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COUNCIL REGULATION (EC) No 538/2008

of 29 May 2008

amending Regulation (EC) No 1386/2007 laying down conservation and enforcement measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation

(OJ L 157, 17.6.2008, p. 1)

Corrected by:

►**C1** Corrigendum, OJ L 311, 10.11.2012, p. 18 (538/2008)

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COUNCIL REGULATION (EC) No 538/2008

of 29 May 2008

amending Regulation (EC) No 1386/2007 laying down conservation and enforcement measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1386/2007 of 22 October 2007 laying down conservation and enforcement measures applicable in the Regulatory Area of the Northwest Atlantic Fisheries Organisation ([1]), and in particular Article 70 thereof,

Having regard to the proposal from the Commission,

Whereas:

(1) Regulation (EC) No 1386/2007 implements certain conservation and enforcement measures adopted by the Northwest Atlantic Fisheries Organisation (hereinafter referred to as 'the NAFO').

(2) At its 29th annual meeting held in September 2007, NAFO adopted a number of amendments to its conservation and enforcement measures. Those amendments relate to the provisions on mesh size, transhipments, closed areas to ensure coral protection, catch reports, definition of serious infringement, product codes, the port inspection format as well as technical requirements for boarding ladders.

(3) Furthermore, mistakes have been found in Regulation (EC) No 1386/2007 that need to be corrected: there are a number of errors in cross references and certain elements are missing in point 3 of Annex VII.

(4) Regulation (EC) No 1386/2007 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1386/2007 is hereby amended as follows:

1. the following point shall be added to Article 3:

'20. "Transhipment" means the transfer, over the side, of any quantity of fisheries resources or products thereof retained on board, from one fishing vessel to another.';

([1]) OJ L 318, 5.12.2007, p. 1.

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2. the following paragraph shall be added to Article 7:

‘4. Vessels fishing for redfish in Division 3O using midwater trawls shall use nets with a minimum mesh size of 90 mm.’;

3. Article 12 shall be replaced by the following:

‘Article 12

Fisheries restricted areas

1. The conduct of fishing activities involving demersal fishing gears shall be prohibited in the following areas:

Area	Coordinate 1	Coordinate 2	Coordinate 3	Coordinate 4
Orphan Knoll	50.00.30 N 45.00.30 W	51.00.30 N 45.00.30 W	51.00.30 N 47.00.30 W	50.00.30 N 45.00.30 W
Corner Seamounts	35.00.00 N 48.00.00 W	36.00.00 N 48.00.00 W	36.00.00 N 52.00.00 W	35.00.00 N 52.00.00 W
Newfoundland Seamounts	43.29.00 N 43.20.00 W	44.00.00 N 43.20.00 W	44.00.00 N 46.40.00 W	43.29.00 N 46.40.00 W
New England Seamounts	35.00.00 N 57.00.00 W	39.00.00 N 57.00.00 W	39.00.00 N 64.00.00 W	35.00.00 N 64.00.00 W

2. The following area in Division 3O shall be closed to all fishing activity involving bottom contact gear. The closed area is defined by connecting the following coordinates (in numerical order and back to coordinate 1):

Point No	Latitude	Longitude
1	42°53′00″N	51°00′00″W
2	42°52′04″N	51°31′44″W
3	43°24′13″N	51°58′12″W
4	43°24′20″N	51°58′18″W
5	43°39′38″N	52°13′10″W
6	43°40′59″N	52°27′52″W
7	43°56′19″N	52°39′48″W
8	44°04′53″N	52°58′12″W
9	44°18′38″N	53°06′00″W
10	44°18′36″N	53°24′07″W
11	44°49′59″N	54°30′00″W
12	44°29′55″N	54°30′00″W
13	43°26′59″N	52°55′59″W
14	42°48′00″N	51°41′06″W
15	42°33′02″N	51°00′00″W’

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4. in Article 19, paragraph 5 shall be replaced by the following:

‘5. Member States shall every two years certify the correctness of the capacity plans for all vessels authorised to fish pursuant to Article 14. The master shall ensure that a copy of this certification remains onboard to be shown to an inspector upon request.’;

5. the following point shall be added to Article 21(2):

‘(f) the catch prior to entry and exit from Division 3L. These reports shall be made by vessels that fish shrimp in Division 3L and shall be sent one hour prior to crossing the boundary of that Division. The report shall indicate the catches taken onboard since the previous catch report, by Division and species (3 alpha code) in kg, rounded to the nearest 100 kg.’;

6. in Article 30, paragraph 5 shall be replaced by the following:

‘5. The master of the vessel observed may, on his own request, be provided with a copy of the observer's report referred to in Article 28(1).’;

7. in Article 32, paragraph 1 shall be replaced by the following:

‘1. The competent authorities of the Member States receiving the report of the observer in accordance with Article 28 shall evaluate the contents and conclusions of that report.’;

8. Article 47 shall be amended as follows:

(a) point (b) shall be replaced by the following:

‘(b) provide a boarding ladder constructed and used as described in the conservation and enforcement measures of NAFO;’;

(b) the following point shall be inserted:

‘(b)a if a mechanical hoist is provided, ensure that its ancillary equipment is of a type approved by the national administration. It shall be of such design and construction as to ensure that the inspector can embark and disembark in a safe manner including a safe access from the hoist to the deck and vice versa. A boarding ladder complying with point (b) shall be kept on deck adjacent to the hoist and available for immediate use;’;

9. Annex II shall be replaced by the text in Annex I to this Regulation;

10. Annex VII shall be amended in accordance with Annex II to this Regulation;

11. Annex XII shall be replaced by the text in Annex III to this Regulation;

12. Annex XIII shall be deleted;

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13. Annex XIV(b) shall be replaced by the text in Annex IV to this Regulation.

Article 2

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

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

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ANNEX I

'ANNEX II

The list that follows is a list of stocks that need to be reported in accordance with Article 22.

ANG/N3NO	*Lophius americanus*	American angler
CAA/N3LMN	*Anarhichas lupus*	Atlantic wolffish
CAP/N3LM	*Mallotus villosus*	Capelin
CAT/N3LMN	*Anarhichas* spp.	Catfishes (Wolffishes) nei
HAD/N3LNO	*Melanogrammus aeglefinus*	Haddock
HAL/N23KL	*Hippoglossus hippoglossus*	Atlantic halibut
HAL/N3M	*Hippoglossus hippoglossus*	Atlantic halibut
HAL/N3NO	*Hippoglossus hippoglossus*	Atlantic halibut
HER/N3L	*Clupea harengus*	Herring
HKR/N2J3KL	*Urophycis chuss*	Red hake
HKR/N3MNO	*Urophycis chuss*	Red hake
HKS/N3LMNO	*Merlucius bilinearis*	Silver hake
RNG/N23	*Coryphaenoides rupestris*	Roundnose grenadier
HKW/N2J3KL	*Urophycis tenuis*	White hake
POK/N3O	*Pollachius virens*	Pollock (= Saithe)
PRA/N3M	*Pandalus borealis*	Northern prawn
RHG/N23	*Macrourus berglax*	Roughhead grenadier
SKA/N2J3K	*Raja* spp.	Skates
SKA/N3M	*Raja* spp.	Skates
SQI/N56	*Illex illecebrosus*	Short-fin squid
VFF/N3LMN	—	Fishes unsorted, unidentified
WIT/N3M	*Glyptocephalus cynoglossus*	Witch flounder
YEL/N3M	*Limanda ferruginea*	Yellow-tail flounder'

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ANNEX II

Point 3 of Annex VII to Regulation (EC) No 1386/2007 shall be replaced by the following:

‘3. **‘Catch’ report**

Data element	Field code	Mandatory/ optional	Remarks
Start record	SR	M	System detail; indicates start of record
Address	AD	M	Message detail; destination, ‘XNW’ for NAFO
From	FR	M	Name of transmitting party
Sequence number	SQ	M	Message detail; message serial number in current year
Type of message	TM	M	Message detail; message type, ‘CAT’ as catch report
Radio call sign	RC	M	Vessel registration detail; international radio call sign of the vessel
Trip number	TN	O	Activity detail; fishing trip serial number in current year
Vessel name	NA	O	Vessel registration detail; name of the vessel
Contracting Party Internal reference Number	IR	O	Vessel registration detail; unique Contracting Party vessel number as ISO-3 flag state code followed by number
External registration number	XR	O	Vessel registration detail; the side number of the vessel
Relevant area	RA	M	NAFO Division into which the vessel has entered
Latitude	LA	M ([1])	Activity detail; position at time of transmission
Longitude	LO	M ([1])	Activity detail; position at time of transmission
Catches	CA		Activity detail; cumulative catch by species retained on board, either since commencement of fishing in RA or last ‘Catch’ report, in pairs as needed.
Species		M	FAO species code
Live weight		M	Live weight in kilograms, rounded to the nearest 100 kilograms
Days fished	DF	M	Activity detail; number of fishing days in the NAFO Regulatory area since commencement of fishing or last ‘Catch’ report
Date	DA	M	Message detail; date of transmission
Time	TI	M	Message detail; time of transmission
End of record	ER	M	System detail; indicates end of the record

([1]) Optional if a vessel is subject to satellite tracking.’

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ANNEX III

'ANNEX XII

Port inspection report

A. **"PORT INSPECTION REPORT" FORM**

Page No _____ of _____

1. INSPECTION REFERENCE

Inspection authority _____

Date of the report _____

Port of inspection _____

Vessel name _____

2. TRIP INFORMATION (1)

Date trip started _____

Trip number (2) _____

Activity in the NAFO RA:

Date entry in the RA _____

Date exit from the RA _____

Other areas visited _____

Date trip ended _____

3. VESSEL IDENTIFICATION (3)

External identification _____

International radio call sign _____

Flag state _____

NAFO Contracting Party _____

Home port _____

Vessel owner _____

Vessel operator _____

Master name _____

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4. RESULT OF INSPECTION OF DISCHARGE ([4])

4.1. **General information**

Starting of discharge:	Date		Time	
Ending of discharge:	Date		Time	
Has vessel discharged all catches on board?	YES		*If YES, complete table 4.2*	
	NO		*If NO, complete table 4.3*	
Comments				

4.2. **Quantity discharged**

Species (FAO code)	Presentation	Live weight (logbook, kg)	Conversion factor	Landing processed Wt (kg)	Equivalent live weight (kg)	Diff. (kg)	Diff. (%)

Comments	

4.3. **Quantity staying on board the vessel**

To be completed where part of the catches stay on board after completion of discharge

Species	Presentation	Conversion factor	Process weight (kg)	Equivalent live weight (kg)

Comments	

5. GEAR INSPECTION IN PORT ([5])

5.1. **General data**

Number of gear inspected	
Date gear inspection	

Has the vessel been cited?	☐ Yes
If yes, complete the full "verification of inspection in port" form	
If no, complete the form with the exception of the NAFO seal details	☐ No

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5.2. **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:	

6. INFRINGEMENTS AND FOLLOW-UP

6.1. **Sea inspection**

Infringements resulting from inspections inside NAFO RA			
Inspection party	Date of inspection	Division	NAFO CEM infringement legal reference

6.2. **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

Follow-up comments:

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B. **INFORMATION TO BE INSERTED IN THE REPORT**

1. INSPECTION REFERENCES

Data element	M/O	Category; definition
Inspection authority	M	Inspection detail: Name of the inspection authority or of the alternate body nominated by the authority
Date	M	Inspection detail: Date the report is compiled
Port of inspection	M	Vessel activity detail: Place where the vessel is inspected: port followed by ISO-3 code of the country as "St Johns/CAN"
Vessel name	M	Vessel registration detail: name of the vessel

2. TRIP INFORMATION

Data element	M/O	Category; definition
Date trip started	M	Vessel activity details: date started the current fishing trip
Vessel trip number	O	Vessel activity details: Number of the fishing trip in current year
Date entry in the RA	M	Vessel activity details: Date the vessel entered the NRA for the current fishing trip
Date exit from the RA	M	Vessel activity details: Date the vessel exited from the NRA for the current fishing trip
Other areas visited	O	Vessel activity details: other area where vessel has been fishing during the current trip
Date trip ended	M	Vessel activity details: date ended the current fishing trip

3. VESSEL IDENTIFICATION

Data element	M/O	Category; definition
External identification number	M	Vessel registration details: Side number of the vessel
International radio call sign	M	Vessel registration details: International radio call sign of the vessel
Flag state	M	Vessel registration details: State where the vessel is registered, ISO-3 country code
NAFO Contracting Party	O (1)	Vessel registration detail: NAFO Contracting Party of the vessel, as ISO code of the country, EUR for European Community, NCP for Non-Contracting Party
Home port	O	Vessel registration details: Port of registration of the vessel or homeport
Vessel owner	M	Vessel registration details: Name and address of the vessel owner
Vessel operator	M (2)	Vessel registration details: Responsible for using the vessel
Master name	O	Vessel activity details: Name of the master

(1) If different from the flag state.
(2) If different from the flag state.If different from the vessel owner.

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4. RESULT OF INSPECTION ON DISCHARGE

4.1. **General information**

Data element	M/O	Category; definition
Start date of discharge	M	Discharge detail: Date the vessel started discharge
End date of discharge	M	Discharge detail: Date the vessel finished discharge
Has vessel landed all catches on board?	M	Discharge detail: Has vessel landed all catches on board? "yes" or "no"
Comments	O	Discharge detail: Comments as necessary If discharge as not been completed, please give an estimation on catch still on board

4.2. **Quantity discharged**

Data element	M/O	Category; definition
Species	M	Discharge detail: FAO 3-alpha code (part V, schedule II, attachment II)
Presentation	M	Discharge detail: Product form
Live weight	M	Quantities determined from the logbook
Conversion factor	O	Product detail: Conversion factor as defined by the master for the corresponding species, size and presentation, optional if already mentioned in table B
Process weight	M	Discharge detail: Quantities landed by species and presentation, in kilograms of product, rounded to the nearest 10 kg
Equivalent live weight	M	Discharge detail: Quantities landed in equivalent live weight, as "product weight x conversion factor", in kilograms, rounded to the nearest 10 kg
Comments	O	Discharge details: Free text area

4.3. **Quantities staying on board the vessel**

Data element	M/O	Category; definition
Species	M	Discharge detail: FAO 3-alpha code (part V, schedule II, attachment II)
Presentation	M	Discharge detail: Product form
Conversion factor	O	Product detail: Conversion factor as defined by the master for the corresponding species, size and presentation, optional if already mentioned in table B
Process weight	M	Discharge detail: Quantities landed by species and presentation, in kilograms of product, rounded to the nearest 10 kg
Equivalent live weight	M	Discharge detail: Quantities landed in equivalent live weight, as "product weight x conversion factor", in kilograms, rounded to the nearest 10 kg
Comments	O	Discharge details: Free text area

5. RESULT OF GEAR INSPECTION ([6])

5.1. **General information**

Data element	M/O	Category; definition
Date of inspection	M	Inspection detail: Date of current gear inspection
Inspected gear	M	Inspection detail: Number of gear checked during port inspection

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5.2. **Otter trawl details**

Data element	M/O	Category; definition
NAFO seal number	M	Inspection detail (if required): Number of the NAFO seal attached to the gear after inspection at sea
Is seal undamaged?	M	Whether NAFO inspection seal is intact: — "yes" or "no"
Gear type	M	International Standard Statistical Classification of the Fishing Gear, OTB for otter trawl
Attachments		Otter trawl detail: attachment to footrope
Grade bar spacing	M	Otter trawl detail: grade bar spacing in millimetres
Mesh type	M	Otter trawl detail: respectively mesh type: SQ for square mesh, DI for diamond mesh
Mesh size average	M	Otter trawl detail: average mesh size in the trawl part, by pair
Trawl part	M	Trawl part measured
Mesh size	M	Mesh size in millimetres

6. INFRINGEMENTS AND FOLLOW-UP

6.1. **Sea inspection**

Data element	M/O	Category; definition
Inspectors team	M	Contracting Party name; Fishery patrol vessel name
Date of inspection	M	
Legal reference	M	Mention of the NAFO CEM Chapter; Article(s) paragraph(s) for each infringement

6.2. **Port inspection infringements results**

(a) *Confirmation of infringements found at sea inspection*

Data element	M/O	Category; definition
Identification of the NAFO infringement	M	Mention of the NAFO CEM Chapter; Article(s) paragraph(s) for each infringement
Identification of the national infringement	O	Mention of the national reg. title Chapter; Article(s) paragraph(s) for each infringement

▶(1) (c) *Additional infringements found during the port inspection* ◀

Data element	M/O	Category; definition
Identification of the NAFO infringement	M	Mention of the NAFO CEM Chapter; Article(s) paragraph(s) for each infringement
Identification of the national infringement	O	Mention of the national reg. title Chapter; Article(s) paragraph(s) for each infringement

(1) To be completed by the inspection authority or any alternate body nominated by the authorities as soon as the vessel land to port, based on logbook records.
(2) Where applicable.
(3) To be completed based on the licence information.
(4) To be completed after completion of discharge.
(5) Verification shall be done when non-compliance has been cited/observed during inspection at sea. To be completed when port inspection also concerns inspection of gears on board. A detail form shall be completed for every gear having been subject to port inspection.
(6) Verification shall be done when non-compliance has been cited/observed during inspection at sea. To be completed when port inspection also concerns inspection of gear on board. A detail form shall be completed for every gear having been subject to port inspection.'

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ANNEX IV

'ANNEX XIV(b)

Product form codes

Code	Product form
A	Round — Frozen
B	Round — Frozen (cooked)
C	Gutted head on — Frozen
D	Gutted head off — Frozen
E	Gutted head off — Trimmed — Frozen
F	Skinless fillets — Bone in — Frozen
G	Skinless fillets — Boneless — Frozen
H	Skin on fillets — Bone in — Frozen
I	Skin on fillets — Boneless — Frozen
J	Salted fish
K	Pickled fish
L	Canned products
M	Oil
N	Meal produced from whole fish
O	Meal produced from offal
P	Other (specify)'