensure that its inspection platforms manoeuvre at a safe distance from the fishing vessels according to good seamanship.
- 10. The original of the inspection reports shall be transmitted without delay, whenever possible, to the Contracting Party for the inspected vessel. A copy shall be sent to the Secretary by the inspecting Contracting Party.**

Article 19 - Obligation of the vessel master during the inspection procedure

The master of a fishing vessel shall:

- a) facilitate prompt and safe boarding;
- b) co-operate with and assist in the inspection of the fishing vessel conducted pursuant to these procedures, and shall not obstruct, intimidate or interfere with the inspectors in the performance of their duties;
- c) allow the inspectors to communicate with the authorities of the flag Contracting Party and the inspecting Contracting Party; and
- d) provide access to **any** areas, decks and rooms of the fishing vessel, catch (whether processed or not), nets or other gear, equipment, and any **information** or documents **which the inspector deems necessary**;
- e) **provide copies of documents as required by the inspector**;
- f) **where the provisions of Article 31(5) apply**, provide reasonable facilities, including, where appropriate, food and accommodation, for the inspectors;
- g) and facilitate safe disembarkation by the inspectors.

CHAPTER V - Port State Control of foreign fishing vessels

Article 20 - Scope

The provisions in this chapter apply to landings or transshipments in ports of Contracting Parties by vessels with frozen catch on board of fisheries resources caught in the Convention Area by foreign fishing vessels.

Article 21 - Designated ports

Contracting Parties shall designate ports where landings or transshipment operations are permitted. Each Contracting Party shall send to the Secretary before 1 February 2007 the list of such ports. Any subsequent changes to the list shall be notified to the Secretary at least fifteen days before the change shall come into force. The Secretary shall put the list of designated ports and any changes thereto on the NEAFC website without delay.

Article 22 - Prior notice of entry into port

1. Masters of vessels intending to call into a port shall notify the competent authorities of the port they wish to use at least 3 working days before the estimated time of arrival. However, a Contracting Party may make provision for another notification period, taking into account, *inter alia*, distance between the fishing grounds and its ports. In such a case the Contracting Party concerned shall without delay inform the Secretary, who shall put this information on the NEAFC website.
2. The notification referred to in paragraph 1 shall be accompanied by the form provided for in Annex XIII duly completed. The port State shall forward a copy of this form without delay to the Secretary, to the flag State of the vessel, and to the flag State or States of donor vessels where the vessel has engaged in transshipment operations. The Secretary shall put this information on the NEAFC website without delay.

Article 23 - Authorisation to land or tranship

Landing or transshipment operations may only commence after authorisation has been given by the competent authorities of the port State. Authorisation shall only be given for the vessel to land or engage in a transshipment operation if the flag State of the vessel, or where the vessel has engaged in transshipment operations outside a port, the flag State or States of donor vessels, confirm, by returning a copy of the form transmitted pursuant to Article 22, stating that:

- a) the fishing vessels declared to have 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 vessels declared to have caught the fish had authorisation to fish in the areas declared;
- d) the presence of the vessel in the area of catch declared has been verified according to VMS data.

The port State shall notify without delay its decision whether or not to authorise the landing or transshipment to the Secretary who shall put this information on the NEAFC website without delay.

Article 24 – Contact points

Contracting Parties shall designate the competent authority which shall act as the contact point for the purposes of receiving notifications and issuing authorisations in accordance with Articles 22 and 23. Such contact point shall be available 24 hours a day. Each Contracting Party shall send to the Secretary the telephone number, e-mail address and fax number of the designated contact point before 1 February 2007. Any subsequent changes to the list shall be notified to the Secretary at least fifteen days before the change shall come into force. The Secretary shall put the details of the contact points and any changes thereto on the NEAFC website without delay.

Article 25 - Inspectors

1. Inspections shall be conducted by authorised Contracting Party officials knowledgeable of Recommendations established under the Convention.
2. Prior to an inspection, the inspector shall present to the master of the vessel an appropriate identity document.
3. The Port State may invite inspectors of other Contracting Parties to accompany their own inspectors and observe the inspection of landings or transshipment operations of fisheries resources caught by foreign fishing vessels.

Article 26 – Inspections

1. Each Contracting Party shall carry out inspections of at least [15%] of landings or transshipments in its ports of fisheries resources caught by foreign fishing vessels.
2. Inspections shall involve the monitoring of the entire discharge or transshipment and include a cross-check between the quantities by species recorded in the prior notice of landing and the quantities by species landed or transhipped.
3. Inspectors shall make all possible efforts to avoid unduly delaying a vessel and ensure that the vessel suffers the minimum interference and inconvenience and that degradation of the quality of the fish is avoided.

Article 27 - Obligations of the master of the vessel

The provisions of Article 19 shall apply, as applicable.

Article 28 - Inspection reports

- 1. Each inspection shall be documented by completing an inspection report as set out in Annex XIV.**
- 2. The inspection report may be commented upon and shall be signed by the inspectors 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. Without delay the original of the inspection report shall be transmitted to the Contracting Party of the inspected vessel and a copy of the report sent to the Contracting Party or Parties of donor vessels where the inspected vessel has engaged in transshipment operations. A copy shall also be sent to the Secretary by the inspecting Contracting Party.**
- 4. The Secretary shall put copies of the inspection reports on the NEAFC website without delay.**

CHAPTER VI - Infringements

Article 29 - Infringement procedures

1. If the inspectors find that there are clear grounds for believing that a fishing vessel flying the flag of another Contracting Party has engaged in any activity contrary to this recommendation or other NEAFC recommendations they shall:
 - a) note the infringement in the inspection report referred to in **Articles 18 and 28**;
 - b) take all necessary measures to ensure security and continuity of the evidence for subsequent dockside inspection. An identification mark may be affixed securely to any part of the fishing gear which appears to the inspector to have been in contravention of applicable measures;
 - c) in order to facilitate Contracting Party action on the infringement, immediately attempt to communicate with an inspector or designated authority of the **flag State** of the inspected fishing vessel.
2. The Contracting Party inspecting a fishing vessel shall communicate in writing the details of an infringement to the designated authorities of the Contracting Party of the inspected vessel within the working day following the inspection whenever possible.
3. An original of the inspection report with any supporting documentation, shall be forwarded without delay to the appropriate authorities of the Contracting Party of the inspected fishing vessel as well as a copy to the Secretary.
4. The appropriate authorities of a Contracting Party notified of an infringement committed by a fishing vessel of that Party shall take prompt action to receive and consider the evidence of the infringement and, conduct any further investigation necessary for the follow up to the infringement and, whenever possible, inspect the fishing vessel concerned. Each Contracting Party shall designate the appropriate authorities mandated for receiving evidence of infringement and shall inform the Secretary of the address of those authorities. The Secretary shall subsequently inform all other Contracting Parties.
5. Each Contracting Party shall consider and act on reports from inspectors of other Contracting Parties under the Scheme on the same basis as reports from its own inspectors. Contracting Parties shall co-operate in order to facilitate judicial or other proceedings arising from a report submitted by an inspector under the Scheme.

Article 30 - Serious infringements

The following infringements shall be considered to be serious:

- a) fishing without a valid authorisation issued by the flag Contracting Party;
- b) fishing without or after attainment of a quota;
- c) use of prohibited fishing gear;
- d) serious mis-recording of catches;
- e) repeated failure to comply with the provisions of Article 11, 12, and, as appropriate, 13;
- f) failure to comply with the provisions of Article 22;**
- g) landing or transshipment without authorisation of the port State as referred to in Article 23;**
- h) preventing an inspector from carrying out his duties;
- i) directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited;
- j) falsifying or concealing the markings, identity or registration of a fishing vessel;
- k) concealing, tampering with or disposing of evidence relating to an investigation;
- l) multiple violation which together constitute a serious disregard of conservation and management measures;
- m) engaging in transshipment or joint fishing operations with vessels of a non-Contracting Party which has not been accorded the status of a co-operating non-Contracting Party in accordance with Article 35;**
- n) supplying any provisions, fuel or other services to vessels that have been placed on the IUU lists established in accordance with Article 45(3).**

Article 31 - 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, he shall promptly notify **the Secretary, the flag Contracting Party of the vessel, and the flag Contracting Party or Parties of donor vessels where the inspected vessel has engaged in transshipment operations**, of that infringement in accordance with Article 29(4).
3. The flag Contracting Party shall respond to the notification without delay and shall ensure that the fishing vessel concerned is inspected within 72 hours by an inspector duly authorised by that Contracting Party.

4. In order to preserve the evidence, the inspector shall take all necessary measures to ensure security and continuity of the evidence whilst minimising interference with and inconvenience to the operation of the vessel.
5. The inspector is entitled to remain on board the fishing vessel for the period necessary to provide information to the duly authorised inspector concerning the infringement or until the response of the flag Contracting Party is to require the inspector to leave the fishing vessel.
6. The flag Contracting Party shall, if evidence so warrants, require the fishing vessel to proceed immediately to a port designated by that Contracting Party for a thorough inspection under its authority and in the presence of a NEAFC inspector from any other Contracting Party that wishes to participate.
7. The flag Contracting Party may authorise the inspecting Contracting Party to bring the fishing vessel without delay to a port designated by the flag Contracting Party.
8. If the fishing vessel is not called to port, the flag Contracting Party must provide due justification in a timely manner to the Secretary and to the inspecting Contracting Party. The Secretary shall make such justification available on request to any Contracting Party.
9. Where a fishing vessel is required to proceed to port for a thorough inspection pursuant to paragraph 6 or 7, a NEAFC inspector from another Contracting Party may, subject to the consent of the Contracting Party of the fishing vessel, board the fishing vessel as it is proceeding to port, may remain on board the fishing vessel as it proceeds to port and may be present during the inspection of the fishing vessel in port.

Article 32 - Measures taken by Contracting Parties

1. Each Contracting Party shall ensure that the appropriate measures be taken, including administrative action or criminal proceedings in conformity with their national law, against the natural or legal persons responsible where NEAFC measures have not been respected.
2. The proceedings initiated pursuant to paragraph 1 shall, in accordance with the relevant provisions of national law, be capable of effectively depriving those responsible of the economic benefit of the infringements or of providing sanctions proportionate to the seriousness of such infringements, thus effectively discouraging future infringements.

Article 33 - Reporting of infringements

1. Each Contracting Party shall report, without delay, any serious infringement as listed in Article 30 to the Secretary. For other infringements each Contracting Party shall report to the Secretary by 1 October of each year for the period 1 July to 30 June the status of the proceedings relative to infringements of NEAFC measures. The infringements shall continue to be listed on each subsequent report until the action is concluded in accordance with the relevant provisions of national laws.
2. The report required in paragraph 1 above shall indicate the current status of the case (i.e. case pending, under appeal, still under investigation, etc) and any sanctions or penalties imposed shall be described in specific terms (i.e. level of fines, value of forfeited fish and/or gear, written warning given, etc.) and shall include an explanation if no action has been taken.

Article 34 - Reports on surveillance and inspection activities

Each Contracting Party shall report to the Secretary by 1 October each year for the period 1 July to 30 June:

- a) the number of inspections conducted by it under the Scheme specifying the number of inspections on the vessels of each Contracting Party and, in the case of infringement, the date and position of the inspection of the individual vessel and the nature of infringement, as well as the follow-up of such reports;
- b) the number of hours flown and the number of days at sea on NEAFC patrols, the number of sightings (Contracting Party vessels and non Contracting Party vessels) and the list of individual vessels for which a surveillance report has been completed as well as the follow-up of such reports.

CHAPTER VII – Measures to promote compliance by non-Contracting Party fishing vessels

Article 35 – Co-operating non-Contracting Party status

1. A non-Contracting Party which seeks the status of a co-operating non-Contracting Party shall submit a request to the Secretary by 30 September, accompanied by a report containing the following information:
 - a) Full data on its historical fisheries in the NEAFC area, including nominal catches, number/type of vessels, name of fishing vessels, fishing effort and fishing areas;
 - b) Details on current fishing presence in the area, number of vessels and vessels characteristics;
 - c) Details of research programmes it has conducted in the NEAFC area, the results of which it shall share with NEAFC.

Furthermore, the non-Contracting Party concerned shall:

- Undertake to respect all Recommendations established under the Convention;
 - Inform NEAFC of the measures it takes to ensure compliance by its vessels, including *inter alia*, observer programmes, inspection at sea and in port, and VMS;
 - Communicate annually catch and effort data and size frequency distribution of the catches (when possible) in due time and appropriate format for scientific evaluation of the stocks.
2. On the basis of the request submitted according to the provisions of paragraph 1 as well as any other relevant information PECCOE shall recommend to the Commission, if appropriate, that the status of co-operating non-Contracting Party be accorded this status. Non-Contracting Parties accorded this status, which shall be decided by the Commission on a year-to-year basis, shall be invited to participate at plenary and scientific meetings, as an observer.

Article 36 – Communications by co-operating non-Contracting Parties

1. The co-operating non-Contracting Party shall ensure that its fishing vessels communicate **by electronic means to their FMC the reports provided for in Articles 11, 12 and 13.**
2. **The non-Co-operating Party shall communicate reports and messages pursuant to Article 11, 12 and 13 to the Secretary without delay in accordance with the provisions of Article 14.** [(Alternatively,) If the co-operating non-Contracting Party so desires, it shall ensure that each of its fishing vessels (also) communicate reports pursuant to Articles 11, 12 and 13 by electronic means to the Secretary.]

Article 37 – Monitoring of fisheries by co-operating non-Contracting Parties

1. Vessels of a co-operating non-Contracting Party shall only fish for regulated species if the flag state of the vessels notifies the Secretary by 31 October by registered letter, of its intention to fish on a co-operation quota during the following year. In the notification the co-operating non-Contracting Party shall give an undertaking to monitor the activities of its vessels and carry out inspections in port and at sea in order to ensure their compliance with the relevant recommendations established under the Convention.

This notification shall also include for all fishing vessels flying the flag of the co-operating non-Contracting Party concerned that intend to engage in fishing activities in the Regulatory Area the information listed and in the format of Annex II. The co-operating non-Contracting Party shall notify any modifications to this information without delay.

2. The Secretary shall notify without delay and by the most rapid electronic means available to all Contracting Parties and co-operating non-Contracting Parties that have notified their intentions in accordance with **Article 35** the date on which the accumulated reported catch, the estimated unreported catch, the estimated quantity to be taken before the closure of the fishery and likely by-catches, equal 100 percent of the stock subject to the co-operation quota. Each co-operating non-Contracting Party concerned shall, within 7 days of the date of issue of such electronic notification by the Secretary, close its fishery in the Regulatory Area for that stock.

Article 38 - Sightings and identifications of Non Contracting Party vessels

1. Contracting Parties shall transmit **without delay** to the Secretary any information regarding non-Contracting Party vessels sighted **or by other means identified as** engaging in fishing activities in the **Convention Area**. The Secretary shall transmit this information to all Contracting Parties within one business day of receiving this information according to the same procedure, and to the flag state of the sighted vessel as soon as possible.
2. The Contracting Party which sighted the non-Contracting Party vessel shall attempt to inform such a vessel **without delay** that it has been sighted **or by other means identified as** engaging in fishing activities in the **Convention Area** and unless its flag state has been accorded the status of co-operating non-Contracting Party provided for under Article **35**, is consequently presumed to be undermining the Recommendations established under the Convention.
3. **In the case of a non-Contracting Party vessel sighted or by other means identified as engaging in transshipment activities, the presumption of undermining conservation and enforcement measures applies 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 by other means identified by a Contracting Party** as engaging in fishing activities in the Convention Area. **If the vessel consents to be boarded the inspection shall be documented by completing an inspection report as set out in Annex XII. The inspectors shall transmit a copy of the inspection report to the Secretary without delay. The master of the non-Contracting Party vessel which is boarded shall be provided with a copy of the inspection report.** Where evidence so warrants, a Contracting Party may take such action as may be appropriate in accordance with international law. Contracting Parties are encouraged to examine the appropriateness of domestic measures to exercise jurisdiction over such vessels.
2. **If the master does not consent for his vessel to be boarded and inspected or does not fulfil the obligations laid down in Article 19a) to d) the vessel shall be presumed to have engaged in IUU activities.**

Article 40 – Entry into port

1. Masters of non-Contracting Party vessels intending to call into a port shall notify the competent authorities of the port state in accordance with the provisions of Article 22. The port state shall forward this information without delay to the flag state of the vessel, to the Secretary and to relevant Contracting Parties.
2. The port state shall prohibit the entry into its ports of vessels that have not given the required prior notice of landing or provided the information referred to in paragraph 1.

Article 41 - Inspections in port

1. When a non-Contracting Party vessel enters a port of any Contracting Party, it shall be inspected by authorised Contracting Party officials knowledgeable of Recommendations established under the Convention and shall not be allowed to land or tranship any fish until this inspection has taken place. **Each inspection shall be documented by completing an inspection report as provided for in Article 28.**
2. **Where the master of the vessel has failed to fulfil the obligations set down in Article 19 the vessel shall be presumed to have engaged in IUU activities.**
3. Information on the results of all inspections of non-Contracting Party vessels conducted in the ports of Contracting Parties, and subsequent action, shall immediately be transmitted to the Secretary. **The Secretary shall put copies of the inspection reports on the NEAFC website without delay.**

Article 42 - Landings, transhipments and joint fishing operations

1. Contracting Parties shall ensure that their vessels do not receive or deliver transhipments of fish from or to a vessel of a non-Contracting Party which has not been accorded the status of a co-operating non-Contracting Party or engage in joint fishing operations with such vessels.
2. Landings and transhipments of all fish from a non-Contracting Party vessel which has been inspected pursuant to Article 41, shall be prohibited in the ports and waters of all Contracting Parties if such an inspection reveals that the vessel has species onboard which are subject to Recommendations established under the Convention unless the vessel establishes to the satisfaction of the competent authorities that the fish were caught outside the Regulatory Area or in compliance with all relevant Recommendations established under the Convention. **The vessel shall not be authorised to land or engage in a transhipment operation if the flag State of the vessel, or the flag State or States of donor vessels where the vessel has engaged in transhipment operations, does not provide the confirmation pursuant to Article 23. Furthermore, landings and transhipments shall be prohibited where the master of the vessel has failed to fulfil the obligations set down in Article 19.**

Article 43 - Notification of presumed IUU activities

1. The Secretary shall transmit all information received pursuant to Articles 38, 39 and 41 to all Contracting Parties and other relevant Regional Fisheries Management Organisations within one business day of receiving this information, and as soon as possible to the flag state of the vessel identified as being engaged in fishing activities in the **Convention Area**.
2. When transmitting the information to the flag state concerned, the Secretary shall, in consultation with the President of the Commission, request that it take measures in accordance with its applicable legislation to ensure that the vessel or vessels in question desist from any activities that undermine the effectiveness of NEAFC Recommendations, including if necessary, the withdrawal of the registration of these vessels or their authorisation to engage in fishing activities.
3. The President shall request the flag state(s) to report back to NEAFC on the results of enquiries and/or on the measures it has taken in respect of the vessel or vessels concerned. The President shall also provide the flag state with a copy of this Scheme, advise of the dates when PECCOE will be considering the composition of the IUU lists and encourage the flag state to communicate any relevant information to the Secretariat in an expeditious manner. The Secretary shall promptly distribute any information received to all Contracting parties.
4. The President shall also request the flag state to report back to NEAFC on the results of enquiries and/or on the measures it has taken in respect of the vessel or vessels.

Article 44 - Reports on IUU activities

1. Each Contracting Party shall report to the Secretary by 15 September each year for the period 1 July to 30 June:
 - a) the number of inspections of non-Contracting Party vessels it conducted under this Scheme at sea or in its ports, the names of the vessels inspected and their respective flag state, the dates and as appropriate, the ports where the inspection was conducted, and the results of such inspections; and
 - b) where fish are landed or transhipped following an inspection pursuant to this Scheme, the report shall also include the evidence presented pursuant to Article **42(2)**.
2. In addition to surveillance reports and information on inspections Contracting Parties may at any time submit to the Secretary any further information, which might be relevant for the identification of non-Contracting Party vessels that might be carrying out IUU fishing activities in the **Convention Area**.
3. The Secretary shall prepare a report by 1 October each year, for the period 1 July to 30 June, based on the reports and information received from the Contracting Parties.

Article 45 - IUU vessel lists

1. Unless their flag State has been accorded the status of co-operating non-Contracting Party provided for under Article **35**, vessels which have been sighted **or by other means identified** according to information received pursuant to Articles **38, 39 and 41** as engaging in fishing activities in the **Convention Area** are presumed to be undermining the effectiveness of Recommendations established under the Convention. The Secretary shall place such vessels on a provisional list of IUU vessels ('A' list),
2. A vessel of a co-operating non-Contracting Party shall immediately be added to the 'A' list by the Secretary if it is revealed that it has failed to establish that the fish were caught in compliance with all relevant Recommendations established under the Convention and, in the case of a vessel fishing within the framework of a co-operation quota:
 - a) it is sighted engaging in fishing activities in the Regulatory Area after the fishery has been closed, or
 - b) it is sighted engaging in fishing activities in the Regulatory Area without being notified in accordance with Article **37(1)**, or
 - c) it fails to comply with the provisions of Article **36**.
3. Each year, on the basis of the reports drawn up pursuant to Article **43(3)** and Article **43(4)** as well as any other relevant information the Permanent Committee for Control and Enforcement (PECCOE) shall consider the 'A' list and as appropriate recommend to the Commission that the vessels be removed or transferred to a confirmed IUU list ('B' list).

4. At the same time PECCOE shall undertake a review of the 'B' list and as appropriate recommend to the Commission that vessels are added or removed. PECCOE shall only recommend that the Commission remove a vessel from either the 'A' or 'B' list if the flag state of the vessel concerned satisfies the Commission that:
 - a) it has taken effective action in response to the IUU fishing activities in question, including prosecution and imposition of sanctions of adequate severity, or
 - b) it has taken measures to ensure the granting of the right to the vessel to fly its flag will not result in IUU fishing activities, or
 - c) the vessel has changed ownership and that the new owner can establish the previous owner no longer has any legal, financial, or real interests in the vessel, or exercises control over it and that the new owner has not participated in IUU fishing, or
 - d) the vessel did not take part in IUU fishing activities, or
 - e) the vessel **only had on board unregulated resources caught in the Regulatory Area**, or
 - f) the vessel was fishing on a co-operation quota and fulfilled all relevant obligations as set out in Article 36.

4. The Secretary shall place the 'A' and 'B' lists on the NEAFC website.

Article 46 - Follow-up action

1. Contracting Parties shall take all the necessary measures, under their applicable legislation, in order that:
 - a) vessels appearing on the IUU 'A' list that enter ports are not authorised to land or tranship therein but are inspected in accordance with the provisions of Article 41;
 - b) fishing vessels, support vessels, refuel vessels, the mother-ships and cargo vessels flying their flag do not in any way assist IUU vessels or participate in any transhipment or joint fishing operations with vessels registered on the IUU lists;
 - c) the supply of provisions, fuel or other services to vessels registered on the IUU lists is prohibited.

2. Further to the measures under paragraph 1 Contracting Parties shall take the following additional measures, under their applicable legislation, with regard to vessels on the 'B' list:
 - a) prohibit the entry into their ports of such vessels;
 - b) prohibit the authorisation of such vessels to fish in waters under their national jurisdiction;
 - c) prohibit the chartering of such vessels;
 - d) refuse the granting of their flag to such vessels;
 - e) prohibit the imports of fish coming from such vessels;
 - f) encourage importers, transporters and other sectors concerned, to refrain from negotiating and from transshipping of fish caught by such vessels;
 - g) collect and exchange any appropriate information with other Contracting Parties or co-operating non-Contracting Parties with the aim of detecting, controlling and preventing false import/export certificates regarding fish from such vessels.

Article 47 - Action vis-à-vis Flag States

1. Contracting Parties shall jointly and/or individually request non-Contracting Parties whose vessels appear on the IUU lists to co-operate fully with the Commission in order to avoid undermining the effectiveness of the Recommendations that it has adopted.
2. The Commission shall review, at subsequent annual meetings as appropriate, actions taken by such non-Contracting Parties and identify those which have not rectified their fishing activities.
3. The Commission shall decide appropriate measures to be taken in respect of non-Contracting Parties identified under paragraph 1. In this respect, Contracting parties may co-operate to adopt appropriate multilaterally agreed non-discriminatory trade related measures, consistent with the World Trade Organisation (WTO), that may be necessary to prevent, deter, and eliminate the IUU fishing activities identified by the Commission.