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**35TH ANNUAL MEETING - SEPTEMBER 2013**

**Proposed Revisions to Articles 3, 5, and 6 of the NAFO's  
Conservation and Enforcement Measures (Phase II)**

Introduction

At the September 2012 Annual Meeting, the Editorial Drafting Group (EDG) outlined an approach for continuing to revise the NAFO Conservation and Enforcement Measures (CEMs). Pursuant to this approach, the EDG reviewed Article 5 and 6 independent of the other Articles given the relative complexity and contentious nature of these provisions.

A brief description of the proposed substantive changes to the existing CEMs is provided below. The full suite of proposed revisions can be found in the attached annex, which contains the cross-references to the corresponding article and paragraph, based on the 2013 CEMs, and a brief description of the proposed change in the right column. The proposed changes represent revisions necessary to clarify existing measures, correct inaccurate references and reformat the CEMs to reflect the updated style and format agreed upon during Phase I of the EDG's efforts (STACTIC WP 11/21).

Proposed Substantive Changes to Catch Limitations and By-catch Requirements (Articles 5 and 6)

Issues of particular note include:

- a. Ensuring that the duties of Contracting Parties and vessels are clearly articulated in Article 3
- b. Inclusion of linkage between effort limitations and stocks listed in Annex I.A and I.B;
- c. Inclusion/clarification of "chartered vessels" intent (in accordance with Article 26) for Contracting Parties;
- d. Clarify that all catch (retained and discarded) is applied against applicable quotas
- e. Establishing Parameters on how by-catch ratios are applied/calculated to species (division, trip, cumulative, etc.);
- f. More clearly distinguishing between Annex I.A and I.B quota from "Others" quota;
- g. Inclusion of the definition of "fishing day";
- h. Clearly establishing the application of closures (directed fisheries);
- i. Require closure of directed fishery within 24 hours instead of 7 days;
- j. Establishing by-catch provisions to total catch of species (including discards) versus only what is retained onboard; and
- k. Reduce by-catch trial tow duration from 3 hours to 1 hour and require vessel to leave the division if by-catch is still excessive.

PROPOSED NEW TEXT	OLD REFERENCE
<b>Article 3 – Duties of the Contracting Parties and Vessels</b>	
1. Each Contracting Party shall ensure that every fishing vessel entitled to fly its flag operating in the Regulatory Area complies with the relevant CEM; and	Article 3 reformatted to address STACTIC Chair concern about applicability of measures to both Contracting Parties and vessels.
2. Each fishing vessel operating in the Regulatory Area shall perform the relevant duties set out in the CEM and comply with the relevant provisions of the CEM.	
<b>Article 5 – Catch and Effort Limitations</b>	Revised title to reflect reorganization
1. Each Contracting Party shall ensure that:	New sentences for clarity including chartered vessels
(a) all vessels, including vessels chartered in accordance with Article 26, are subject to the catch and effort limitations specified in this Article;	
(b) all catch and effort limitations shall apply to stocks identified in Annex I.A and I.B; and	
(c) unless otherwise stated, all quotas shall be expressed as live weight, in metric tonnes.	
2. For any one haul, the species which comprises the largest percentage, by weight, of the total catch in the haul shall be considered as being taken in a directed fishery for the stock concerned.	Article 6.3 (a) revised and moved for clarity and better flow and consistency for

	Articles 5 and 6
<b>Quotas and Effort</b>	
3. For stocks identified in Annex I.A or I.B caught within the Regulatory area by vessels entitled to fly its flag, each Contracting Party shall:	
(a) limit the catch, by its vessels so that the quota allocated to that Contracting Party in accordance with Annex I.A is not exceeded;	Article 5.1 revised to separate allocated quota from "Others" for clarity.
(b) ensure that all species from stocks listed in Annex I.A, caught by its vessels, are counted against the quota allocated to that Contracting Party;	New paragraph to ensure that Contracting Parties count all applicable catch against allocated quotas
(c) be permitted to fish for stocks in which it has not been allocated a quota in accordance with Annex I.A, hereafter referred to as "Others" quota, if such quota exists and notification of closure has not been given by the Executive Secretary in accordance with paragraph 12 (c) of this Article;	Article 5.1 + 5.3 revised to separate "Others" from allocated quota for clarity
(d) notify the Executive Secretary, by electronic means, of the names of vessels that intend to fish the "Others" quota, at least 48 hours in advance of each entry, and after a minimum of 48 hours of absence from the Regulatory Area. This notification shall, if possible, be accompanied with an estimate of the projected catch; and	Article 5.3 revised for clarity
(e) limit its fishing activities for shrimps in Division 3M in accordance with the fishing effort in Annex I.B.	Article 9.1
4. When no agreement can be reached by the Fisheries Commission on a NAFO managed stock, through either consensus or vote, the Fisheries Commission shall maintain the existing relative percentage quota shares for that stock,	Article 5.6

as reflected in Annex I.A and I.B. This shall be deemed to be a proposal of the Fisheries Commission pursuant to Articles XI and XII of the Convention for the succeeding calendar year.	shortened for clarity
<b><i>Closure of Fisheries for Stocks Listed in Annex I.A and I.B Subject to Quota or Fishing Effort</i></b>	Revised title for clarity
5. Each Contracting Party shall:	
(a) close its fishery for stocks listed in Annex I.A in the Regulatory Area on the date on which the available data indicates that the total quota allocated to that Contracting Party for the stocks concerned will be taken, including the estimated quantity to be taken prior to the closure of the fishery, discards and estimated unreported catch by all vessels entitled to fly the flag of that Contracting Party;	Article 5.2 (a) revised for clarity
(b) ensure its vessels immediately cease fishing activities that may result in catch, when notified by the Executive Secretary in accordance with paragraph 12(b) of this Article that the quota allocated to that Contracting Party has been fully taken. If the Contracting Party can demonstrate that it still has quota available for that stock in accordance with paragraph 6 of this Article, the vessels of that Contracting Party may resume fishing on that stock;	Article 5.7 revised for clarity
(c) close its shrimp fishery in Division 3M when the number of fishing days allocated to that Contracting Party is reached. The number of fishing days in respect of each vessel shall be determined using VMS positional data within Division 3M, with any part of a day being considered a full day;	Article 9.3 revised for clarity
(d) promptly notify the Executive Secretary of the date of closure under paragraphs 5(a), (b), and (c) of this Article;	Article 5.2 (a) with appropriate cross references inserted
(e) ensure that no vessels entitled to fly its flag, commence or continue a directed fishery in the Regulatory Area for a particular stock subject to an "Others" quota within 7 days of notification by the Executive Secretary that the quota is taken;	Articles 5.4 + 5.5
(f) close its fishery for 3M Redfish when notified by the Executive Secretary that the 3M Redfish TAC has been taken, and	Article 5.2(b) shortened for clarity
(g) ensure that, after a closure of its fishery pursuant to this paragraph, no more fish of the stock concerned is retained on	Article 5.2 (a) + (b)

board the vessels entitled to fly its flag unless otherwise authorized by the CEM.	
<b><i>Re-opening of a Closed Fishery</i></b>	
6. A fishery that has been closed according to paragraph 5 of this Article may be re-opened within 15 days of notification by the Executive Secretary in accordance with paragraph 12 of this Article:  (a) if the Executive Secretary confirms that a Contracting Party has demonstrated that there is remaining quota available from its original allocation; or  (b) if a quota transfer from another Contracting Party, in accordance with paragraph 9 of this Article, results in additional quota for the particular stock subject to closure.	Article 5.7 and 5.11 combined
<b><i>Quota Adjustments</i></b>	
7. Catch in excess of a quota allocated to a Contracting Party may result in a deduction of allocations of that stock during a future quota period, if so decided by the Fisheries Commission. Such a deduction:	Articles 5.7, 5.8, and 5.10 combined
(a) will be considered independently from any quota adjustment that may be decided by the Fisheries Commission;	
(b) shall not increase the quota allocated on that stock to any other Contracting Party, unless the Fisheries Commission determines that the increase will not cause further harm to the stock; and	
(c) shall not affect the allocation of any other quota to that Contracting Party.	
8. Catch in excess of an "Others" quota may result in temporary or permanent adjustments to fishing opportunities of the relevant Contracting Party, if so decided by the Fisheries Commission, as appropriate measures to compensate for damage caused to the stock when a Contracting Party has:	Article 5.9 revised for clarity
(a) allowed vessels entitled to fly its flag to harvest stocks allocated to "Others" quota without reporting its intention to fish on that quota to the Executive Secretary in accordance with paragraph 3(d) of this Article;	
(b) failed to report catches taken under such a quota by vessels entitled to fly its flag; or	
(c) permitted vessels entitled to fly its flag to continue a directed fishery under such quota after this fishery had been	

closed following notification by the Executive Secretary, in accordance with paragraph 12 of this Article.	
<b><i>Transfer of Quotas</i></b>	
9. A Contracting Party may partly or fully transfer its allocated quota under Annex I.A to another Contracting Party, subject:	Articles 5.11 and 5.12 combined for clarity on the date the transfer is effective
(a) to the consent of the receiving Contracting Party; and	
(b) prior notification of the transfer to the Executive Secretary, which shall state the date of the transfer's entry into force.	
10. Transfers are not permitted for stocks under the "Others" quota.	New article to clarify FC decision in 2010
11. Fishing days allocated under Annex I.B for shrimps in Division 3M are not transferable between Contracting Parties. However, chartering arrangements related to fishing days are permitted, subject to the provisions of Article 26.	Article 9.5
<b><i>Duties of the Executive Secretary</i></b>	
12. The Executive Secretary:	
(a) promptly informs all other Contracting Parties of the date of closure of an allocated quota upon notification by a Contracting Party;	Article 5.2 (a)
(b) informs a Contracting Party within one working day that there is data available indicating that its allocated quota of a particular stock has been taken;	Article 5.7
(c) notifies without delay by electronic means all Contracting Parties of the date on which the available data indicates that total reported catch, including discards, is estimated at 50% for redfish in Division 3M, and equal to 80% and then 100% for any particular stock subject to an "Others" quota, when such quota exists in accordance with Annex I.A;	Articles 5.2 (b) and 5.4 revised to <i>add a notification at 80% to apply the precautionary</i>

	<i>approach</i> and to clarify applicable catch
(d) reports without delay to the Fisheries Commission when the Contracting Party referred to under paragraph 12 (c) of this Article failed to either cease fishing on that stock or demonstrate that the quota has not been taken within 15 days in accordance with Article 5.5; and	Article 5.7
(e) informs all Contracting Parties of notifications of quota transfers received.	Article 5.12
<b>Article 6 – Retention on Board of Stocks Identified in Annex I.A as By-catch When No Directed Fishery Is Permitted</b>	Revised title for clarify
1. To the extent possible, each Contracting Party shall ensure that its vessels, including vessels chartered in accordance with Article 26, minimize by-catch of species from stock identified in Annex I.A while operating in the Regulatory Area.	New paragraph
2. A species listed in Annex I.A shall be classified as by-catch when it is taken in a Division where any of the following situations exist:	New paragraph for clarity
(a) no quota has been allocated to that Contracting Party for that stock in that Division, in accordance with Annex I.A;	Article 6.1(a)
(b) a ban on fishing for a particular stock is in force (moratoria), or	Article 6.1(b)
(c) the "Others" quota for a particular stock has been fully utilized, following notification by the Executive Secretary in accordance with Article 5.	
<b>Limits for Species Listed in Annex I.A Retained on Board as By-catch</b>	
3. Each Contracting Party shall ensure that its vessels, including vessels chartered in accordance with Article 26, shall limit the retention on board of species classified as by-catch to the maxima specified below:	Articles 6.1(a) + (b) combined
(a) for Cod in Division 3M and Redfish in 3LN: 1250 kg or 5%, whichever is the greater;	Article 6.1(a)
	Editorial coherence

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(b) for Cod in Division 3NO: 1000 kg or 4 %, whichever is the greater;	Article 6.1(b)
(c) for all other stocks listed in Annex I.A where no specific quota has been allocated to the flag State Contracting Party: 2500 kg or 10%, whichever is the greater, and	Article 6.1(a)
(d) where a ban on fishing applies (moratoria), or when the "Others" quota opened to for that stock has been fully utilized: 1250 kg or 5%, whichever is the greater.	Article 6.1(b)
4. The limits and percentages in paragraph 3 of this Article are calculated by Division as the percentage, by weight, for each stock of the total catch of stocks listed in Annex I.A retained on board for that Division at the time of inspection, on the basis of the fishing logbook figures.	Article 6.1(c) revised for clarity of the source of the percentage to mitigate potential by-catch -risks
5. By derogation, the calculation of groundfish by-catch levels in paragraph 3 of this Article shall not include the catches of shrimp in the total catch on board.	Article 6.1(c)
<b><i>Exceeding By-catch Limits in Any One Haul</i></b>	
6. Each Contracting Party shall ensure that its vessels:	
(a) do not conduct directed fisheries for species referred to in paragraph 2 of this Article;	Article 6.2(a) + 6.3 (a) revised for formatting changes
(b) observe the following, where the weight of any species subject to the by-catch limits exceeds the greater of the limits specified in paragraph 3 of this Article in any one haul:	
(i) immediately move a minimum of 10 nautical miles from any position of the previous tow/set throughout the subsequent tow/set;	Article 6.2(a) revised for formatting changes
(ii) leave the Division and not return for at least 60 hours if the by-catch limits specified in paragraph 3 of this Article are	Article 6.2(a) revised for clarity on



again exceeded following the first tow/set after moving in accordance with paragraph 6(b)(i) of this Article;	consequent move to mitigate potential by-catch risks
(iii) undertake a trial tow for a maximum duration of 3 hours before starting a new fishery following an absence of at least 60 hours,. If the stocks subjected to by-catch limits form the largest percentage, by weight, of the total resultant catch in the haul, this should not be considered as a directed fishery for those stocks, and the vessel must immediately change position in accordance with provisions of paragraph 6(b)(i) and (ii); and	Article 6.3 (c)
(iv) identify any trial tow conducted in accordance with paragraph 6(b) and record in the fishing logbook the coordinates pertaining to the start and end locations of any trial tow conducted.	New paragraph to address haul-by-haul logbook requirements adopted in STACTIC 12/16(rev3)
7. In a directed fishery for shrimp, the move referred to in paragraph 6 shall apply when, for any one haul, the quantity of the total groundfish stock listed in Annex I.A exceeds 5% in Division 3M or 2.5% in Division 3L.	Article 6.2(b)
8. When a vessel is conducting a directed fishery for skate with a legal mesh size appropriate for that fishery, the first time that catches of stocks for which by-catch limits apply, as specified in paragraph 2, comprise the largest percentage by weight of the total catch in a haul, they shall be considered as incidental catch, but the vessel shall immediately move as specified in paragraph 6.	Articles 6.3(b)
9. The percentage of by-catch in any one haul is calculated as the percentage, by weight, for each stock listed in Annex I.A of the total catch from that haul.	Article 6.2(c)