

North-East Atlantic Fisheries Commission

NEAFC

NON-CONTRACTING PARTY SCHEME

London – January 2005

THE NORTH EAST ATLANTIC FISHERIES COMMISSION AT ITS 22ND ANNUAL MEETING ON 10 TO 14 NOVEMBER 2003 ADOPTS IN ACCORDANCE WITH ARTICLE 8 OF THE CONVENTION A RECOMMENDATION ON A SCHEME TO PROMOTE COMPLIANCE BY NON-CONTRACTING PARTY VESSELS WITH RECOMMENDATIONS ESTABLISHED BY NEAFC.

THE FOLLOWING TEXT SHALL REPLACE, IN FULL, THE PRESENT SCHEME TO PROMOTE COMPLIANCE BY NON-CONTRACTING PARTY VESSELS WITH RECOMMENDATIONS ESTABLISHED BY NEAFC.

CONTRACTING PARTIES MAY TAKE ADDITIONAL MEASURES, WHICH GO BEYOND THE PROVISIONS OF THE SCHEME.

THE NEW SCHEME SHALL BE APPLICABLE WITH EFFECT FROM 1 JANUARY 2004.

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The Scheme was amended by the 23rd Annual Meeting - November 2004

The present text describes the rules binding Contracting Parties as of 7 January 2005

North-East Atlantic Fisheries Commission

Scheme to promote compliance by non-Contracting Party vessels with Recommendations established by NEAFC

Article 1 Objective

1. This scheme is directed at non-Contracting Party vessels engaged in fishing activities in areas beyond the limits of national fisheries jurisdiction in the Convention Area, as defined in Article 1(1) of the Convention hereinafter referred to as “the Regulatory Area”.
2. Unless their flag state has been accorded the status of co-operating non-Contracting Party provided for under Article 10, vessels referred to in paragraph 1 which have been sighted as being engaged in fishing activities in the Regulatory Area are presumed to be undermining the effectiveness of Recommendations established under the Convention.

Article 2 Definitions

1. “Non-Contracting Party vessel” means any vessel not flagged in a Contracting Party of NEAFC, including vessels for which there are reasonable grounds for suspecting them to be without nationality.
2. “Fishing activities” means fishing, fish processing operations, the transshipment of fish or fish products and any other activity in preparation for or related to fishing in the Regulatory Area.
3. “NEAFC-inspector” means an inspector of the fishery control services of the Contracting Parties assigned to the Scheme of Control and Enforcement in respect of Fishing Vessels Fishing in Areas beyond the Limits of National Fisheries Jurisdiction in the Convention Area.
4. The term “IUU” refers to activities as defined in paragraph 3 of the FAO International Plan of Action to prevent, deter and eliminate illegal, unreported and unregulated fishing.

Article 3
Sightings of Non Contracting Party vessels

1. Contracting Parties shall transmit immediately to the Secretary any information regarding non-Contracting Party vessels sighted engaging in fishing activities in the Regulatory Area according to the surveillance procedure established in Article 16 of the Scheme of Control and Enforcement. 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 that it has been sighted engaging in fishing activities in the Regulatory Area and unless its flag state has been accorded the status of co-operating non-Contracting Party provided for under Article 10, is consequently presumed to be undermining the Recommendations established under the Convention, and that this information will be distributed to all Contracting Parties and to the flag state of the vessel.

Article 4
Inspections at sea

NEAFC inspectors shall request permission to board non-Contracting Party vessels sighted as being engaged in fishing activities in the Regulatory Area. If the vessel consents to be boarded the inspectors' findings shall be transmitted to the Secretary without delay. The non-Contracting Party vessel which is boarded shall be provided with a copy of the findings of the NEAFC inspectors. Where evidence so warrants, a NEAFC 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.

Article 5
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. Such inspections shall include the vessel's documents, log books, fishing gear, catch onboard and any other matter relating to the vessel's activities in the Regulatory Area.
2. 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.

Article 6
Landings, transshipments and joint fishing operations

1. Contracting Parties shall ensure that their vessels do not receive or deliver transshipments 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 transshipments of all fish from a non-Contracting Party vessel which has been inspected pursuant to Articles 4 or 5, 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.

Article 7
Notification of presumed IUU activities

1. The Secretary shall transmit all information received pursuant to Articles 3 to 5 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 Regulatory 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 8
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 6(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 Regulatory 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 9
IUU vessel lists

1. The Secretary shall place on a provisional list of IUU vessels (hereinafter referred to as the 'A' list) the non-Contracting Party vessel or vessels sighted as being engaged in fishing activities in the Regulatory Area, according to information received pursuant to Articles 3 to 5.
2. Each year, on the basis of the reports drawn up pursuant to Article 7(3) and Article 8(3) 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 (hereinafter referred to as the 'B' list).
3. 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 was only fishing for unregulated resources, fulfilled all relevant obligations as set out in Article 10, or
 - f) the vessel was fishing on a co-operation quota and fulfilled all relevant obligations as set out in Article 10.
4. The Secretary shall place the 'A' and 'B' lists on the NEAFC website.

Article 10

Co-operating non-Contracting Parties

1. Notwithstanding the provisions of Article 9 vessels of a co-operating non-Contracting Party shall not be placed on the IUU vessel list. 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.
 3. 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 fish in the Regulatory Area the information listed and in the format of Annex II of the Scheme of Control and Enforcement. The co-operating non-Contracting Party shall notify any modifications to this information without delay.
 4. The co-operating non-Contracting Party shall ensure that its fishing vessels shall communicate to the Secretary by VMS, radio, telefax or telex catch reports in accordance with the specification and format set out in Annex VII of the Scheme of Control and Enforcement. 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).
 - 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) catches every 48 hours. This report shall for the first time be transmitted at the latest at the end of the second day after the entry into the Regulatory Area and at 48 hour intervals thereafter;

- c) the quantities on board 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;
 - d) the quantities on-loaded and off-loaded for each transshipment of fish during the vessel's stay in the Regulatory Area; concerning donor vessels this report shall be made at least twenty-four (24) hours in advance, and concerning receiving vessels this report shall be made no later than one (1) hour after transshipment, and shall include the date, time, geographical position of the planned transshipment 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; the receiving vessel shall report total catch onboard, total weight to be landed, name of port and date and time of landing at least twenty-four (24) hours in advance of any landing;
 - e) position reports; 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%.
5. 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 paragraph 1 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.
6. 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 paragraph 3, or
 - c) it fails to comply with the provisions of paragraph 4.

Article 11

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 list that enter ports are not authorised to land or tranship therein but are inspected in accordance with the provisions of Article 5;
 - 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 transshipment or joint fishing operations with vessels registered on the IUU lists;
 - c) the supply in their ports 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 authorisation of such vessels to fish in waters under their national jurisdiction;
 - b) prohibit the chartering of such vessels;
 - c) refuse the granting of their flag to such vessels;
 - d) prohibit the imports of fish coming from such vessels;
 - e) encourage importers, transporters and other sectors concerned, to refrain from negotiating and from transshipping of fish caught by such vessels;
 - f) 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 12

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.