

Northwest Atlantic



Fisheries Organization

Serial No. N1687

NAFO/FC Doc. 89/11

ELEVENTH ANNUAL MEETING - SEPTEMBER 1989

Suggestions for Draft Revision of Part IV -  
Scheme of Joint International Inspection

by

NAFO Executive Secretary

1. First point: Paragraphs, subparagraphs, sections and/or clauses or just rules

It should be discussed whether to designate the directions designated by 1, 2, etc. as "paragraphs" or "rules". Given their practical application, the designation of "rules" would be shorter and more practical. Rule 1 or Rule 1(ii) or Rule 1(ii)a would replace Paragraph 1, subparagraph 1(ii) or section a) of subparagraph 1(ii).

2. Division of Rule 1(ii)

It may be suggested a division of this Rule, as follows:

ii) The appropriate authorities of Contracting Parties shall notify the Executive Secretary:

a) by November 1 each year of the names of the inspectors and special inspection vessels (which term includes fishing vessels carrying inspectors) and the identity of the helicopters which they are assigning to the Scheme in accordance with Rule 20 (now 12) of the Scheme.

b) modifications to such notifications with two months notice whenever possible.

3. Tightening of Rule 1(ii)b

It is suggested that the way the Rule reads now, modifications to the original notification may never be notified or notified after six months or more have elapsed. Thus the results to be obtained by Rule 1(ii) will be greatly lost. Wouldn't it be better to introduce a limit, as for instance, inserting after "whenever possible", words like, "but never more than three months". Furthermore it is preferable to indicate "60 days", "90 days" rather than "two months" or "three months".

4. Rule 1(iii)

iii) In the case of mutual agreement between the respective Contracting Parties and following notification to the Executive Secretary, inspectors assigned by one Party may be placed on board another Party special inspection vessels assigned to the Scheme.

5. Rule 1(iv)

It is suggested that this Rule be divided in two with drafting as follows:

1(iv) On receipt of the notification of assignment to the Scheme from the Contracting Party, the Executive Secretary shall issue a numbered document of identity, as shown in Annex I, to the respective authority for each inspector of that Party.

1(v) Each inspector shall carry and produce his document of identity upon boarding a vessel.

6. Rules 1(v), 1(vii) and 1(viii)

In Rule 1(v), the sentence "All inspectors on board shall be assumed to be NAFO inspectors", if necessary, has to be separated as a different rule.

Maybe the purpose of this Rule should also be clarified.

After that suggestion is taken, then Rules 1(v), 1(vii) and 1(viii) would become one single Rule 1(vi), as follows:

1(vi) Special inspection vessels shall immediately notify the Executive Secretary by radio/telex of:

- (a) the dates and times of commencing and
- (b) of terminating their duties under the Scheme, and
- (c) shall enter the same times in the ship's log.
- (d) In exceptional cases where communication of the notifications is not possible, these entries shall constitute fulfillment of the obligations of notification.

7. Rule 1(vi)

This rule should stay as it is and would come after Rule 1(vi) with number 1(vii).

8. Rules 1(ix) and 2(i) and (ii)

Rule 1(ix) would become Rule 1(viii) but there is nothing to suggest regarding the texts of any of the present Rules 1(ix) and 2.

9. Rule 3

The text of this Rule should stay as it is but the two paragraphs should be designated (i) and (ii).

10. Rules 4 and 5(i)

Nothing to suggest.

11. Rule 5(ii)

The following order is suggested:

5(ii) The master of a vessel to which the Scheme applies shall:

- (a) facilitate boarding when given the appropriate signal in the International Code of Signals by a vessel or helicopter carrying an inspector.
- (b) in either case, observe the ordinary practice of good seamanship to enable an inspection party to board as soon as practicable.

5(iii) The vessel to be boarded shall not be required to stop or manoeuvre when fishing, shooting, or hauling.

5(iv) The master shall nonetheless provide:

- (a) for vessels longer than 30 m overall, a boarding ladder constructed and used as described in Annex III;
- (b) such assistance to boardings from helicopters as specified or as qualified in Annex IV.

12. Rule 5(iii)

Becomes Rule 5(v).

13. Rule 5 (iv)

It will be divided as follows:

- 5(vi) An inspection party shall consist of, at maximum, two inspectors assigned to the Scheme.
- 5(vii) The use of arms in relation to the inspections is prohibited and, in particular, the inspectors shall not carry arms.
- 5(viii) Notwithstanding the provisions of Rule 5(vii), the principle of not carrying or using arms shall not be deemed to limit the performance of inspections by a Contracting Party of vessels flying its own flag.

14. Rule 5(v)

It will not be altered, but it will become Rule 5(ix).

15. Rule 6(i)

It has to be divided quite a lot.

We suggest the following:

- Rule 6(i) Inspections shall be made so that the vessel, its activities and catch suffer the minimum interference and inconvenience.
- Rule 6(ii) The duration of an inspection shall not exceed 3 hours, or until the net is hauled in and the net and catch are inspected, whichever is longer, but this time limitation shall not apply in the case of an apparent infringement.
- Rule 6(iii) In the case of a difference between the recorded catches and the inspector's estimates of the catch on board the vessel, the inspector may re-check calculations, procedures, the relevant documentation used to determine the catch summaries from the Regulatory Area and the catch on board the vessel; the inspector shall then leave the vessel within one hour following the completion of the original inspection.
- Rule 7(i) An inspector shall limit his inquiries to the ascertainment of the facts in relation to the observance of those Commission's measures to which the Contracting Party for the inspected vessel has not objected in accordance with Article XII of the Convention.
- Rule 7(ii) The inspection shall be carried out using the report of inspection prescribed in Annex V.

- Rule 7(iii) As regards Section 15 of Annex V, notwithstanding any objection to quotas made pursuant to Article XII of the Convention, inspectors shall summarize from logbook records, for the current voyage, the vessel's catch in the Regulatory Area by species and by division and shall record this summary on the inspection form.
- Rule 8(i) The current voyage shall be defined for this purpose as beginning when the vessel enters the Regulatory Area, and ending when the vessel leaves the Convention Area (which includes the ports bordering the Convention Area) for a period greater than 20 days.
- Rule 8(ii) The current voyage shall not be considered to have ended as long as the vessel has catch on board from the Regulatory Area.
- Remark - Regulatory Area and Convention Area are defined in the Convention and consequently it might be incorrect to add to that expression phrases like "(which includes the ports bordering the Convention Area)". In fact there might be ports bordering the Convention Area with part of their area with waters not of the Atlantic Ocean, and consequently not in the Convention Area.
- Rule 9 In the case of a language difficulty, the inspector or the master shall use, in the appropriate language, the appropriate part of the questionnaire shown in Annex VI.
- Rule 10 Contracting Parties may exercise, by letter to the Executive Secretary, the option to have inspectors summarize from logbook records for the quota period, instead of the current voyage, their vessel's catch in the Regulatory Area by species and by division and record this summary in Section 18 (now 15) of the inspection form.
- Rule 11(i) In making his examination, the inspector may ask the master for any required assistance. The master shall facilitate the work of the inspector.
- Rule 11(ii) The report of the inspection may be commented upon and shall be signed by all the persons that the form requires.
- Rule 11(iii) A copy of the report shall be given to the master of the vessel.
- Rule 12(i) The Contracting Party inspecting a vessel will communicate in writing the details of an apparent infringement to the designated authorities of the Contracting Party for the inspected vessel within the working day following the inspection whenever possible.
- Remark- This rule should specify a maximum limit when the minimum is not possible in the first instance.
- Rule 12(ii) A Contracting Party inspecting vessels of another or other Contracting Parties will provide notification of a list of vessels inspected on a 10 day basis to the designated authorities of the Contracting Parties of the vessels inspected, via the office of the Executive Secretary.
- Rule 13(i) In the case of an apparent infringement or a difference between recorded catches and the inspector's estimates of the catches on board, a copy of the inspection report with supporting documentation, including second photographs taken, shall be transmitted as soon as possible to the responsible authorities of the Contracting Party for the inspected vessel, after the inspection vessel returns to port.

Rule 13(ii) In the case of other inspection reports, the original shall be transmitted within 30 days whenever possible, to a designated authority of the Contracting Party for the inspected vessel.

Rule 13(iii) A copy of every inspection report shall also be forwarded to the Executive Secretary.

16. Rule 6(ii)

With the same text should become:

Rule 14(i) Notwithstanding any objection to quotas made pursuant to Article XII of the Convention:

- (a) Inspectors shall have authority to inspect and measure all fishing gear on or near the working deck and readily available for use and to inspect and record estimates of the catch on and below decks insofar as such inspection and measurement are necessary to establish whether the vessel is complying with the Commission's measures;
- (b) Fishing gear shall be inspected in accordance with the Commission's measures;
- (c) With regard to catches, correspondence between the logbook entries for the Regulatory Area and estimates of catches on board relating to these entries may be ascertained and differences between recorded catches and the inspector's estimated of the catches on board with percentages shall be recorded under Section 18 of the inspection report (Comments Section); and
- (d) Inspectors may also ascertain that records for the duration of the quota period to the date of the inspection are aboard the vessel in accordance with the NAFO Conservation and Enforcement Measures Part 1 C.2(b)(iii).

17. Rule 6(iii)

With the same text should become:

Rule 14(ii) An inspector has the authority to examine catch, nets or other gear, and any relevant documents which the inspector deems necessary to verify the observance of the Commission's measures.

Important note - There seems to be a repetition in Rule 14(ii)-now Rule 6(iii)-of Rule 14(i)(a)-Now Rule 6(ii)(a) and as the repetition is not really necessary, and raises problems, it is suggested that Rule 6(iii)(or Rule 14ii) should simply be eliminated and Rule 14(i) is simply Rule 14.

Rule 15(i) Where an apparent infringement of the measures is observed:

- (a) the inspector shall note the apparent infringement in the report, sign the entry and obtain the countersignature of the master;
- (b) the inspector shall enter and sign a notation in the fishing logbook or other relevant document stating the date, location, and type of apparent infringement found.

- (c) the inspector may make a copy of any relevant entry in such a document, and shall require the master of the vessel to certify in writing on each page of the copy that it is a true copy of such entry;
- (d) the inspector shall have full opportunity to document the apparent infringement with photographs of the relevant fishing vessel's gear or catch, in which case a second photograph shall be given to the master of the vessel and attached to the report sent to an appropriate authority of the Contracting Party for the inspected vessel.

18. Rule 6(iv)

With the same text should become:

Rule 16(i) Where an inspector finds an apparent infringement of measures prohibiting:

- (a) fishing in a closed area or with gear prohibited in a specific area;
- (b) fishing for stocks or species after the date on which the Contracting Party for the inspected vessel has notified the Executive Secretary that vessels of that Party will cease a directed fishery for those stocks or species; and
- (c) fishing on an "Others" quota without prior notification to the Executive Secretary, or more than 7 working days after the Contracting Party for the inspected vessel has been notified by the Executive Secretary that fishing under an "Others" quota for that stock or species should cease;

the inspector, to facilitate Contracting Party action on the apparent infringement, shall immediately attempt to communicate with an inspector of the Contracting Party for the inspected vessel, known to be in the vicinity, or the authority designated in accordance with Rule 3(ii) above.

Rule 16(ii) The master of the inspected vessel shall provide the use of the vessel's radio equipment and operator for messages to be sent out and received for the purpose of Rule 16 (i).

Rule 16(iii) At the request of the inspector, a master shall cease all fishing which appears to the inspector to contravene the measures referred to in (a) to (c) of Rule 16(i).

Rule 16(iv) The inspector shall complete the inspection and, if unable within a reasonable period of time, to communicate with an inspector or designated authority of the Contracting Party for the inspected vessel, he shall leave the inspected vessel and communicate as soon as possible with one of them.

Rule 16(v) If he succeeds in establishing communications while on board the inspected vessel, and provided that the inspector or designated authority of the Contracting Party for the inspected vessel agrees, the inspector may remain aboard.

Rule 16(vi) As long as the inspector remains aboard, the master may not resume fishing until the inspector is reasonably satisfied, as a result of either the action taken by the vessel's master or the inspector's communication with an inspector or designated authority of the Contracting Party for the inspected vessel, that the apparent infringement will not be repeated.

19. Rule 6(v)

With the same text should become:

Rule 15(ii) The inspector in charge may request that the master remove any part of the fishing gear which appears to the inspector to contravene the Commission's measures.

Rule 15(iii) An identification mark shall be affixed securely to any part of the fishing gear which appears to the inspector to have been in contravention, and the inspector shall record the fact on his report.

Rule 15(iv) The gear shall be preserved with the mark attached until examined by an inspector or designated authority of the Contracting Party for the inspected vessel who shall determine the subsequent disposition of the gear.

20. Rule 6(vi)

With the same text should be become:

Rule 15(v) An inspector may photograph the fishing gear in such a way that the identification mark and measurements of the fishing gear are visible and subjects photographed should be listed in the report.

Rule 15(vi) A second photograph shall be given to the master of the vessel.

Remark There is in part a repetition here of Rule 6(iii)(d). There also appears that it might be difficult for the photograph to make the measurements visible.

21. Rule 7

It should become:

Rule 17(i) An appropriate authority of a Contracting Party notified of an apparent infringement committed by a vessel of that Party shall take prompt action to receive and consider the evidence of the apparent infringement, conduct any further investigation necessary for disposition of the apparent infringement and, whenever possible, board the vessel involved.

Rule 17(ii) An appropriate authority of the Contracting Party for the vessel concerned shall cooperate fully with the appropriate authority of the Contracting Party that designated the inspector to ensure that the evidence of the apparent infringement is prepared and preserved in a form which facilitates judicial action.

Rule 17(iii) The appropriate authority of a Contracting Party notified of differences between the recorded catches and the estimates of the inspector, shall whenever possible board the vessel involved and, in any event, cooperate with the NAFO inspectors to ensure that the evidence is prepared and preserved in a form which would facilitate any judicial action, and shall conduct any further investigation necessary to allow it to determine appropriate follow-up action.

22. Rule 8

Shall become Rule 18, maintaining the text.

23. Rule 9

Shall become Rule 19, maintaining the text.

24. Rule 10

Shall become Rule 20, maintaining the text.

25. Rule 11

Shall become Rule 21, and subdivide itself into:

Rule 21(i) Appropriate authorities of a 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.

Rule 21(ii) The provisions of this paragraph shall not impose any obligation on the appropriate authorities of a Contracting Party to give the report from a foreign inspector a higher evidentiary value than it would possess in the inspector's own country.

Rule 21(iii) Appropriate authorities of Contracting Parties shall collaborate in order to facilitate judicial or other proceedings arising from a report submitted by an inspector under the Scheme.

Remark - It seems to repeat old Rule 7, 2nd paragraph (Rule 17(ii)).

26. Rule 12

Shall become Rule 22, maintaining the text.

27. Rule 13

Shall become Rule 23, maintaining the text, except that (ii) will be divided rd

## Rule 23(ii)

(a) the disposition of apparent infringements notified to it by a Contracting Party; and

(b) the apparent infringements shall be listed annually until the action is concluded under the laws of the Flag State, and any penalties imposed shall be described in specific terms.

## Rule 23(iii)

(a) differences that they consider significant between records of catches in their Contracting Party's vessels' logbooks and inspectors' estimates of catches on board the vessels; and

(b) the cases so identified as significant shall be listed annually until NAFO is informed of the actions taken in response, including any penalties imposed under the law of the Flag State. These penalties shall be described in specific terms.

28. Rule 14

Shall be Rule 24, with same text.



It is finally to be observed that a special meeting of STACTIC to forward a report could only take place either by correspondence with proposals addressed to the Executive Secretary for him to organize the voting also by correspondence or else after the Chairman of the General Council, after consulting every member of his Council, would approve the expense and funds for such a meeting.

It should also be considered that the Fisheries Commission could not decide anything on that report without a meeting and, again, two months after the STACTIC meeting might not be close to the Fisheries Commission Annual Meeting. This however has been covered in the text of the Article by a request for a special meeting of the Fisheries Commission.

This again assumes that the funds for convening such a special meeting existed or could be authorized by the Chairman of the General Council after consultation with every member of the General Council.