COUNCIL REGULATION (EC) No 3069/95

of 21 December 1995

establishing a European Community observer scheme applicable to Community fishing vessels operating in the Regulatory Area of the Northwest Atlantic Fisheries Organization (NAFO)

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 the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries was approved by the Council by Regulation (EEC) No 3179/78 (3) and entered into force on 1 January 1979;

Whereas the Northwest Atlantic Fisheries Organization (NAFO), established by the NAFO Convention, adopted a Joint Scheme of Inspection and Surveillance which was adopted by the Council in Regulation (EEC) No 1956/88 (4);

Whereas NAFO adopted a pilot observer scheme for the period 1993 to 1995 which has been implemented in the Community by means of Regulation (EEC) No 3928/92 (5);

Whereas, with the objective of improving control and enforcement in the NAFO Regulatory Area and complementing the existing Scheme of Joint International Inspection and Surveillance, the Community has agreed, in the framework of the NAFO and the Agreement on Fisheries with Canada, to deploy Community observers on board Community fishing vessels while engaged in fishing activities in the said NAFO Regulatory Area;

Whereas on 15 September 1995, the NAFO Fisheries Commission adopted a proposal to introduce a global observer scheme;

Whereas pursuant to Article XI of the NAFO Convention, the proposal will, in the absence of objections, become a measure binding upon the Contracting Parties as from 15 November 1995;

Whereas the scheme is acceptable to the Community;

Whereas it is appropriate to regulate the observer scheme by means of one Regulation and therefore repeal Regulation (EEC) No 3928/92;

Whereas provision should be made for adopting detailed rules for the implementation of this Scheme,

HAS ADOPTED THIS REGULATION:

Article 1

Without prejudice to Article 2 (2) of Regulation (EEC) No 1956/88, the European Commission shall assign Community observers to all Community fishing vessels engaged in or about to engage in fishing activities in the NAFO Regulatory Area. Duly appointed observers shall remain on board the fishing vessels to which they are assigned until they are replaced by other observers.

Except for reasons of *force majeure*, fishing vessels without an observer on board will not be allowed to commence or continue fishing in the NAFO Regulatory Area.

Article 2

Masters of Community fishing vessels operating in the NAFO Regulatory Area shall receive the Community observers and cooperate with them in order to allow them to discharge their duties while on board the vessels.

Article 3

The detailed rules governing the assignment of the observers, their duties and the obligations of the Masters of the vessels are laid down in Annex I.

Article 4

The Commission shall pay the costs arising from the observer scheme in accordance with the rules in Annex II.

(1) OJ No C 211, 15. 8. 1995, p. 13.
(2) Opinion delivered on 15. 12. 1995 (not yet published in the Official Journal).
(3) OJ No L 378, 30. 12. 1978, p. 1.
(4) OJ No L 175, 6. 7. 1988, p. 1. Regulation as last amended by Regulation (EC) No 3067/95 (see page 1 of this Official Journal).
(5) OJ No L 397, 31. 12. 1992, p. 78.

Article 5

The competent authorities of the Member States receiving the final report of the observer at the termination of the observation period shall evaluate the contents and conclusions of the said report. In the event that the report indicates that the vessel observed has engaged in fishing practices at variance with conservation measures the said authorities shall take all appropriate action to investigate the matter in order to prevent such practices.

Article 6

Regulation (EEC) No 3928/92 is hereby repealed.

Article 7

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 entirety and directly applicable in all Member States.

Done at Brussels, 21 December 1995.

For the Council
The President
L. ATIENZA SERNA

ANNEX I

DETAILED RULES REFERRED TO IN ARTICLE 3

1. **Assignment of observers**

   (i) With a view to fulfilling the obligation to assign observers, the Commission shall assign appropriately qualified and experienced personnel. Selected personnel should possess the following skills in order to discharge their duties:

   — sufficient experience to identify species and gear,

   — navigational skills,

   — a satisfactory knowledge of the NAFO conservation and enforcement measures,

   — the ability to carry out elementary scientific tasks e.g. collecting samples, as requested and observe and record accurately,

   — a satisfactory knowledge of the language of the flag State of the vessel observed.

   (ii) Member States shall take all appropriate steps to ensure that observers are received on board fishing vessels at the duly designated time and location and facilitate their departure at the termination of the observation period.

2. **Duties of observers**

   The main task of the observers is to monitor the fishing vessel's compliance with the relevant NAFO conservation and enforcement measures. More specifically, the designated observers shall:

   (a) record the fishing activities of the vessel observed; fishing activities shall be recorded using the model format set out below in the Appendix;

   (b) verify the position of the vessel when engaged in fishing activity;

   (c) observe and estimate catches taken on a set-by-set basis (location, depth, time the net is in the water);

   (d) identify catch composition;

   (e) monitor discards, by-catch and catches of undersized fish;

   (f) record the gear, mesh size and attachments utilized by the master;

   (g) verify entries made to the logbook and production logbook. Verification of production logbook shall be made using the conversion factor employed by the master;

   (h) verify hail reports;

   (i) report, within 24 hours, evidence of an apparent infringement. Such reports shall be made to a NAFO inspection vessel in the NAFO Regulatory Area which shall report the apparent infringement to the Executive Secretary of NAFO. Observers shall use an established code when communicating to an inspection vessel.

   (j) complete a daily log of the vessels' fishing activities in accordance with the format presented in the Appendix;

   (k) monitor the functioning of automatic remote position recording facilities if on board and used by the vessel observed;

   (l) carry out scientific work and sampling if so requested by the NAFO Fisheries Commission or by the appropriate authorities of the Flag State of the vessel observed;

   (m) present a report, to the Commission and the competent authorities of the Member State concerned, within 20 days following the termination of the observation period. The report shall summarize the main findings of the observer. The report shall be transmitted to the NAFO Executive Secretary by the Commission;

   (n) the assigned observers shall take all appropriate steps to ensure that their presence on board fishing vessels does not hinder or interfere with the proper functioning of the vessels including fishing activities;

   (o) the observer shall respect the property and equipment on board the fishing vessels including the confidentiality of all documents pertaining to the said vessels;

   (p) all observation duties shall be confined to the NAFO Regulatory Area.

3. **Master of the vessel**

(i) the master of the vessel designated to receive an observer on board shall take all reasonable steps to facilitate the arrival and departure of the said observer. While on board the designated observer shall be offered appropriate and adequate accommodation and working facilities. The master of the vessel shall permit the observer to have access to the vessel's documents (logbook, capacity plan, production logbook or stowage plan) and to different parts of the vessel in order to facilitate the discharge of the observer's duties;

(ii) the master shall be informed in good time of the date and location for receiving observers and the likely duration of the observation period;

(iii) the master of the vessel observed may, on his own request, be provided with a copy of the observer's report.

Appendix

FISHING OPERATION REPORT LOCAL TIME ZT + ...

1. Serial No ..... Date ..... Time ..... Observer's name .....

   Vessel ..... Registration No ..... Nationality .....

2. Type of gear ..... No of haul ..... Mesh size ..... mm

   No of hooks .....

   No of gill nets ..... of ..... m

   Attachments to nets ..... Mesh size of attachments ..... mm

3. Position ..... N ..... W Depth ..... M Fishing time .....

   NAFO Division .....

   Chance of NAFO division ☐ yes ☐ no Position ..... N ..... W Time ..... UTC

   Hail report transmitted ☐ yes ☐ no Code ..... Area .....

   Via ..... Radio DTG ..... UTC

   Does the actual position correspond with the latest transmitted hail report ☐ yes ☐ no

4. Catches kept on board. All species in kilograms.

Species	Observer's estimates in live weight (LW)		EC Logbook LW	Production-logbook	How processed	Conversion factors used		Observer's estimates in processed weight	
3-Alpha codes	Present haul	Accumulated totals	Sheet No	Sheet No		Observer	Skipper	Present haul	Accumulated totals

5. Undersized fish observed ☐ yes ☐ no Species .....

   Amount in kg .....

   in % .....

   Discards of undersized fish ☐ yes ☐ no Amount in kg .....

6. Other discards ☐ yes ☐ no Species .....

   Amount in kg .....

7. Other observations

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8. Date ..... Signature .....

ANNEX II

DETAILED RULES REFERRED TO IN ARTICLE 4

The following rules shall apply to observers provided by private agencies:

(i) The private agencies shall enter into a contract with the Commission to provide a fixed number of suitably qualified individuals to act as observers;

(ii) the said contract shall specify the cost per day of the observers, the procedures for the payment of costs and any bilateral arrangements concerning advance payment.
