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COMMISSION REGULATION (EEC) No 2868/88
of 16 September 1988

**laying down detailed rules for the application of the Scheme of
Joint International Inspection adopted by the Northwest Atlantic
Fisheries Organization**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 1956/88 of 9 June 1988 adopting provisions for the application of the Scheme of Joint International Inspection adopted by the Northwest Atlantic Fisheries Organization⁽¹⁾, and in particular Article 4 thereof,

Whereas detailed rules should be laid down for implementing the Scheme of Joint International Inspection, hereinafter referred to as 'the Scheme', and Regulation (EEC) No 1956/88, in particular with regard to the adoption and notification of the provisional plan for the participation of the Community in the Scheme, the notification and investigation of apparent infringements and the cooperation of the Member States and the Commission in these matters;

Whereas the Management Committee for Fishery Resources has not delivered an opinion within the time limit set by its chairman,

HAS ADOPTED THIS REGULATION:

Article 1

Member States shall notify the Commission by 1 September each year of the names of the inspectors and special inspection vessels (which term includes fishing vessels carrying inspectors) and the identity of the helicopters which they intend to assign to the Scheme for the following calendar year. On the basis of this information the Commission in cooperation with the Member States shall draw up a provisional plan for the participation of the Community in the Scheme for that calendar year and shall notify it to the Executive Secretary of NAFO and to the Member States.

Article 2

The Commission shall designate the authorities referred to in paragraph 3 of the Scheme.

Article 3

Community inspectors assigned to the Scheme in accordance with Article 2 (1) of Regulation (EEC) No 1956/88 shall communicate to the Commission of the European Communities, Brussels, telex address 24189 Fiseu-B, within the working day following the inspection, the details of apparent infringements of vessels inspected. They shall provide the Commission on a 10-day basis with a list of vessels inspected.

In the event of an apparent infringement or a difference between recorded catches and their estimates of catches on board, Community inspectors shall transmit to the Commission a copy of the inspection report with supporting documentation, including second photographs taken, as soon as possible after the inspection vessel returns to port. Where there is no apparent infringement or difference between recorded catches and the inspectors' estimates of catches on board, the original of

⁽¹⁾ OJ No L 175, 6. 7. 1988, p. 1.

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the inspection report shall be transmitted to the Commission by the inspector within 20 days of the inspection vessel's return to port.

Article 4

1. On being notified by another Contracting Party of an apparent infringement committed by a Community vessel the Commission shall inform the Flag State of the vessel, which shall take prompt action to receive and consider the evidence and conduct any further investigation necessary for disposition of the apparent infringement. A Community inspector shall board the vessel whenever possible. The Flag State shall whenever possible inspect the vessel on its return to port.

The Flag State shall enable the Commission to cooperate fully with the appropriate authorities of the Contracting Party which carried out the inspection, in order to ensure that the evidence of apparent infringement is prepared and preserved in a form which facilitates administrative or judicial action.

2. In the event of an apparent infringement committed by a Community vessel which is reported to it by a Community inspector the Commission shall inform the Flag State of the vessel, which shall take prompt action to receive and consider the evidence, conduct any further investigation necessary for disposition of the apparent infringement, inspect the vessel on its return to port whenever possible and cooperate fully with the Commission in order to ensure that the evidence of apparent infringement is prepared and preserved in a form which facilitates administrative or judicial action.

▼M1*Article 4 (a)*

1. Where the appropriate authorities of the flag Member State are notified, pursuant to paragraph 10 (iii) of the Annex to Regulation (EEC) No 1956/88, by a NAFO inspector of an apparent serious infringement, as listed in paragraph 9 of the Annex to Regulation (EEC) No 1956/88, committed by a fishing vessel flying its flag or where the Commission receives such information, these appropriate authorities and the Commission shall immediately inform each other thereof.

2. As a result of receiving the information pursuant to paragraph 1 and of being notified by another Contracting Party or by Community inspectors assigned to the scheme of an apparent serious infringement as listed in paragraph 9 of the Annex to Regulation (EEC) No 1956/88, committed by a Community vessel, the Commission in cooperation with the flag Member State, shall ensure that the vessel is inspected within 72 hours by a duly authorized inspector.

3. The Commission and the flag Member State shall cooperate in order to determine as soon as possible if the inspection referred to in paragraph 2 is to be conducted by a Community inspector assigned to the scheme or by an inspector designated by the appropriate authorities of the flag Member State.

4. The duly authorized inspector shall board the fishing vessel concerned and shall examine the elements that make up the apparent serious infringement detected by the NAFO inspector and shall as soon as possible transmit to the appropriate authority of the flag Member State and to the Commission the results of his examination.

5. Following the notification of his results and if the apparent infringement is serious, in accordance with the definition of infringements in paragraph 9 of the Annex to Regulation (EEC) No 1956/88, the appropriate authority of the flag Member State shall, if the situation requires, within 24 hours, itself require or authorize the duly authorized inspector to require the vessel to proceed to a designated port in accordance with paragraph 10 (ii) of the Annex to Regulation (EEC) No 1956/88.

The time limit referred to in the first subparagraph may be extended by the Commission at the request of a Member State addressed to the Commission, up to a maximum of 72 hours.

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In the event of a diversion, the duly authorized 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.

6. On arrival at the port of diversion, the suspect vessel shall be the subject of a thorough inspection carried out under the authority of the flag Member State, which may be attended by a NAFO inspector from any other Contracting Party wishing to take part. The Flag Member State shall immediately inform the Commission of the results of the inspection, using the form in Annex I to this Regulation, and of the measures it has taken to deal with the infringement.

7. In the appropriate authority of the flag state does not require the vessel to be diverted to a port in accordance with paragraph 10 (ii) of the Annex to Regulation (EEC) No 1956/88, it shall immediately inform the Commission of the reasons on which its decision was based. The Commission shall in due course inform the Executive Secretariat of NAFO of that decision and of the reasons therefor.

Article 4 (b)

1. When the Community inspectors suspect that a fishing vessel flying the flag of a Contracting Party has committed one of the serious infringements listed in paragraph 9 of the Annex to Council Regulation (EEC) No 1956/88, the inspectors in question shall, within 24 hours, inform the appropriate authorities of the flag state concerned and the Executive Secretariat of NAFO thereof, supplying them with all the elements on the basis of which they cited that vessel for having committed an apparent serious infringement. The Commission shall send the Member States a copy of the notification addressed to the Executive Secretariat of NAFO.

2. The Commission shall decide, with the agreement of the Contracting Party responsible for the vessel, if a Community inspector is to remain on board when the vessel is diverted. The Commission shall also decide if a Community inspector is to be present during the thorough inspection of the suspect vessel, in port.

▼B*Article 5*

1. On being notified by another Contracting Party of differences between recorded catches by a Community vessel and the estimates of the inspector, the Commission shall inform the Flag State of the vessel. The Commission shall also inform any inspection vessel assigned to the Scheme by the Community and located in the Regulatory Area. A Community inspector shall board the vessel involved whenever possible. The appropriate authorities of the Flag State shall assist the Commission in cooperating fully with the inspector to ensure that the evidence is prepared and preserved in a form which would facilitate any administrative and judicial action and shall conduct any further investigation necessary to allow it to determine appropriate follow-up action.

2. In the event of a difference between catches recorded by a Community vessel and the estimates of a Community inspector, the Commission shall inform the Flag State, which shall cooperate with the Commission to ensure that the evidence is prepared or preserved in a form which would facilitate any administrative or judicial action and conduct any further investigation necessary to allow it to determine appropriate follow-up action.

Article 6

The Commission shall forward as soon as possible to the Flag States of the vessels inspected the originals of inspection reports which have been transmitted to it by Community inspectors or another Contracting Party concerning Community vessels where there is no apparent infringement or difference between recorded catches and inspectors' estimates of catches on board.

▼B*Article 7*

Copies of reports made by Community inspectors which involve vessels of another Contracting Party and concern apparent infringements or differences between recorded catches and the estimates of the inspectors shall be transmitted by the Commission together with supporting documentation, including second photographs taken, as soon as possible to the appropriate authorities of the Contracting Party for the inspected vessel.

Article 8

The Commission shall send a copy of all inspection reports made by Community inspectors to the Executive Secretary of NAFO.

*Article 9***▼M1**

Each Member State shall notify to the Commission by 25 January each year for the period 1 July to 31 December, and by 25 August each year for the period 1 January to 30 June, the information required in points 1 and 2 of this Article, in accordance with the model in Annex II, and also the information required in point 3 of this Article, in accordance with the model in Annex III:

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1. the result of action taken in respect of apparent infringements by its vessels; apparent infringements shall be listed annually until the action is concluded and any penalties imposed shall be described in specific terms;
2. any significant differences between records of catches in its vessels' logbooks and inspectors' estimates of catches on board the vessels, together with an indication of any follow-up action taken. A difference shall be considered as significant where the inspector's estimate differs from the catch recorded in the logbook by 20 % or more;

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3. any significant difference between the Community fishing vessel's position recorded in the 'NAFO report' and the actual position established at the time of the vessel's inspection.

Article 9 (a)

The transmission of information between the Member States' competent authorities and the Commission shall take place via the appropriate authorities whose details are set out in Annex IV.

▼B*Article 10*

This Regulation shall enter into force on the third day following 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.

ANNEX I

NORTH WEST ATLANTIC FISHERIES ORGANIZATION

Information on inspection

Flag Member State:

IDENTITY OF VESSEL	INFORMATION ON THE FISHING OPERATIONS (ACTIVITY)			
Name of vessel:		Date	Time	Port
	Departure			
	Return			
Radio call sign:	Interim port visit			
	Fishing zone:			
External identification:	Date of arrival:			
	Date of departure:			

INSPECTIONS

Port inspections

Date	Port	Inspection party	Results

ANNEX II

NORTH-WEST ATLANTIC FISHERIES ORGANIZATION

Information on the catch registration differences and/or apparent infringements

Flag Member State:

Name of the vessel External Identification	Date of inspection	Port and time of arrival	Apparent infringement and/or differences in catch registration	Dispositions of the infringement and/or difference in catch registration	Definitive penal or administrative sanctions imposed on the vessel

ANNEX III

NORTH-WEST ATLANTIC FISHERIES ORGANIZATION

Information on the difference between the 'NAFO Report' and the inspection report

Flag Member State:

REPORT OF INSPECTION			NAFO REPORT		REMARKS
Name of vessel	Date	Position (division)	Date	Position (division)	

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ANNEX IV

DETAILS OF THE COMPETENT AUTHORITIES

GERMANY

Name	BUNDESANSTALT FÜR LANDWIRTSCHAFT UND ERNÄHRUNG
Address	Palmaille 9 D-22767 Hamburg
Telephone number	(49 40) 389 05-173
Fax number	(49 40) 389 05-128
Telex number	0214 763
E-mail number	—
Date and times available	Monday to Thursday 07h00 to 16h00 Friday 07h00 to 14h00

DENMARK

Name	FISKERIDIREKTORATET
Address	Stormgade 2 DK-1470 København K.
Telephone number	(45) 33 96 36 09
Fax number	(45) 33 93 39 00
Telex number	16144 fm dk
E-mail number	—
Date and times available	24h/24h

SPAIN

Name	DIRECCIÓN GENERAL DE RECURSOS PESQUEROS
Address	Calle Ortega y Gasset, 57 E-28006 Madrid
Telephone number	(34 1) 402 50 00
Fax number	(34 1) 402 02 12
Telex number	—
E-mail number	—
Date and times available	Monday to Friday 08h00 to 15h00

PORTUGAL

Name	INSPECÇÃO-GERAL DAS PESCAS
Address	Ed. Vasco da Gama Alcântara-Mar P-1350 Lisboa
Telephone number	(351 1) 391 35 81/52
Fax number	(351 1) 397 91 93
Telex number	60339 SEPGC P
E-mail number	—
Date and times available	Monday to Friday 09h00 to 13h00 14h00 to 18h30

UNITED KINGDOM

Name	MINISTRY OF AGRICULTURE, FISHERIES AND FOOD
Address	Nobel House 17 Smith Square UK-London SW1P 3JR

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Telephone number	(44 171) 270 89 60
Fax number	(44 171) 270 81 25
Telex number	88 93 51 fish lw g
E-mail number	—
Date and times available	24h/24h

EUROPEAN COMMISSION

Name	DIRECTION GÉNÉRALE DE LA PÊCHE
Address	Rue Joseph II 99 B-1049 Bruxelles
Telephone number	(32 2) 299 11 11
Fax number	(32 2) 296 23 38
Telex number	24189 fiseu b
E-mail number	telecom@dg14.cec.be
X 400	S=TELECOM; O=DG14; P=CEC; A=RTT; C=BE
Date and times available	Monday to Friday 24h/24h