

**28<sup>th</sup> ANNUAL MEETING – SEPTEMBER 2006****AMENDMENTS TO THE CONSERVATION AND ENFORCEMENT MEASURES  
(Adopted)****Article 9 – By-catch requirements**

1. By-catch retained on board
  - a) Vessels of a Contracting Party shall limit their by-catch to a maximum of 2500 kg or 10%, whichever is the greater, for each species listed in Annex I for which no quota has been allocated in that Division to that Contracting Party.
  - b) In cases where a ban on fishing is in force or an “Others” quota has been fully utilised, the by-catch of the species concerned may not exceed 1250 kg or 5%, whichever is the greater.
  - c) The percentages in a) and b) are calculated as the percentage, by weight, for each species of the total catch retained on board. Catches of shrimp shall not be included in the calculation of by-catch levels of ground fish species.
  
2. By-catch in any one haul
  - a) If the percentages of by-catches in any one haul have exceeded the percentages laid down in paragraph 1 a) and b) the vessel must immediately move a minimum of 10 nautical miles from any position of the previous tow and throughout the next tow keep a minimum distance of 10 nautical miles from any position of the previous tow. If after moving, the next haul exceeds these by-catch limits the vessel must leave the Division and not return for at least 60 hours.
  - b) In the event that total by-catches of all ground fish species subject to quota in any haul in the shrimp fishery exceed 5% by weight in Division 3M or 2.5% by weight in Division 3L, the vessel must move a minimum of 10 nautical miles from any position of the previous tow and throughout the next tow keep a minimum distance of 10 nautical miles from any position of the previous tow. If after moving, the next haul exceeds these by-catch limits the vessel must leave the Division and not return for at least 60 hours.
  - c) The percentage of by-catch authorised in any one haul is calculated as the percentage, by weight, for each species of the total catch in that haul.
  
3. Directed fishery and by-catch
  - a) Masters shall not conduct directed fisheries for species for which by-catch limits apply. A directed fishery for a species shall be deemed to have been conducted when that species comprises the largest percentage by weight of the total catch in any one haul.
  - b) However, when a vessel is conducting a directed fishery for skate with a legal mesh size appropriate for that fishery, the first time that, in a haul, catches of species for which by-catch limits comprise the largest percentage, by weight of the total catch, they shall be considered as incidental. In this event the vessel shall immediately change position in accordance with the provisions of paragraph 2a) and b).
  - c) Following an absence from a Division of at least 60 hours in accordance with the provisions of paragraphs 2a) and b) masters shall undertake a trial tow the duration of which shall not exceed 3 hours. By way of derogation from paragraph a), if in a haul from such a trial tow catches of species for which by-catch limits comprise the largest percentage, by weight of the total catch, it shall not be considered as a directed fishery. In this event the vessel shall immediately change position in accordance with the provisions of paragraph 2a) and b).

### **Article 20 – Recording of catch and stowage**

5. Taking into account consideration for the legitimate safety and navigational responsibilities of the master of the vessel, the following shall apply:
  - a) All catches taken inside the NAFO Convention Area shall be stowed separately from all catches taken outside the area. They shall be kept clearly separate, for example with plastic, plywood or netting.
  - b) Catches of the same species may be stowed in more than one part of the hold but the location where it is stowed shall be clearly represented in the stowage plan referred to in paragraph 6.

### **Article 33a – Enhanced follow-up with regard to certain serious infringements**

1. In addition to the provisions of Article 33 the flag state Contracting Party shall take action under this article where a vessel flying its flag has committed one of the following serious infringements:
  - a) Directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited (Article 9);
  - b) Mis recording of catches (Article 20);

To be considered for follow-up action under this Article the difference between the inspector's estimates of processed catch on board, by species or in total, and the figures recorded in the production logbook shall be 10 tons or 20%, whichever is the greatest, calculated as a percentage of the production logbook figures. In order to calculate the estimate of the catch on board a stowage factor agreed between the inspectors of the inspecting Contracting Party and the Contracting Party of the inspected vessel shall be used.

- c) The repetition of the same serious infringement mentioned in the Article 33 (1) that has been confirmed in accordance with Article 33 paragraph 5 during a 100 day period or within the fishing trip, whichever is shorter.
2. The flag state Contracting Party shall ensure that following the inspection referred to in Article 33 (3) the vessel concerned ceases all fishing activities and an investigation into the serious infringement is initiated.
3. If no inspector or other person designated by the flag state Contracting Party of the vessel to carry out the investigation as outlined in paragraph 2 is present in the Regulatory Area the flag state Contracting Party shall require the vessel to proceed immediately to a port where the investigation can be initiated.
4. When completing the investigation for any serious infringement of mis-recording of catch referred to in paragraph 1 b) the flag state Contracting Party shall ensure that the physical inspection and enumeration of total catch on board, takes place under its authority in port. Such inspection may take place in the presence of an inspector from any another Contracting Party that wishes to participate, subject to the consent of the flag state Contracting Party.
5. When a vessel is required to proceed to port pursuant to paragraph 2, 3 or 4, an inspector from another Contracting Party may board and/or remain on board the vessel as it is proceeding to port, provided that the competent authority of the Contracting Party of the inspected vessel does not require the inspector to leave the vessel.

### **Article 34 – Follow-up to infringements**

1. The competent authorities of a Contracting Party notified of an infringement committed by one of its vessels shall investigate immediately and fully this infringement to obtain the evidence required which shall include, where appropriate, the physical inspection of the vessel concerned.
2. The competent authorities of the flag state Contracting Party shall take immediate judicial or administrative action in conformity with their national legislation against the nationals responsible for the vessel flying its flag where the measures adopted by NAFO have not been respected.
3. The competent authorities of the flag state Contracting Party shall ensure that the proceeding initiated pursuant to paragraph 2 shall be capable, in accordance with the relevant provisions of national law, of providing effective measures that are adequate in severity, secure compliance, and deprive those responsible of the economic benefit of the infringement, and effectively discourage future infringements.
4. paragraph 2 – unchanged
5. paragraph 3 – unchanged
6. paragraph 4 – unchanged

Remarks : delete the paragraph 1 and 5 replaced by new paragraph 1, 2 and 3.

### **Article 34 a – Enforcement Measures**

1. Each flag State Contracting Party shall take enforcement measures with respect to a vessel, where it has been established, in accordance with its laws that this fishing vessel flying its flag committed a serious infringement listed in article 33.a.
2. The measures referred to in paragraph 1 may include, in particular depending on the gravity of the offence and in accordance with the pertinent provisions of national law :
  - a) Fines
  - b) Seizure of illegal fishing gear and catches
  - c) Sequestration of the vessel
  - d) Suspension or withdrawal of authorisation to fish
  - e) Reduction or withdrawal of the fishing quota
3. The flag State Contracting Party of the vessel concerned shall notify to the Executive Secretary, without delay, the appropriate measures taken in accordance with this Article.

### **Article 35 – Treatment of Reports from Inspectors**

The text of Article 35 is replaced by the following :

1. Inspection and surveillance reports drawn up by NAFO inspectors shall constitute admissible evidence for administrative or judicial proceedings of any Contracting Parties. For establishing facts they shall be treated equally to inspection and surveillance reports of its own inspectors.

2. Contracting Parties shall collaborate in order to facilitate judicial or other proceedings arising from a report submitted by an the inspector under the scheme, subject to the rules governing the admissibility of evidence in domestic judicial and other systems.

### **Article 36 – Report on infringements**

1. Paragraph 1 – unchanged

2. Paragraph 2 - unchanged

3. Addition of a new paragraph 3 :

3. "In case of serious infringement referred to in Article 33.a, the Contracting Party concerned shall provide to the Executive Secretary with a report on the progress of the investigation, including details of any action taken or proposed to be taken in relation to the serious infringement as soon as practicable and in any case within four months following the notification of the infringement and a report on the outcome of the investigation when the investigation is completed".