



40th ANNUAL MEETING OF NAFO - SEPTEMBER 2018

**Amendments to NAFO CEM Article 30 –
Revision of the NAFO Observer Program**

Article 1 – Definitions

"Observer" means a person who is authorized and certified by a Contracting Party to observe, monitor and collect information aboard fishing vessels. Observers shall be independent and impartial, and have the training, knowledge, skills and abilities to perform all of the duties, functions and requirements as specified in Article 30.

Article 30 – Observer Program

General provisions

1. The purpose of this Observer Program is to collect reliable information and data on activities in the NAFO Regulatory Area. The information and data collected through the Observer Program shall be made available to any NAFO body requesting it.
2. Observers shall execute their duties and functions in an unbiased manner regardless of nationality and of which flag the vessel is flying, and shall be free from undue influence or benefit linked to the fishing activity of the vessel.
3. This Program shall apply to all Contracting Parties fishing vessels operating in the Regulatory Area.

Duty to carry observers

4. Subject to the exception in paragraph 5, each flag State Contracting Party shall ensure that every fishing vessel flying its flag, while conducting fishing activities in the Regulatory Area, carries at all times at least one observer in accordance with the provisions of this Program. A vessel shall not commence fishing until the observer is deployed on the vessel. The failure to carry an observer if required is considered a serious infringement.

Partial withdrawal of observers

5. By way of derogation from paragraph 4, and providing that the Commission has not requested a higher observer coverage level, a flag State Contracting Party may allow its vessels to carry an observer for less than 100 %, but not less than 25% of the fishing trips conducted by its fleet, or of the days the vessels are present, in the Regulatory Area during the year, on the condition that the flag State Contracting Party for the vessels not carrying an observer:



- (a) ensures that the vessels concerned target species in areas where negligible by-catch of other species is expected to occur;
 - (b) ensures that the vessel complies with all real-time reporting requirements;
 - (c) physically inspects or otherwise evaluates as appropriate, following risk assessment, each landing in its ports by the vessel concerned according to domestic monitoring control and surveillance procedures. If any infringement to the CEM is detected and confirmed, it shall prepare a report in the format prescribed in Annex IV. C (PSC 3). The PSC 3 shall be uploaded to the NAFO MCS Website, in computer readable format, as soon as possible after the infringement has been confirmed.
 - (d) as soon as possible in advance of the fishing trip, posts to the NAFO MCS Website, in PDF format:
 - i. the name, IMO number, and International Radio Call sign of the vessel,
 - ii. the factors that support the decision to grant the derogation to the 100 % coverage;
 - (e) submits to the Executive Secretary by 1 March each year, for the previous calendar year, a report containing a comparison of all relevant catch and fishing activities showing the difference between the trips where the vessel had an observer on board and those where the observer was withdrawn.
6. Where an inspector issues a notice of an infringement to a fishing vessel that is not carrying an observer, in accordance with this derogation, at the time of the notice, the infringement shall be deemed a serious infringement for the purpose of Article 38.1 and, where the flag State Contracting Party does not require the fishing vessel to proceed immediately to port in accordance with Article 38.3, it shall deploy an observer to the fishing vessel without delay.

Duties of the flag State Contracting Party

7. Each Contracting Party shall:
- (a) each year, before its vessels start fishing in the NAFO Regulatory Area, post to the MCS Website an ongoing list of observers (name and ID if applicable) that it intends to deploy to vessels entitled to fly its flag operating in the Regulatory Area;
 - (b) require its vessels to carry an observer from the list it has posted to the NAFO MCS website, in accordance with this Program;
 - (c) to the extent practicable, ensure that individual observers are not deployed on consecutive trips on the same vessel;
 - (d) ensure that vessel Masters, operators, or owners cannot refuse to accept an observer deployment;
 - (e) ensure that observers are equipped with an independent two-way communication device at sea;

- (f) take appropriate action with respect to their vessels to ensure safe working conditions, the protection, security and welfare of observers in the performance of their duties, consistent with international standards or guidelines.
 - (g) ensure that the observers treat all data and information related to the fishing operations collected during their deployment, including images and videos taken, in accordance with applicable confidentiality requirements;
8. Upon the receipt of an OBR from an observer reporting discrepancies with the NAFO CEM or an incident, including any instances of obstruction, intimidation, interference with, or otherwise prevention of the observer from performing their duties, concerning a vessel entitled to fly its flag, a Contracting Party shall:
 - (a) treat the report with upmost sensitivity and discretion, in accordance with applicable confidentiality requirements;
 - (b) assess discrepancies identified in the OBR and conduct any follow-up action deemed appropriate;
 - (c) create a report on follow-up actions and post it in a computer readable format to the NAFO MCS website.
 9. Each Contracting Party shall provide to the Executive Secretary:
 - (a) no later than 24 hours in advance of an observer's deployment onboard a fishing vessel, by posting to the MCS Website the name of the fishing vessel and International Radio Call Sign, together with the name and ID (if applicable) of the observer concerned;
 - (b) electronically and without delay following its receipt, the daily OBR report referred to in paragraph 13 (e);
 - (c) within 30 days following the arrival of the vessel in port, the observer trip report referred to in paragraph 13;
 - (d) by 1 March each year for the previous calendar year, a report on its compliance with the obligations outlined in this Article.
 10. If a vessel is carrying an observer from another Contracting Party, that observer will report to the vessel's flag State Contracting Party.
 11. If a vessel required to carry an observer is not carrying one, the flag State Contracting Party may allow any other Contracting Party to deploy an observer to the vessel.
 12. If, during deployment, it is determined that a serious risk to the observer exists, take steps to ensure that the observer is removed from the vessel unless and until the risk is addressed;

Duties of the Observer

13. Each Contracting Party shall ensure that observers assigned to their vessels shall, at a minimum, perform the duties listed below:

- (a) record for each haul/set, in the format indicated in Annex II.M, hereafter referred to as the observer trip report:
- i. the quantity of all catch, by species, including for discards and VMEs indicators as referred to in Annex I.E.VI:
 1. as recorded in the vessel fishing and production logbooks,
 2. as estimated independently by the observer. For hauls where independent observer estimations are not possible, the relevant data cells should be left blank and noted in the comments section
 - ii. record in the observer trip report any discrepancy identified between the different sources of catch data;
 - iii. gear type, mesh size, attachments
 - iv. effort data
 - v. longitude and latitude, fishing depth
 - vi. in the case of trawl fisheries, the time from the end of setting to the start of gear retrieval. In any other case, the start of setting and the end of retrieval;
- (b) monitor the vessel's stowage plan referred to in Article 28, and record in the observer report any discrepancies identified;
- (c) record any observed interruption or interference with the Vessel Monitoring System (VMS);
- (d) only set vessel's instruments with the Master's agreement;
- (e) transmit daily, whether the vessel is fishing or not, before 12:00 UTC to the Fisheries Monitoring Centre (FMC) of the flag State Contracting Party, in accordance with Annex II.G, the OBR report, by division;
- (f) perform such work, including for scientific purposes, as the Commission may request;
- (g) submit the observer report, in a computer readable form, where possible with the associated images taken by the observer as attachment
- i. as soon as possible after leaving the Regulatory Area and at the latest at arrival of the vessel in port, to the flag State Contracting Party,
 - ii. immediately upon arrival in port, to the local port inspection authority if an inspection in port occurs
- (h) make themselves available to inspectors at sea, or in port upon arrival of the vessel, for the purposes of inspecting the fishing activities of the vessel.
- (i) referring to any incidents of discrepancies with the NAFO CEM:

- i. report without delay to the competent authority of the flag State Contracting Party of the vessel, any discrepancy with the NAFO CEM, including any instances of obstruction, intimidation, interference with or otherwise prevention of the observer from performing their duties, using the independent two-way communication device, and
- ii. maintain detailed records, including relevant images and video footage, of any circumstances and information related to any instances of discrepancies with the NAFO CEM, for transmission to the to the Fisheries Monitoring Centre (FMC) of the flag State Contracting Party at the earliest opportunity, and at the latest upon arrival of the vessel in port;

Obligations of the Master

14. Each flag Contracting Party shall ensure that Masters of vessels entitled to fly their flag:

- (a) extend such co-operation and assistance as may be required to enable the observer to carry out his or her duties. This cooperation shall include providing the observer with such access as may be required to the catch, including such catch as the vessel may intend to discard;
- (b) provide food and accommodations to the observer of a standard no less than that provided to the vessel's officers. If officers' accommodations are not available, the observer shall be provided accommodations of a standard as close to an officer's as practicable but no less than that provided to the crew;
- (c) provide access to all operational areas of the vessel necessary to complete their duties, including the vessel's hold(s), production area(s), bridge, garbage processing equipment and navigation and communication equipment;
- (d) do not obstruct, intimidate, interfere with, influence, bribe or attempt to bribe an observer in the performance of his/her duties;
- (e) include the observer in all emergency drills conducted on-board; and
- (f) notify the observer when an inspection party has signaled their intent to board the vessel.

Costs

15. Subject to any arrangement with another Contracting Party, each Contracting Party shall bear the costs of remunerating every observer it has deployed.
16. Contracting Parties shall ensure that their observers have no financial or beneficial interest in, and are paid in a manner that demonstrates financial independence from, the vessel(s) being monitored.

Duties of the Executive Secretary

17. The Executive Secretary:

- (a) shall make available to all Contracting Parties, via the NAFO MCS website for enforcement purposes only, without delay:

- i. a copy of the observer trip report in the format of Annex II.M,
 - ii. the annual lists of observers and observed vessels,
 - iii. the name of fishing vessel together with the name and ID (if applicable) of the observer concerned as communicated by the flag State Contracting Party,
 - iv. any observer report of a discrepancy with the CEM, including, but not limited to any instances of obstruction, intimidation, interference with or otherwise prevention of the observers from performing their duties, and the report of the investigation conducted, and
 - v. the daily OBR report.
- (b) makes available upon request the observer data, including the daily OBR report, to the other NAFO bodies;
- (c) where a daily OBR report has not been received for 2 consecutive days, notifies the flag State Contracting Party and any Contracting Party participating in the at-sea Inspection and Surveillance Scheme that an OBR has not been received;
- (d) submits to STACTIC, at its Intersessional meeting, a synthesis of the Contracting Parties performance reports referred to in paragraph 9.d.

Implementation

18. This Observer Program will be reviewed by STACTIC in 2022.
19. Any Contracting Party may elect to delay the application of Article 30 until 01 January 2020, but shall follow the provisions of Article 30 outlined in the 2018 NAFO CEM (COM Doc. 18-01). Those Contracting Parties electing to delay shall notify the Executive Secretary no later than 31 December 2018, and the Executive Secretary shall post this information to the MCS Website.