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(Acts whose publication is obligatory)

COUNCIL REGULATION (EC) No 3067/95

of 21 December 1995

amending Regulation (EEC) No 1956/88 adopting provisions for the application of the Scheme of Joint International Inspection adopted by the Northwest Atlantic Fisheries Organization

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 43 thereof,

Having regard to the proposal from the Commission [1],

Having regard to the opinion of the European Parliament [2],

Whereas Regulation (EEC) No 1956/88 [3] implements the Scheme of Joint International Inspection adopted by the Northwest Atlantic Fisheries Organization (NAFO) Fisheries Commission on 10 February 1988;

Whereas in the interest of improving control and enforcement in the NAFO Regulatory Area, the European Community has agreed both in the framework of the Agreement on Fisheries with Canada of 20 April 1995 and at the recent meeting of the Fisheries Commission on 11 to 15 September 1995 to modify the said Scheme of Joint International Inspection;

Whereas, pursuant to Article XI of the NAFO Convention, these changes will, in the absence of objections, become binding upon the Contracting Parties as from November 1995;

Whereas it is therefore necessary to amend Regulation (EEC) No 1956/88,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EEC) No 1956/88 is hereby amended as follows:

1. The following shall be added to paragraph 2 (ii) of the Annex as a second subparagraph:

   'Inspections of vessels shall be carried out in a non-discriminatory manner. The number of inspections shall be based upon fleet size, taking into account their compliance records. Contracting Parties shall ensure that their inspectors take special care to avoid damage to the cargo or to the gear inspected. Interference with both fishing and non fishing activities shall be minimised. Crews and vessels operating in conformity with NAFO Conservation and Enforcement Measures shall not be subject to harassment. Inspections shall be carried out only for the purpose of ascertaining that the said NAFO rules are respected.'

2. The following shall be inserted as new paragraphs 9 and 10 of the Annex and the existing paragraphs 9 to 15 shall be renumbered as paragraphs 11 to 17 respectively.

   '9. The following apparent infringements shall be subject to the procedures set out in paragraph 10:

   (i) misreporting of catches;

   (ii) mesh size violations;

   (iii) hail system violations;

   (iv) interference with the satellite tracking system;

   (v) preventing an inspector or an observer from carrying out his or her duties;

   (vi) directed fishing for a stock which is subject to a moratorium or for which fishing is prohibited.

[1] OJ No C 200, 4. 8. 1995, p. 15.
[2] Opinion delivered on 15 December 1995 (not yet published in the Official Journal).
[3] OJ No L 175, 6. 7. 1988, p. 1. Regulation as last amended by Regulation (EC) No 761/94 (OJ No L 90, 7. 4. 1994, p. 7).

10. Notwithstanding paragraphs 7 and 8:

(i) If a NAFO inspector cites a vessel for having committed, to a serious extent, an apparent infringement as listed in paragraph 9, the Contracting Party of the vessel shall ensure that the vessel concerned is inspected within 72 hours by an inspector duly authorized by that Contracting Party. In order to preserve the evidence, the NAFO inspector shall take all necessary measures to ensure security and continuity of the evidence, and may remain on board the vessel, for the period necessary to provide information to the duly authorized inspector concerning the apparent infringement.

(ii) Where justified, the competent authority of the Flag Member State or the inspector authorized by the said authority of the vessel concerned shall, where duly authorized to do so, require the vessel to proceed immediately to a nearby port, chosen by the Master, which should be one of the following, St. John's, Halifax, the home port of the vessel or a port designated by the Flag Member State, for a thorough inspection under the authority of the Flag Member State and in presence of a NAFO inspector from any other Contracting Party that wishes to participate. If the vessel is not called to port, the Contracting Party must provide due justification in a timely manner to the Executive Secretary who shall make it available on request to any Contracting Party.

(iii) Where a NAFO inspector cites a vessel for having committed an apparent infringement as listed in paragraph 9, the inspector shall immediately report this to the competent authority of the Flag Member State and to the Executive Secretary, who shall in turn immediately report, for information purposes, to the other Contracting Parties with an inspection vessel in the Convention Area.

(iv) Where a vessel is required to proceed to port for a thorough inspection pursuant to paragraph (ii), a NAFO inspector from another Contracting Party may, subject to the consent of the Contracting Party of the vessel, board the vessel as it is proceeding to port, may remain on board the vessel as it proceeds to port and may be present during the inspection of the vessel in port.

(v) If an apparent infringement of the Conservation and Enforcement Measures has been detected which in the view of the duly authorized inspector of the Contracting Party of the vessel as referred to in (ii) is sufficiently serious, that inspector shall take all necessary measures to ensure security and continuity of the evidence including, as appropriate, sealing the vessel's hold for eventual dockside inspection.'

Article 2

This Regulation shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Communities.*

This Regulation shall be binding in its entirely and directly applicable in all Member States.

Done at Brussels, 21 December 1995.

For the Council
The President
L. ATIENZA SERNA