

30TH ANNUAL MEETING – SEPTEMBER 2008**(ADOPTED)****STACTIC RECOMMENDATION ON NEW NAFO MEASURES
ON PORT STATE CONTROL****Introduction**

A discussion paper for new NAFO Measures on Port State Control was presented by Norway at the intersessional meeting of STACTIC in June 2007. A revised version of the paper formed the basis for the discussions in STACTIC during the 2007 annual meeting in Lisbon. In the meeting it was decided that the next STACTIC intersessional meeting in July 2008 should focus primarily on the port State control. Norway undertook to present a second revision of the paper that would take into consideration comments provided by the Contracting Parties. At the July 2008 meeting numerous amendments, changes and bracketed text suggestions to the Norwegian draft working paper were made. STACTIC agreed that due to the complexity of the document it should be termed a STACTIC discussion paper to be considered for adoption at the 2008 NAFO Annual Meeting.

STACTIC has resolved all bracketed texts and agreed to submit a recommendation to the Fisheries Commission to adopt a new NAFO Measures on Port State Control.

Background and Explanation

The provisions in the recommendation are based on the following four basic principles that in our view are necessary to make a consistent Port State Control Scheme work:

1. Prior notification. The master of the vessel has to present a prior notification to the competent authorities.
2. Confirmation from the flag State. Released by the prior notification form which is sent by the port State to the flag State. The flag State confirms the legal status of the catch by answering yes or no to four questions. The form is then returned to the port State.
3. Authorisation to land or tranship. Such authorisation is given by the port State if the flag State has confirmed the legal status of the catch by answering yes to all four questions. No authorisations shall be given if this is not the case. By derogation an exception can be made, but the catch can not be released from storage before the required confirmation is given.
4. Transparency. The forms containing the prior notification, the confirmation and the authorisation are posted on the secure part of the website.

The North East Atlantic Fisheries Commission (NEAFC) introduced port State control on May 1, 2007 based on the above mentioned principles. The system is simple and has worked well since the introduction. Illegal landings have been stopped and the flow of information between the vessels, contact points and the NEAFC Secretariat is functioning well. The industry has welcomed the system since it provides the best guarantee possible at the time of landing that the catch is legally caught.

The level of inspection in the NEAFC Port State Control Scheme is set at 15 % of all landings. All inspections shall be documented by using a special form which is posted at the secure part of the website when completed.

By introducing the confirmation from the flag State, the system goes a bit beyond the provisions in the draft Global Agreement on Port State Measures currently being developed in Food and Agricultural Organisation of the United Nations (FAO). At the same time the system is simplified since the inspections can focus mainly on verifying the information provided in the prior notification. All other aspects, whether the vessel is authorised or not, what quota it has been allocated and so on, is dealt with by the flag State in the confirmation process.

Part I of the new port State Control measures contains amendments to the existing CEM that are necessary as a consequence of introducing the new Chapter V.

Part II contains a complete text for a new Chapter V to replace the existing Chapter V dealing with inspections in port.

Article 44 contains the scope of the port State Control measures relating to the port State, the flag State, the master, the receiver of the catch and finally the role of the Executive Secretary. The port State Control measures apply to landings and transshipments in ports of Contracting Parties by fishing vessels flying the flag of another Contracting Party. It covers all fish caught in the Regulatory Area and fish products originating from such fish, that have not been previously landed or transhipped at a port.

NAFO CEM already contains certain elements of port inspection. These elements are pursued in the text presented. At the same time the text is drafted with the aim to set up a system that is as similar to the one established in NEAFC as possible. The experiences gained during the last year indicates that the established NEAFC Port State Control Scheme is working well and that it is suited to be built on when developing new port State control regulations in other RFMOs.

All the Contracting Parties to NEAFC are also Contracting Parties to NAFO. A similar system in both organisations will simplify the operation of the systems in each Contracting Party. Vessels are operating in both areas, and may even do so on the same fishing trip. To have a similar system will be a real simplification for the masters since they can use the same prior notification form. The receivers of the fish would be provided with the same guarantee with respect to the legal status of the fish.

Part III focuses on provisions that will include prior notification in respect of non-Contracting Party vessels entering a port of a Contracting Party. If such vessels intend to land or tranship they will have to present a flag state confirmation before the operation can commence. In the draft Article 49 nr.1 the obligation to present the confirmation is placed on the master, not the flag

State. Thereby the port State Contracting party only exercises jurisdiction over vessels seeking access to its ports.

The scope of the draft FAO agreement also covers vessels targeted by Chapter VI. Therefore, amendments to these measures were made in order to make them consistent with the draft agreement.

Part IV contains the necessary forms. The NEAFC port State inspection form PSC 3 has been amended to incorporate rules that are in force in NAFO. The prior notification forms PSC 1 (fishing vessels landing or transshipping its own catch) and 2 (vessels landing or transshipping fish caught by other vessels) used in NEAFC has been amended so that they can be used by both NAFO and NEAFC.

The prior notifications contain estimated amounts of fish on board.

RECOMMENDATION

STACTIC recommends the adoption of the following measures on Port State Control to be included in the Conservation and Enforcement Measures

Part I – Amendments to Chapter I, Conservation and management measures, and to Chapter II, Control measures.

Article 17 – add new paragraph 5 (moving all text from the existing Article 44 (6)):

The competent authorities of Contracting Parties shall, every two years, check each of their vessels, notified in accordance with Article 19, to certify the correctness of the vessel's plans for fish rooms and other fish storage places. The master shall ensure that a copy of such certification remains on board to be shown to a NAFO inspector if requested.

Part II - CHAPTER V, INSPECTIONS IN PORT, to be deleted and replaced by:

CHAPTER V

PORT STATE CONTROL

Article 44 – Scope

Subject to the right of the port State Contracting Party to impose requirements of its own for access to its ports, the provisions in this chapter apply to landings or transshipments in ports of Contracting Parties by fishing vessels flying the flag of another Contracting Party. The provisions apply to landing or transshipment of fish caught in the Regulatory Area, or fish products originating from such fish, that have not been previously landed or offloaded at a port.

This chapter also sets out the respective duties of the flag State Contracting Party and obligations of the master of fishing vessels seeking to land catch in a port of a Contracting Party.

Article 45 – Duties of the Port State Contracting Party

1. The port State Contracting Party shall designate ports to which fishing vessels may be permitted access for the purpose of landing or transshipment. It shall transmit to the Executive Secretary a list of these ports. Any subsequent changes to the list shall be notified to the Executive Secretary no less than fifteen days before the change comes into effect.
2. The port State Contracting Party shall establish a minimum prior notification period. The prior notification period should be 3 working days before the estimated time of arrival. However the port State Contracting Party may make provisions for another prior notification Period, taking into account, inter alia, distance between fishing grounds and its ports. The port State Contracting Party shall advise the Executive Secretary of the prior notification period.
3. The port State Contracting Party shall designate the competent authority which shall act as the contact point for the purposes of receiving notifications in accordance with Article 47 (1, 2 and/or 3), receiving confirmations in accordance with Article 46 (2) and issuing authorizations in accordance with paragraph 6. The port State Contracting Party shall advise the Executive Secretary about the competent authority name and its contact information.
4. The requirements contained in paragraphs 1, 2 and 3 do not apply to a Contracting Party that does not permit any landings or transshipments in its ports by vessels flying the flag of another Contracting Party.
5. The port State Contracting Party shall forward a copy of the form as referred to in Article 47 (1 and 2) without delay to the flag State Contracting Party of the vessel and to the flag State Contracting Party of donor vessels where the vessel has engaged in transshipment operations.
6. Landing or transshipment operations may only commence after authorisation has been given by the competent authorities of the port State Contracting Party. Such authorisation shall only be given if the confirmation from the flag Contracting party as referred to in article 46 (2) has been received.
7. By way of derogation from paragraph 6 the port State Contracting Party may authorize all or part of a landing in the absence of the confirmation referred to in paragraph 6. In such cases the fish concerned shall be kept in storage under the control of the competent authorities. The fish shall only be released to be sold, taken over, produced or transported once the confirmation referred to in paragraph 6 has been received. If the confirmation has not been received within 14 days of the landing the port State Contracting Party may confiscate and dispose of the fish in accordance with national rules.
8. The port State Contracting Party shall without delay notify the master of the fishing vessel of its decision on whether to authorize the landing or transshipment by returning a copy of the form PSC 1 or 2 with Part C duly completed. This copy shall also be transmitted to the Executive Secretary without delay.
9. In case of cancellation of the prior notification referred to in Article 47, paragraph 2, the port State Contracting Party shall forward a copy of the cancelled PSC 1 or 2 to the flag state Contracting Party and the Executive Secretary.

10. Unless otherwise required in a recovery plan, the port State Contracting Party shall carry out inspections of at least 15 % of all such landings or transshipments during each reporting year.
11. Inspections shall be conducted by authorized Contracting Party inspectors who shall present credentials to the master of the vessel prior to the inspection.
12. The port State Contracting Party may invite inspectors of other Contracting Parties to accompany their own inspectors and observe the inspection of landings or transshipment operations.
13. An inspection shall involve the monitoring of the entire discharge or transshipment in that port and the port State Contracting Party shall as a minimum:
 - a) cross-check against the quantities of each species landed or transhipped,
 - i. the quantities by species recorded in the logbook
 - ii. catch and activity reports, and
 - iii. all information on catches provided in the prior notification (PSC 1 or 2)
 - b) verify and record the quantities by species of catch remaining on board upon completion of landing or transshipment;
 - c) verify any information from inspections carried out pursuant to Chapter IV;
 - d) verify all nets on board and record mesh size measurements;
 - e) verify fish size for compliance with minimum size requirements.
14. Each inspection shall be documented by completing form PSC 3 (port State Control inspection form) as set out in Annex XIII. The inspectors may insert any comments they consider relevant. They shall sign the report and request that the master sign the report. The master may insert any comment he considers relevant and shall be provided with a copy of the report.
15. The port State Contracting Party shall without delay transmit a copy of each port State Control inspection report and, upon request, an original or a certified copy thereof, to the flag State Contracting Party and to the flag State of any vessel that transhipped catch to the inspected fishing vessel. A copy shall also be sent to the Executive Secretary without delay.
16. The port State Contracting Party shall make all possible efforts to avoid unduly delaying the fishing vessel and ensure that the vessel suffers the minimum interference and inconvenience and that unnecessary degradation of the quality of the fish is avoided.

Article 46 - Duties of the Flag State Contracting Party

1. The flag State Contracting Party shall ensure that the master of any fishing vessel entitled to fly its flag complies with the obligations relating to masters set out in this Chapter.

2. The flag State Contracting Party of a fishing vessel intending to land or tranship, or where the vessel has engaged in transshipment operations outside a port, the flag State Contracting Party or parties, shall confirm by returning a copy of the form, PSC 1 or 2, transmitted pursuant to Article 45 (5) with part B duly completed, stating that:
 - a) the fishing vessel declared to have caught the fish had sufficient quota for the species declared;
 - b) the declared quantity of fish on board has been duly reported by species and taken into account for the calculation of any catch or effort limitations that may be applicable;
 - c) the fishing vessel declared to have caught the fish had authorization to fish in the areas declared; and
 - d) the presence of the vessel in the area in which it has declared to have taken its catch has been verified by VMS data.

Article 47 - Obligations of the Master of a Fishing Vessel

1. The master or the agent of any fishing vessel intending to make a port call shall notify the competent authorities of the port State Contracting Party within the notification period referred to in Article 45 (2). Such notification shall be accompanied by the form provided for in Annex XXIV with Part A duly completed as follows:
 - a) Form PSC 1 , as referred to in Annex XXIV (A) shall be used where the vessel is landing or transshipping its own catch; and
 - b) Form PSC 2, as referred to in Annex XXIV (B), shall be used where the vessel has engaged in transshipment operations. A separate form shall be used for each donor vessel .
 - c) Both forms PSC 1 and PSC 2 shall be completed in cases where a vessel is intending to land both its own catch and catch that was received through transshipment.
2. A master or the agent may cancel a prior notification by notifying the competent authorities of the port they intended to use. The notification shall be accompanied by a copy of the original PSC 1 or 2 with the word “cancelled” written across it.
3. The master of a fishing vessel shall:
 - a) 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 port State inspectors in the performance of their duties;
 - b) provide access to any areas, decks, rooms, catch, nets or other gear or equipment, and provide any relevant information which the port State inspectors request including copies of any relevant documents.

Article 48 - Duties of the Executive Secretary

1. The Executive Secretary shall without delay post on the NAFO website:
 - a) the list of designated ports;
 - b) the prior notification periods established by each Contracting Party;
 - c) the information about the designated competent authorities in each port State Contracting Party.
2. The Executive Secretary shall without delay post on the secure part of the NAFO website:
 - a) copies of all PSC 1 and 2 forms transmitted by port State Contracting Parties;
 - b) copies of all inspection reports, as referred to in Annex XIII (PSC 3 form), transmitted by port State Contracting Parties.
3. All forms related to a specific landing or transshipment shall be posted together.

Article 49 – Serious infringements

The following infringements shall be considered serious:

- a) preventing inspectors from carrying out their duties (Article 47 (3));
- b) landing or transshipping in a port not designated in accordance with the provisions of Article 45 (1);
- c) failure to comply with the provisions of Article 47 (1);
- d) landing or transshipping without authorization of the port State as referred to in Article 45 (6);

Such infringements shall be followed up according to appropriate national legislation.

The provisions in Article 41(1), (2) and (3) shall apply.

Part III – Amendments to Chapter VI, Scheme to promote compliance by non-Contracting Party vessels with recommendations established by NAFO.

(New) Article 46 (2) bis (before renumbering)

Nothing in this Scheme shall be interpreted to prevent a port State Contracting Party from allowing a non-Contracting Party vessel entry into its ports for the purpose of conducting an investigation of, or taking appropriate enforcement action against the vessel.

(New) Article 49 (before renumbering) – Entry and inspection in port

1. Masters of non-Contracting Party vessels intending to call into a port shall notify the competent authority of the port State Contracting Party in accordance with the provisions of Article 47. The port State Contracting Party shall forward without delay this information to the flag State of the vessel and to the Executive Secretary.
2. The port State Contracting Party shall prohibit the entry into its ports of vessels that have not given the required prior notice and provided the information referred to in paragraph 1. The vessel shall in any case not be allowed to enter the port unless a confirmation issued by the flag State in accordance with the provisions in Article 46 (2) is presented.
3. When a non-Contracting Party vessel referred to in Article 47 (1) enters a port of any Contracting Party, it shall be inspected by authorised Contracting Party officials knowledgeable of the Conservation and Enforcement measures (and this Scheme), and shall not be allowed to land or tranship until this inspection has taken place. Such inspections shall include the vessels documents, log books, fishing gear, catch on board any other matter relating to the vessels activities in the Regulatory Area. The inspection shall be documented by at least completing the inspection form provided in Annex XIII.
4. Information on the results of all inspections of non-Contracting Party vessels conducted in the ports of Contracting Parties, and any subsequent action, shall without delay be sent to the Executive Secretary who shall post the information on the secured part of the NAFO website and inform the flag State, relevant RFMOs and other Contracting Parties.

All articles in Chapter VI and VII must be renumbered accordingly.

Part IV – New annex XIII and XXIV

ANNEX XIII to be deleted and replaced by:

Report on Port State Control inspection (PSC 3)

A. INSPECTION REFERENCE. Please use black ink					
Landing	Yes	No	Transhipment	Yes	No
Port State			Port of landing or transhipment		
Vessel name	Flag State		IMO Number ¹	Int. Radio call sign	
Landing/transhipment started		Date	Time		
Landing/transhipment ended		Date	Time		

B. INSPECTION DETAILS			
Name of donor vessel ²	IMO Number ¹	Radio call sign	Flag State
B 1. CATCH RECORDED IN THE LOGBOOK			
Species ³	Area of catch	Declared live weight kg	Conversion factor used

¹ Fishing vessels not assigned an IMO number shall provide their external registration number
² In case where a vessel has engaged in transhipment operations. A separate form shall be used for each donor vessel.
³ FAO Species Codes – NEAFC Annex V - NAFO Annex II

B 2. FISH LANDED OR TRANSHIPPED									
Species ⁴	Product ⁵	Area of catch	Product weight landed in kg	Conversion factor	Equivalent live weight kg	Diff (kg) between live weight declared in the logbook and the live weight landed	Diff (%) between live weight declared in the logbook and the live weight landed	Diff (kg) between Product weight landed and PSC 1/2	Diff (%) between Product weight landed and PSC 1/2
B 3. INFORMATION ABOUT LANDINGS AUTHORISED WITHOUT CONFIRMATION FROM THE FLAG STATE									
Name of storage, name of competent authorities, deadline for receiving confirmation, ref. NEAFC art. 23.2 / NAFO art. 45.6									
B 4. FISH RETAINED ON BOARD									
Species ⁶	Product ⁷	Area of catch	Product weight in kg	Conversion factor	Live weight kg	Diff. (kg) between product weight on board and PSC 1/2		Diff. (%) between product weight on board and PSC 1/2	
C. GEAR INSPECTION IN PORT (NAFO only)									
C1. General data									
Number of gear inspected						Date gear inspection			
Has the vessel been cited ?			Yes		No	If yes, complete the full "verification of inspection in port form. If no, complete the form with the exception of the NAFO Seal Details			
C2. Otter Trawl details									
NAFO Seal number						Is seal undamaged ?		Yes	No
Gear type									
Attachments									
Grate Bar Spacing mm.									
Mesh type									
Average mesh sizes (mm)									
Trawl part									
Wings									
Body									
Lengthening Piece									
Codend									

⁴ FAO Species Codes – NEAFC Annex V - NAFO Annex II
⁵ Product presentations – NEAFC Appendix 1 to Annex IV – NAFO Annex XX (C)
⁶ FAO Species Codes – NEAFC Annex V - NAFO Annex II
⁷ Product presentations – NEAFC Appendix 1 to Annex IV – NAFO Annex XX (C)

D. OBSERVATIONS BY THE MASTER			
<p>I,the undersigned, Master of the vessel hereby confirm that a copy of this report have been delivered to me on this date. My signature does not constitute acceptance of any part of the contents of this report, except my own observations, if any.</p> <p>Signature: _____ Date : _____</p>			
E. INFRINGEMENTS AND FOLLOW-UP			
E.1 Sea Inspection			
Infringements resulting from Inspections inside NAFO R.A.			
Inspection Party	Date of insp.	Division	NAFO CEM infringement legal reference
E.2 Port Inspection Infringements results			
(a) - Confirmation of Infringements found at sea inspection			
NAFO CEM infringement legal reference		National Infringement legal reference	
(b) - Infringements found at sea inspection and not possible to be confirmed during the Port Inspection.			
Comments :			
(c) - Additional infringements found during the Port Inspection			
NAFO CEM infringement legal reference		National Infringement legal reference	
Observations :			
F. DISTRIBUTION			
Copy to flag State	Copy to NEAFC Secretary	Copy to NAFO Executive Secretary	

ANNEX XXIV

PORT STATE CONTROL PRIOR NOTIFICATION FORMS

A – PSC 1

PORT STATE CONTROL FORM – PSC 1									
PART A: To be completed by the Master of the Vessel. Please use black ink									
Name of Vessel:		IMO Number: ¹		Radio Call Sign:		Flag State:			
Email Address:		Telephone Number:		Fax Number:		Inmarsat Number:			
Port of Landing or Transhipment:									
Estimated Time of Arrival:		Date:		Time UTC:					
Total catch on board – all areas						Catch to be landed ²			
Species ³	Product ⁴	Area of catch			Conversion factor	Product weight (kg)	Product weight (kg)		
		NEAFC CA (ICES subareas and divisions)	NAFO RA (Sub Division)	Other areas					
PART B: For official use only – to be completed by the Flag State									
The Flag State of the vessel must respond to the following questions by marking in the box "Yes" or "No"						NEAFC CA		NAFO RA	
						Yes	No	Yes	No
a) The fishing vessel declared to have caught the fish had sufficient quota for the species declared									
b) The quantities 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 vessel declared to have caught the fish had authorisation to fish in the area declared									
d) The presence of the fishing vessel in the area of catch declared has been verified according to VMS data									
Flag State confirmation: <i>I confirm that the above information is complete, true and correct to the best of my knowledge and belief.</i>									
Name and Title:				Date:					
Signature:				Official Stamp:					
PART C: For official use only – to be completed by the Port State									
Name of Port State:									
Authorisation:		Yes:		No:		Date:			
Signature:				Official Stamp:					
1. Fishing vessels not assigned an IMO number shall provide their external registration number 2. If necessary an additional form or forms shall be used 3. FAO Species Codes – NEAFC Annex V - NAFO Annex II 4. Product presentations – NEAFC Appendix 1 to Annex IV – NAFO Annex XX (C)									

B – PSC 2

PORT STATE CONTROL FORM – PSC 2									
PART A: To be completed by the Master of the Vessel. A separate form shall be completed for each donor vessel. Please use black ink									
Name of Vessel:		IMO Number:¹		Radio Call Sign:		Flag State:			
Email Address:		Telephone Number:		Fax Number:		Inmarsat Number:			
Port of Landing or Transhipment:									
Estimated Time of Arrival:		Date:		Time UTC:					
Catch Information for Donor Vessels *A separate form shall be completed for each Donor Vessel*									
Name of Vessel		IMO Number¹		Radio Call Sign		Flag State			
Total catch on board – all areas							Catch to be landed²		
Species ³	Product ⁴	Area of catch			Conversion factor	Product weight (kg)	Product weight (kg)		
		NEAFC CA (ICES subareas and divisions)	NAFO RA (Sub Division)	Other areas					
PART B: For official use only - to be completed by the Flag State									
The Flag State of the vessel must respond to the following questions by marking in the "Yes" or "No"						NEAFC CA		NAFO RA	
						Yes	No	Yes	No
a) The fishing vessel declared to have caught the fish had sufficient quota for the species declared									
b) The quantities 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 vessel declared to have caught the fish had authorisation to fish in the area declared									
d) The presence of the fishing vessel in the area of catch declared has been verified according to VMS data									
Flag State confirmation: I confirm that the above information is complete, true and correct to the best of my knowledge and belief.									
Name and Title:				Date:					
Signature:				Official Stamp:					
PART C: For official use only - to be completed by the Port State									
Name of Port State:									
Authorisation:		Yes:		No:		Date:			
Signature:				Official Stamp:					
<p>1. Fishing vessels not assigned an IMO number shall provide their external registration number</p> <p>2. If necessary an additional form or forms shall be used</p> <p>3. FAO Species Codes – NEAFC Annex V - NAFO Annex II</p> <p>4. Product presentations – NEAFC Appendix 1 to Annex IV – NAFO Annex XX (C)</p>									